

REVISOR'S STATUTE

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John W. Hickman

House Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill modifies parts of the Utah Code to make technical corrections including eliminating references to repealed provisions, making minor wording changes, updating cross references, and correcting numbering.

Highlighted Provisions:

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Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-818, as last amended by Laws of Utah 1997, Chapter 10

11-13-103, as last amended by Laws of Utah 2007, Chapter 329

11-42-411, as enacted by Laws of Utah 2007, Chapter 329

11-42-605, as enacted by Laws of Utah 2007, Chapter 329

13-21-2, as last amended by Laws of Utah 2007, Chapter 61



- 28 **13-43-206**, as enacted by Laws of Utah 2006, Chapter 258
- 29 **16-4-102**, as enacted by Laws of Utah 2007, Chapter 367
- 30 **16-6a-1702**, as enacted by Laws of Utah 2000, Chapter 300
- 31 **17-27a-103**, as last amended by Laws of Utah 2007, Chapters 188, 199, and 329
- 32 **17-27a-301**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 33 **17-27a-306**, as last amended by Laws of Utah 2006, Chapter 78
- 34 **17-27a-307**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 35 **17-27a-603**, as last amended by Laws of Utah 2007, Chapters 160 and 188
- 36 **17-52-201**, as last amended by Laws of Utah 2001, Chapter 241
- 37 **17-53-216**, as renumbered and amended by Laws of Utah 2000, Chapter 133
- 38 **19-2-103**, as last amended by Laws of Utah 2002, Chapter 176
- 39 **19-4-103**, as last amended by Laws of Utah 2002, Chapter 176
- 40 **19-5-103**, as last amended by Laws of Utah 2002, Chapter 176
- 41 **19-6-108.3**, as enacted by Laws of Utah 2007, Chapter 72
- 42 **31A-22-605.5**, as last amended by Laws of Utah 2003, Chapter 8
- 43 **31A-22-723**, as last amended by Laws of Utah 2005, Chapter 78
- 44 **31A-28-114**, as last amended by Laws of Utah 2007, Chapter 309
- 45 **31A-28-222**, as last amended by Laws of Utah 2002, Chapter 308
- 46 **34A-2-103**, as last amended by Laws of Utah 2006, Chapter 295
- 47 **41-8-1**, as last amended by Laws of Utah 2006, Chapter 201
- 48 **41-10-1**, Utah Code Annotated 1953
- 49 **49-11-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 50 **53-2-402**, as enacted by Laws of Utah 2007, Chapter 328
- 51 **53-2-403**, as enacted by Laws of Utah 2007, Chapter 328
- 52 **53-3-202**, as last amended by Laws of Utah 2006, Chapter 201
- 53 **53-3-204**, as last amended by Laws of Utah 2006, Chapters 46, 201, and 293
- 54 **53-3-227**, as last amended by Laws of Utah 2007, Chapter 261
- 55 **53-5-711**, as last amended by Laws of Utah 1998, Chapter 13
- 56 **53A-1-408**, as enacted by Laws of Utah 2002, Chapter 259
- 57 **53A-11-910**, as enacted by Laws of Utah 2007, Chapter 161
- 58 **53A-17a-131.16**, as repealed and reenacted by Laws of Utah 2002, Chapter 258

- 59 **53A-29-103**, as enacted by Laws of Utah 1996, Chapter 73
- 60 **53B-2-107**, as enacted by Laws of Utah 2002, Chapter 315
- 61 **54-7-12.9**, as enacted by Laws of Utah 2006, Chapter 221
- 62 **57-1-5**, as last amended by Laws of Utah 2006, Chapter 236
- 63 **57-1-21**, as last amended by Laws of Utah 2004, Chapter 177
- 64 **57-1-21.5**, as last amended by Laws of Utah 2002, Chapter 209
- 65 **58-1-501.5**, as enacted by Laws of Utah 2007, Chapter 162
- 66 **58-37-5.5**, as last amended by Laws of Utah 2003, Chapter 33
- 67 **58-67-302.5**, as enacted by Laws of Utah 2002, Chapter 73
- 68 **58-72-301**, as repealed and reenacted by Laws of Utah 1998, Chapter 26
- 69 **58-72-501**, as last amended by Laws of Utah 2007, Chapter 90
- 70 **59-2-405.2**, as last amended by Laws of Utah 2006, Fifth Special Session, Chapter 3
- 71 **59-7-116**, as enacted by Laws of Utah 1993, Chapters 169 and 300
- 72 **61-1-30**, as last amended by Laws of Utah 1983, Chapter 284
- 73 **62A-4a-207**, as last amended by Laws of Utah 2006, Chapter 14
- 74 **63-34-6**, as last amended by Laws of Utah 1998, Chapter 282
- 75 **63-38c-103**, as last amended by Laws of Utah 2007, Chapters 122, 206, and 328
- 76 **63-55-253**, as last amended by Laws of Utah 2007, Chapter 386
- 77 **63-55b-153**, as last amended by Laws of Utah 2007, Chapter 216
- 78 **63-55b-163**, as last amended by Laws of Utah 2007, Chapter 306
- 79 **63-63a-8**, as last amended by Laws of Utah 2007, Chapter 326
- 80 **63-97-201**, as last amended by Laws of Utah 2005, Chapter 275
- 81 **63A-5-222**, as last amended by Laws of Utah 2000, Chapter 231
- 82 **63B-6-502**, as last amended by Laws of Utah 2001, Chapter 321
- 83 **73-10f-1**, as enacted by Laws of Utah 1990, Chapter 206
- 84 **73-12a-1**, Utah Code Annotated 1953
- 85 **76-7-317.2**, as enacted by Laws of Utah 1991, Chapter 288
- 86 **78-3-21**, as last amended by Laws of Utah 2003, Chapters 51 and 332
- 87 **78-23-4**, as enacted by Laws of Utah 1981, Chapter 111
- 88 **78-30-8**, as last amended by Laws of Utah 2007, Chapter 196
- 89 **78-43-8**, Utah Code Annotated 1953

90 REPEALS:

91 **30-3-38**, as last amended by Laws of Utah 2004, Chapter 352

92 **53-2-102.5**, as last amended by Laws of Utah 2007, Chapters 245 and 328

93

94 *Be it enacted by the Legislature of the state of Utah:*

95 Section 1. Section **10-3-818** is amended to read:

96 **10-3-818. Salaries in municipalities.**

97 (1) The elective and statutory officers of municipalities shall receive such
98 compensation for their services as the governing body may fix by ordinance adopting
99 compensation or compensation schedules enacted after public hearing.

100 (2) Upon its own motion the governing body may review or consider the compensation
101 of any officer or officers of the municipality or a salary schedule applicable to any officer or
102 officers of the city for the purpose of determining whether or not it should be adopted, changed,
103 or amended. In the event that the governing body decides that the compensation or
104 compensation schedules should be adopted, changed, or amended, it shall set a time and place
105 for a public hearing at which all interested persons shall be given an opportunity to be heard.

106 (3) Notice of the time, place, and purpose of the meeting shall be published at least
107 seven days prior thereto by publication at least once in a newspaper published in the county
108 within which the municipality is situated and generally circulated in the municipality. If there
109 is no such newspaper then notice shall be given by posting this notice in three public places in
110 the municipality.

111 (4) After the conclusion of the public hearing, the governing body may enact an
112 ordinance fixing, changing, or amending the compensation of any elective or appointive officer
113 of the municipality or adopting a compensation schedule applicable to any officer or officers.

114 (5) Any ordinance enacted before [~~Chapter 48,~~] Laws of Utah 1977, Chapter 48, by a
115 municipality establishing a salary or compensation schedule for its elective or appointive
116 officers and any salary fixed prior to [~~Chapter 48,~~] Laws of Utah 1977, Chapter 48, shall
117 remain effective until the municipality has enacted an ordinance pursuant to the provisions of
118 this chapter.

119 (6) The compensation of all municipal officers shall be paid at least monthly out of the
120 municipal treasury provided that municipalities having 1,000 or fewer population may by

121 ordinance provide for the payment of its statutory officers less frequently. None of the
122 provisions of this chapter shall be considered as limiting or restricting the authority to any
123 municipality that has adopted or does adopt a charter pursuant to Utah Constitution, Article XI,
124 Section 5, to determine the salaries of its elective and appointive officers or employees.

125 Section 2. Section **11-13-103** is amended to read:

126 **11-13-103. Definitions.**

127 As used in this chapter:

128 (1) "Additional project capacity" means electric generating capacity provided by a
129 generating unit that first produces electricity on or after May 6, 2002 and that is constructed or
130 installed at or adjacent to the site of a project that first produced electricity before May 6, 2002,
131 regardless of whether:

132 (a) the owners of the new generating unit are the same as or different from the owner of
133 the project; and

134 (b) the purchasers of electricity from the new generating unit are the same as or
135 different from the purchasers of electricity from the project.

136 (2) "Board" means the Permanent Community Impact Fund Board created by Section
137 9-4-304, and its successors.

138 (3) "Candidate" means one or more of:

139 (a) the state;

140 (b) a county, municipality, school district, local district, special service district, or other
141 political subdivision of the state; and

142 (c) a prosecution district.

143 (4) "Commercial project entity" means a project entity, defined in Subsection (12),
144 that:

145 (a) has no taxing authority; and

146 (b) is not supported in whole or in part by and does not expend or disburse tax
147 revenues.

148 (5) "Direct impacts" means an increase in the need for public facilities or services that
149 is attributable to the project or facilities providing additional project capacity, except impacts
150 resulting from the construction or operation of a facility that is:

151 (a) owned by an owner other than the owner of the project or of the facilities providing

152 additional project capacity; and

153 (b) used to furnish fuel, construction, or operation materials for use in the project.

154 (6) "Electric interlocal entity" means an interlocal entity described in Subsection
155 11-13-203(3).

156 (7) "Energy services interlocal entity" means an interlocal entity that is described in
157 Subsection 11-13-203(4).

158 (8) (a) "Estimated electric requirements," when used with respect to a qualified energy
159 services interlocal entity, includes any of the following that meets the requirements of
160 Subsection (8)(b):

161 (i) generation capacity;

162 (ii) generation output; or

163 (iii) an electric energy production facility.

164 (b) An item listed in Subsection (8)(a) is included in "estimated electric requirements"
165 if it is needed by the qualified energy services interlocal entity to perform the qualified energy
166 services interlocal entity's contractual or legal obligations to any of its members.

167 (9) "Interlocal entity" means:

168 (a) a Utah interlocal entity, an electric interlocal entity, or an energy services interlocal
169 entity; or

170 (b) a separate legal or administrative entity created under Section 11-13-205.

171 (10) "Out-of-state public agency" means a public agency as defined in Subsection
172 (13)(c), (d), or (e).

173 (11) (a) "Project":

174 (i) means an electric generation and transmission facility owned by a Utah interlocal
175 entity or an electric interlocal entity; and

176 (ii) includes fuel or fuel transportation facilities and water facilities owned by that Utah
177 interlocal entity or electric interlocal entity and required for the generation and transmission
178 facility.

179 (b) "Project" includes a project entity's ownership interest in:

180 (i) facilities that provide additional project capacity; and

181 (ii) additional generating, transmission, fuel, fuel transportation, water, or other
182 facilities added to a project.

183 (12) "Project entity" means a Utah interlocal entity or an electric interlocal entity that
184 owns a project.

185 (13) "Public agency" means:

186 (a) a city, town, county, school district, local district, special service district, or other
187 political subdivision of the state;

188 (b) the state or any department, division, or agency of the state;

189 (c) any agency of the United States;

190 (d) any political subdivision or agency of another state or the District of Columbia
191 including any interlocal cooperation or joint powers agency formed under the authority of the
192 law of the other state or the District of Columbia; and

193 (e) any Indian tribe, band, nation, or other organized group or community which is
194 recognized as eligible for the special programs and services provided by the United States to
195 Indians because of their status as Indians.

196 (14) "Qualified energy services interlocal entity" means an energy services interlocal
197 entity that at the time that the energy services interlocal entity acquires its interest in facilities
198 providing additional project capacity has at least five members that are Utah public agencies.

199 (15) "Utah interlocal entity":

200 (a) means an interlocal entity described in Subsection 11-13-203(2); and

201 (b) includes a separate legal or administrative entity created under [~~Chapter 47,~~] Laws
202 of Utah 1977, Chapter 47, Section 3, as amended.

203 (16) "Utah public agency" means a public agency under Subsection (13)(a) or (b).
204 Section 3. Section **11-42-411** is amended to read:

205 **11-42-411. Installment payment of assessments.**

206 (1) (a) In an assessment resolution or ordinance, the governing body may, subject to
207 Subsection (1)(b), provide that some or all of the assessment be paid in installments over a
208 period not to exceed 20 years from the effective date of the resolution or ordinance.

209 (b) If an assessment resolution or ordinance provides that some or all of the assessment
210 be paid in installments for a period exceeding ten years from the effective date of the resolution
211 or ordinance, the governing body:

212 (i) shall make a determination that:

213 (A) the improvement for which the assessment is made has a reasonable useful life for

214 the full period during which installments are to be paid; or

215 (B) it would be in the best interests of the local entity and the property owners for
216 installments to be paid for more than ten years; and

217 (ii) may provide in the resolution or ordinance that no assessment is payable during
218 some or all of the period ending three years after the effective date of the resolution or
219 ordinance.

220 (2) An assessment resolution or ordinance that provides for the assessment to be paid
221 in installments may provide that the unpaid balance be paid over the period of time that
222 installments are payable:

223 (a) in substantially equal installments of principal; or

224 (b) in substantially equal installments of principal and interest.

225 (3) (a) Each assessment resolution or ordinance that provides for the assessment to be
226 paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance
227 of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and
228 variable rates, as determined by the governing body, from the effective date of the resolution or
229 ordinance or another date specified in the resolution or ordinance.

230 (b) If the assessment is for operation and maintenance costs or for the costs of
231 economic promotion activities:

232 (i) a local entity may charge interest only from the date each installment is due; and

233 (ii) the first installment of an assessment shall be due 15 days after the effective date of
234 the assessment resolution or ordinance.

235 (c) If an assessment resolution or ordinance provides for the unpaid balance of the
236 assessment to bear interest at a variable rate, the assessment resolution or ordinance shall
237 specify:

238 (i) the basis upon which the rate is to be determined from time to time;

239 (ii) the manner in which and schedule upon which the rate is to be adjusted; and

240 (iii) a maximum rate that the assessment may bear.

241 (4) Interest payable on assessments may include:

242 (a) interest on assessment bonds;

243 (b) ongoing local entity costs incurred for administration of the assessment area; and

244 (c) any costs incurred with respect to:

245 (i) securing a letter of credit or other instrument to secure payment or repurchase of
246 bonds; or

247 (ii) retaining a marketing agent or an indexing agent.

248 (5) Interest imposed in an assessment resolution or ordinance shall be paid in addition
249 to the amount of each installment annually or at more frequent intervals as provided in the
250 assessment resolution or ordinance.

251 (6) (a) Except for an assessment for operation and maintenance costs or for the costs of
252 economic promotion activities, a property owner may pay some or all of the entire assessment
253 without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

254 (b) After the 25-day period stated in Subsection (6)(a), a property owner may at any
255 time prepay some or all of the assessment levied against the owner's property.

256 (c) A local entity may require a prepayment of an installment to include:

257 (i) an amount equal to the interest that would accrue on the assessment to the next date
258 on which interest is payable on bonds issued in anticipation of the collection of the assessment;
259 and

260 (ii) the amount necessary, in the governing body's opinion or the opinion of the officer
261 designated by the governing body, to assure the availability of money to pay:

262 (A) interest that becomes due and payable on those bonds; and

263 (B) any premiums that become payable on bonds that are called in order to use the
264 money from the prepaid assessment installment.

265 Section 4. Section **11-42-605** is amended to read:

266 **11-42-605. Local entity may authorize the issuance of assessment bonds -- Limit**
267 **on amount of bonds -- Features of assessment bonds.**

268 (1) After the 25-day prepayment period under Subsection 11-42-411(6) has passed or,
269 if the 25-day prepayment period is waived under Section 11-42-104, after the assessment
270 resolution or ordinance takes effect, a local entity may authorize the issuance of bonds to pay
271 the costs of improvements in an assessment area, and other related costs, against the funds that
272 the local entity will receive because of an assessment in an assessment area.

273 (2) The aggregate principal amount of bonds authorized under Subsection (1) may not
274 exceed the unpaid balance of assessments at the end of the 25-day prepayment period under
275 Subsection 11-42-411[~~(5)~~](6).

- 276 (3) Assessment bonds issued under this section:
- 277 (a) are fully negotiable for all purposes;
- 278 (b) shall mature at a time that does not exceed the period that installments of
- 279 assessments in the assessment area are due and payable, plus one year;
- 280 (c) shall bear interest at the lowest rate or rates reasonably obtainable;
- 281 (d) may not be dated earlier than the effective date of the assessment ordinance;
- 282 (e) shall be payable at the place, shall be in the form, and shall be sold in the manner
- 283 and with the details that are provided in the resolution authorizing the issuance of the bonds;
- 284 (f) shall be issued, as the governing body determines:
- 285 (i) in bearer form, with or without interest coupons attached; or
- 286 (ii) in registered form as provided in Title 15, Chapter 7, Registered Public Obligations
- 287 Act; and
- 288 (g) provide that interest be paid semiannually, annually, or at another interval as
- 289 specified by the governing body.
- 290 (4) (a) A local entity may:
- 291 (i) (A) provide that assessment bonds be callable for redemption before maturity; and
- 292 (B) fix the terms and conditions of redemption, including the notice to be given and
- 293 any premium to be paid;
- 294 (ii) subject to Subsection (4)(b), require assessment bonds to bear interest at a fixed or
- 295 variable rate, or a combination of fixed and variable rates;
- 296 (iii) specify terms and conditions under which:
- 297 (A) assessment bonds bearing interest at a variable interest rate may be converted to
- 298 bear interest at a fixed interest rate; and
- 299 (B) the local entity agrees to repurchase the bonds; and
- 300 (iv) engage a remarketing agent and indexing agent, subject to the terms and conditions
- 301 that the governing body agrees to;
- 302 (v) include all costs associated with assessment bonds, including any costs resulting
- 303 from any of the actions the local entity is authorized to take under this section, in an assessment
- 304 levied under Section 11-42-401.
- 305 (b) If assessment bonds carry a variable interest rate, the local entity shall specify:
- 306 (i) the basis upon which the variable rate is to be determined over the life of the bonds;

307 (ii) the manner in which and schedule upon which the rate is to be adjusted; and
 308 (iii) a maximum rate that the bonds may carry.

309 (5) (a) Nothing in this part may be construed to authorize the issuance of assessment
 310 bonds to pay for the cost of ordinary repairs to pavement, sewers, drains, curbing, gutters, or
 311 sidewalks.

312 (b) Notwithstanding Subsection (5)(a), a local entity may issue assessment bonds to
 313 pay for extraordinary repairs to pavement, sewers, drains, curbing, gutters, or sidewalk.

314 (c) A local entity's governing body may define by resolution or ordinance what
 315 constitutes ordinary repairs and extraordinary repairs for purposes of this Subsection (5).

316 (d) Nothing in this Subsection (5) may be construed to limit a local entity from levying
 317 an assessment within an assessment area to pay operation and maintenance costs as described
 318 in a notice under Section 11-42-402.

319 (6) If a local entity has issued bond anticipation notes under Section 11-42-602 in
 320 anticipation of assessment bonds that the local entity issues under this part, the local entity
 321 shall provide for the retirement of the bond anticipation notes contemporaneously with the
 322 issuance of the assessment bonds.

323 Section 5. Section **13-21-2** is amended to read:

324 **13-21-2. Definitions -- Exemptions.**

325 As used in this chapter:

326 (1) "Buyer" means an individual who is solicited to purchase or who purchases the
 327 services of a credit services organization.

328 (2) "Credit reporting agency" means a person who, for a monetary fee, dues, or on a
 329 cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling
 330 or evaluating consumer credit information or other information on consumers for the purpose
 331 of furnishing consumer reports to third persons.

332 (3) (a) "Credit services organization" means a person who represents [~~oneself~~] that the
 333 person or an employee [~~as~~] is a debt professional or credit counselor, or, with respect to the
 334 extension of credit by others, sells, provides, or performs, or represents that the person can or
 335 will sell, provide, or perform, in return for the payment of money or other valuable
 336 consideration any of the following services:

337 (i) improving a buyer's credit record, history, or rating;

338 (ii) providing advice, assistance, instruction, or instructional materials to a buyer with
339 regard to Subsection (3)(a)(i); or

340 (iii) debt reduction or debt management plans.

341 (b) "Credit services organization" does not include:

342 (i) a person authorized to make loans or extensions of credit under the laws of this state
343 or the United States who is subject to regulation and supervision by this state or the United
344 States and who derives at least 35% of the person's income from making loans and extensions
345 of credit;

346 (ii) a depository institution:

347 (A) as defined in Section 7-1-103; or

348 (B) that is regulated or supervised by the Federal Deposit Insurance Corporation or the
349 National Credit Union Administration;

350 (iii) a person licensed as a real estate broker by this state if the person is acting within
351 the course and scope of that license;

352 (iv) a person licensed to practice law in this state if:

353 (A) the person renders the services described in Subsection (3)(a) within the course and
354 scope of the person's practice as an attorney; and

355 (B) the services described in Subsection (3)(a) are incidental to the person's practice as
356 an attorney;

357 (v) a broker-dealer registered with the Securities and Exchange Commission or the
358 Commodity Futures Trading Commission if the broker-dealer is acting within the course and
359 scope of that regulation;

360 (vi) a credit reporting agency if the services described in Subsection (3)(a) are
361 incidental to the credit reporting agency's services; or

362 (vii) a person who provides debt-management services and is required to be registered
363 under Title 13, Chapter 42, Uniform Debt-Management Services Act.

364 (4) "Extension of credit" means the right to defer payment of debt or to incur debt and
365 defer its payment, offered or granted primarily for personal, family, or household purposes.

366 Section 6. Section **13-43-206** is amended to read:

367 **13-43-206. Advisory opinion -- Process.**

368 (1) A request for an advisory opinion under Section 13-43-205 shall be:

- 369 (a) filed with the Office of the Property Rights Ombudsman; and
- 370 (b) accompanied by a filing fee of \$150.
- 371 (2) The Office of the Property Rights Ombudsman may establish policies providing for
- 372 partial fee waivers for a person who is financially unable to pay the entire fee.
- 373 (3) A person requesting an advisory opinion need not exhaust administrative remedies,
- 374 including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an
- 375 advisory opinion.
- 376 (4) The Office of the Property Rights Ombudsman shall:
- 377 (a) deliver notice of the request to opposing parties indicated in the request;
- 378 (b) inquire of all parties if there are other necessary parties to the dispute; and
- 379 (c) deliver notice to all necessary parties.
- 380 (5) If a governmental entity is an opposing party, the Office of the Property Rights
- 381 Ombudsman shall deliver the request in the manner provided for in Section [~~63-30d-301~~]
- 382 63-30d-401.
- 383 (6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the
- 384 parties can agree to a neutral third party to issue an advisory opinion.
- 385 (b) If no agreement can be reached within four business days after notice is delivered
- 386 pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall
- 387 appoint a neutral third party to issue an advisory opinion.
- 388 (7) All parties that are the subject of the request for advisory opinion shall:
- 389 (a) share equally in the cost of the advisory opinion; and
- 390 (b) provide financial assurance for payment that the neutral third party requires.
- 391 (8) The neutral third party shall comply with the provisions of Section 78-31a-109, and
- 392 shall promptly:
- 393 (a) seek a response from all necessary parties to the issues raised in the request for
- 394 advisory opinion;
- 395 (b) investigate and consider all responses; and
- 396 (c) issue a written advisory opinion within 15 business days after the appointment of
- 397 the neutral third party under Subsection (6)(b), unless:
- 398 (i) the parties agree to extend the deadline; or
- 399 (ii) the neutral third party determines that the matter is complex and requires additional

400 time to render an opinion, which may not exceed 30 calendar days.

401 (9) An advisory opinion shall include a statement of the facts and law supporting the
402 opinion's conclusions.

403 (10) (a) Copies of any advisory opinion issued by the Office of the Property Rights
404 Ombudsman shall be delivered as soon as practicable to all necessary parties.

405 (b) A copy of the advisory opinion shall be delivered to the government entity in the
406 manner provided for in Section 63-30d-401.

407 (11) An advisory opinion issued by the Office of the Property Rights Ombudsman is
408 not binding on any party to, nor admissible as evidence in, a dispute involving land use law
409 except as provided in Subsection (12).

410 (12) (a) If the same issue that is the subject of an advisory opinion is listed as a cause
411 of action in litigation, and that cause of action is litigated on the same facts and circumstances
412 and is resolved consistent with the advisory opinion, the substantially prevailing party on that
413 cause of action may collect reasonable attorney fees and court costs pertaining to the
414 development of that cause of action from the date of the delivery of the advisory opinion to the
415 date of the court's resolution.

416 (b) Nothing in this Subsection (12) is intended to create any new cause of action under
417 land use law.

418 (13) Unless filed by the local government, a request for an advisory opinion under
419 Section 13-43-205 does not stay the progress of a land use application, or the effect of a land
420 use decision.

421 Section 7. Section **16-4-102** is amended to read:

422 **16-4-102. Definitions.**

423 As used in this chapter:

424 (1) "Corporation" means a nonprofit corporation or a profit corporation.

425 (2) "Nonprofit corporation" means a nonprofit corporation as defined in Section
426 16-6a-102.

427 (3) "Profit corporation" means a corporation as defined in Section 16-10a-102.

428 (4) "Shares" means shares as defined in:

429 (a) Section 16-6a-102 for a nonprofit corporation; and

430 (b) Section 16-10a-102 for a profit corporation.

431 (5) "Water company" means a corporation in which a shareholder has the right, based
432 on the [~~shareholders~~] shareholder's shares, to receive a proportionate share of water delivered
433 by the corporation.

434 Section 8. Section **16-6a-1702** is amended to read:

435 **16-6a-1702. Application to foreign nonprofit corporations.**

436 (1) A foreign nonprofit corporation authorized to conduct affairs in this state on April
437 30, 2001, is subject to this chapter, but is not required to obtain a new certificate of authority to
438 conduct affairs under this chapter.

439 (2) A foreign nonprofit corporation that is qualified to do business in this state under
440 the provisions of Title 16, Chapter 8, which provisions were repealed by [~~Chapter 28;~~] Laws of
441 Utah 1961, Chapter 28, shall be authorized to transact business in this state subject to all of the
442 limitations, restrictions, liabilities, and duties prescribed in this chapter.

443 (3) This chapter shall apply to all foreign nonprofit corporations sole qualified to do
444 business in this state with respect to mergers and consolidations.

445 Section 9. Section **17-27a-103** is amended to read:

446 **17-27a-103. Definitions.**

447 As used in this chapter:

448 (1) "Affected entity" means a county, municipality, local district, special service
449 district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, school district,
450 interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act,
451 specified property owner, property owners association, public utility, or the Utah Department
452 of Transportation, if:

453 (a) the entity's services or facilities are likely to require expansion or significant
454 modification because of an intended use of land;

455 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
456 or

457 (c) the entity has filed with the county a request for notice during the same calendar
458 year and before the county provides notice to an affected entity in compliance with a
459 requirement imposed under this chapter.

460 (2) "Appeal authority" means the person, board, commission, agency, or other body
461 designated by ordinance to decide an appeal of a decision of a land use application or a

462 variance.

463 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
464 residential property if the sign is designed or intended to direct attention to a business, product,
465 or service that is not sold, offered, or existing on the property where the sign is located.

466 (4) "Charter school" includes:

467 (a) an operating charter school;

468 (b) a charter school applicant that has its application approved by a chartering entity in
469 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

470 (c) an entity who is working on behalf of a charter school or approved charter applicant
471 to develop or construct a charter school building.

472 (5) "Chief executive officer" means the person or body that exercises the executive
473 powers of the county.

474 (6) "Conditional use" means a land use that, because of its unique characteristics or
475 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
476 compatible in some areas or may be compatible only if certain conditions are required that
477 mitigate or eliminate the detrimental impacts.

478 (7) "Constitutional taking" means a governmental action that results in a taking of
479 private property so that compensation to the owner of the property is required by the:

480 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

481 (b) Utah Constitution Article I, Section 22.

482 (8) "Culinary water authority" means the department, agency, or public entity with
483 responsibility to review and approve the feasibility of the culinary water system and sources for
484 the subject property.

485 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
486 or more of a person's major life activities, including a person having a record of such an
487 impairment or being regarded as having such an impairment.

488 (b) "Disability" does not include current illegal use of, or addiction to, any federally
489 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
490 802.

491 (10) "Elderly person" means a person who is 60 years old or older, who desires or
492 needs to live with other elderly persons in a group setting, but who is capable of living

493 independently.

494 (11) "Fire authority" means the department, agency, or public entity with responsibility
495 to review and approve the feasibility of fire protection and suppression services for the subject
496 property.

497 (12) "Gas corporation" has the same meaning as defined in Section 54-2-1.

498 (13) "General plan" means a document that a county adopts that sets forth general
499 guidelines for proposed future development of the unincorporated land within the county.

500 (14) "Identical plans" means building plans submitted to a county that are substantially
501 identical building plans that were previously submitted to and reviewed and approved by the
502 county and describe a building that is:

503 (a) located on land zoned the same as the land on which the building described in the
504 previously approved plans is located; and

505 (b) subject to the same geological and meteorological conditions and the same law as
506 the building described in the previously approved plans.

507 (15) "Interstate pipeline company" means a person or entity engaged in natural gas
508 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
509 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

510 (16) "Intrastate pipeline company" means a person or entity engaged in natural gas
511 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
512 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

513 (17) "Land use application" means an application required by a county's land use
514 ordinance.

515 (18) "Land use authority" means a person, board, commission, agency, or other body
516 designated by the local legislative body to act upon a land use application.

517 (19) "Land use ordinance" means a planning, zoning, development, or subdivision
518 ordinance of the county, but does not include the general plan.

519 (20) "Land use permit" means a permit issued by a land use authority.

520 (21) "Legislative body" means the county legislative body, or for a county that has
521 adopted an alternative form of government, the body exercising legislative powers.

522 (22) "Local district" means any entity under Title 17B, Limited Purpose Local
523 Government Entities - Local Districts, and any other governmental or quasi-governmental

524 entity that is not a county, municipality, school district, or unit of the state.

525 (23) "Lot line adjustment" means the relocation of the property boundary line in a
526 subdivision between two adjoining lots with the consent of the owners of record.

527 (24) "Moderate income housing" means housing occupied or reserved for occupancy
528 by households with a gross household income equal to or less than 80% of the median gross
529 income for households of the same size in the county in which the housing is located.

530 (25) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
531 and expenses incurred in:

532 (a) verifying that building plans are identical plans; and

533 (b) reviewing and approving those minor aspects of identical plans that differ from the
534 previously reviewed and approved building plans.

535 (26) "Noncomplying structure" means a structure that:

536 (a) legally existed before its current land use designation; and

537 (b) because of one or more subsequent land use ordinance changes, does not conform
538 to the setback, height restrictions, or other regulations, excluding those regulations that govern
539 the use of land.

540 (27) "Nonconforming use" means a use of land that:

541 (a) legally existed before its current land use designation;

542 (b) has been maintained continuously since the time the land use ordinance regulation
543 governing the land changed; and

544 (c) because of one or more subsequent land use ordinance changes, does not conform
545 to the regulations that now govern the use of the land.

546 (28) "Official map" means a map drawn by county authorities and recorded in the
547 county recorder's office that:

548 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
549 highways and other transportation facilities;

550 (b) provides a basis for restricting development in designated rights-of-way or between
551 designated setbacks to allow the government authorities time to purchase or otherwise reserve
552 the land; and

553 (c) has been adopted as an element of the county's general plan.

554 (29) "Person" means an individual, corporation, partnership, organization, association,

555 trust, governmental agency, or any other legal entity.

556 (30) "Plan for moderate income housing" means a written document adopted by a
557 county legislative body that includes:

558 (a) an estimate of the existing supply of moderate income housing located within the
559 county;

560 (b) an estimate of the need for moderate income housing in the county for the next five
561 years as revised biennially;

562 (c) a survey of total residential land use;

563 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
564 income housing; and

565 (e) a description of the county's program to encourage an adequate supply of moderate
566 income housing.

567 (31) "Plat" means a map or other graphical representation of lands being laid out and
568 prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

569 (32) "Public hearing" means a hearing at which members of the public are provided a
570 reasonable opportunity to comment on the subject of the hearing.

571 (33) "Public meeting" means a meeting that is required to be open to the public under
572 Title 52, Chapter 4, Open and Public Meetings Act.

573 (34) "Receiving zone" means an unincorporated area of a county that the county's land
574 use authority designates as an area in which an owner of land may receive transferrable
575 development rights.

576 (35) "Record of survey map" means a map of a survey of land prepared in accordance
577 with Section 17-23-17.

578 (36) "Residential facility for elderly persons" means a single-family or multiple-family
579 dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health
580 care facility as defined by Section 26-21-2.

581 (37) "Residential facility for persons with a disability" means a residence:

582 (a) in which more than one person with a disability resides; and

583 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
584 Chapter 2, Licensure of Programs and Facilities; or

585 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,

586 Health Care Facility Licensing and Inspection Act.

587 (38) "Sanitary sewer authority" means the department, agency, or public entity with
588 responsibility to review and approve the feasibility of sanitary sewer services or onsite
589 wastewater systems.

590 (39) "Sending zone" means an unincorporated area of a county that the county's land
591 use authority designates as an area from which an owner of land may transfer transferrable
592 development rights to an owner of land in a receiving zone.

593 (40) "Specified public utility" means an electrical corporation, gas corporation, or
594 telephone corporation, as those terms are defined in Section 54-2-1.

595 (41) "Street" means a public right-of-way, including a highway, avenue, boulevard,
596 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
597 way.

598 (42) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
599 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
600 purpose, whether immediate or future, for offer, sale, lease, or development either on the
601 installment plan or upon any and all other plans, terms, and conditions.

602 (b) "Subdivision" includes:

603 (i) the division or development of land whether by deed, metes and bounds description,
604 devise and testacy, map, plat, or other recorded instrument; and

605 (ii) except as provided in Subsection (42)(c), divisions of land for residential and
606 nonresidential uses, including land used or to be used for commercial, agricultural, and
607 industrial purposes.

608 (c) "Subdivision" does not include:

609 (i) a bona fide division or partition of agricultural land for agricultural purposes;

610 (ii) a recorded agreement between owners of adjoining properties adjusting their
611 mutual boundary if:

612 (A) no new lot is created; and

613 (B) the adjustment does not violate applicable land use ordinances;

614 (iii) a recorded document, executed by the owner of record:

615 (A) revising the legal description of more than one contiguous unsubdivided parcel of
616 property into one legal description encompassing all such parcels of property; or

617 (B) joining a subdivided parcel of property to another parcel of property that has not
618 been subdivided, if the joinder does not violate applicable land use ordinances;

619 (iv) a bona fide division or partition of land in a county other than a first class county
620 for the purpose of siting, on one or more of the resulting separate parcels:

621 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
622 corporation, interstate pipeline company, or intrastate pipeline company; or

623 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
624 utility service regeneration, transformation, retransmission, or amplification facility; or

625 (v) a recorded agreement between owners of adjoining subdivided properties adjusting
626 their mutual boundary if:

627 (A) no new dwelling lot or housing unit will result from the adjustment; and

628 (B) the adjustment will not violate any applicable land use ordinance.

629 (d) The joining of a subdivided parcel of property to another parcel of property that has
630 not been subdivided does not constitute a subdivision under this Subsection (42) as to the
631 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
632 ordinance.

633 (43) "Township" means a contiguous, geographically defined portion of the
634 unincorporated area of a county, established under this part or reconstituted or reinstated under
635 Section 17-27a-306, with planning and zoning functions as exercised through the township
636 planning commission, as provided in this chapter, but with no legal or political identity
637 separate from the county and no taxing authority, except that "township" means a former
638 township under [~~Chapter 308,~~] Laws of Utah 1996, Chapter 308, where the context so
639 indicates.

640 (44) "Transferrable development right" means the entitlement to develop land within a
641 sending zone that would vest according to the county's existing land use ordinances on the date
642 that a completed land use application is filed seeking the approval of development activity on
643 the land.

644 (45) "Unincorporated" means the area outside of the incorporated area of a
645 municipality.

646 (46) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
647 land use zones, overlays, or districts.

648 Section 10. Section **17-27a-301** is amended to read:

649 **17-27a-301. Ordinance establishing planning commission required -- Exception --**
650 **Ordinance requirements -- Township planning commission -- Compensation.**

651 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
652 establishing a countywide planning commission for the unincorporated areas of the county not
653 within a township.

654 (b) Subsection (1)(a) does not apply if all of the county is included within any
655 combination of:

- 656 (i) municipalities; and
- 657 (ii) townships with their own planning commissions.

658 (2) The ordinance shall define:

659 (a) the number and terms of the members and, if the county chooses, alternate
660 members;

661 (b) the mode of appointment;

662 (c) the procedures for filling vacancies and removal from office;

663 (d) the authority of the planning commission; and

664 (e) other details relating to the organization and procedures of the planning
665 commission.

666 (3) (a) If the county establishes a township planning commission, the county legislative
667 body shall enact an ordinance defining appointment procedures, procedures for filling
668 vacancies and removing members from office, and other details relating to the organization and
669 procedures of each township planning commission.

670 (b) The planning commission for each township shall consist of seven members who,
671 except as provided in Subsection (3)(e), shall be appointed by:

672 (i) in a county operating under a form of government in which the executive and
673 legislative functions of the governing body are separated, the county executive with the advice
674 and consent of the county legislative body; or

675 (ii) in a county operating under a form of government in which the executive and
676 legislative functions of the governing body are not separated, the county legislative body.

677 (c) (i) Members shall serve four-year terms and until their successors are appointed or,
678 as provided in Subsection (3)(e), elected and qualified.

679 (ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in
680 Subsection (3)(e), members of the first planning commissions shall be appointed so that, for
681 each commission, the terms of at least one member and no more than two members expire each
682 year.

683 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township
684 planning commission shall be a registered voter residing within the township.

685 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission
686 of a township reconstituted under [~~Chapter 389;~~] Laws of Utah 1997, Chapter 389, or
687 reinstated or established under Subsection 17-27a-306(1)(e)(i) may be an appointed member
688 who is a registered voter residing outside the township if that member:

689 (I) is an owner of real property located within the township; and

690 (II) resides within the county in which the township is located.

691 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township
692 planning commission from a list of three persons submitted by the county legislative body.

693 (II) If the township planning commission has not notified the county legislative body of
694 its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning
695 commission's receipt of the list, the county legislative body may appoint one of the three
696 persons on the list or a registered voter residing within the township as a member of the
697 township planning commission.

698 (e) (i) The legislative body of each county in which a township reconstituted under
699 [~~Chapter 389;~~] Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection
700 17-27a-306(1)(e)(i) is located shall enact an ordinance that provides for the election of at least
701 three members of the planning commission of that township.

702 (ii) The election of planning commission members under Subsection (3)(e)(i) shall
703 coincide with the election of other county officers during even-numbered years.
704 Approximately half the elected planning commission members shall be elected every four years
705 during elections held on even-numbered years, and the remaining elected members shall be
706 elected every four years on alternating even-numbered years.

707 (f) (i) (A) The legislative body of each county in which a township reconstituted under
708 [~~Chapter 389;~~] Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection
709 17-27a-306(1)(e)(i) is located shall enact an ordinance appointing each elected member of the

710 planning and zoning board of the former township, established under [~~Chapter 308,~~] Laws of
711 Utah 1996, Chapter 308, as a member of the planning commission of the reconstituted or
712 reinstated township. Each member appointed under this subsection shall be considered an
713 elected member.

714 (B) (I) Except as provided in Subsection (3)(f)(i)(B)(II), the term of each member
715 appointed under Subsection (3)(f)(i)(A) shall continue until the time that the member's term as
716 an elected member of the former township planning and zoning board would have expired.

717 (II) Notwithstanding Subsection (3)(f)(i)(B)(I), the county legislative body may adjust
718 the terms of the members appointed under Subsection (3)(f)(i)(A) so that the terms of those
719 members coincide with the schedule under Subsection (3)(e)(ii) for elected members.

720 (ii) Subject to Subsection (3)(f)(iii), the legislative body of a county in which a
721 township reconstituted under [~~Chapter 389,~~] Laws of Utah 1997, Chapter 389, or reinstated or
722 established under Subsection 17-27a-306(1)(e)(i) is located may enact an ordinance allowing
723 each appointed member of the planning and zoning board of the former township, established
724 under [~~Chapter 308,~~] Laws of Utah 1996, Chapter 308, to continue to hold office as a member
725 of the planning commission of the reconstituted or reinstated township until the time that the
726 member's term as a member of the former township's planning and zoning board would have
727 expired.

728 (iii) If a planning commission of a township reconstituted under [~~Chapter 389,~~] Laws
729 of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(e)(i)
730 has more than one appointed member who resides outside the township, the legislative body of
731 the county in which that township is located shall, within 15 days of the effective date of this
732 Subsection (3)(f)(iii), dismiss all but one of the appointed members who reside outside the
733 township, and a new member shall be appointed under Subsection (3)(b) no later than August
734 16, 1997, to fill the position of each dismissed member.

735 (g) (i) Except as provided in Subsection (3)(g)(ii), upon the appointment or election of
736 all members of a township planning commission, each township planning commission under
737 this section shall begin to exercise the powers and perform the duties provided in Section
738 17-27a-302 with respect to all matters then pending that previously had been under the
739 jurisdiction of the countywide planning commission or township planning and zoning board.

740 (ii) Notwithstanding Subsection (3)(g)(i), if the members of a former township

741 planning and zoning board continue to hold office as members of the planning commission of
742 the township planning district under an ordinance enacted under Subsection (3)(f), the
743 township planning commission shall immediately begin to exercise the powers and perform the
744 duties provided in Section 17-27a-302 with respect to all matters then pending that had
745 previously been under the jurisdiction of the township planning and zoning board.

746 (4) The legislative body may fix per diem compensation for the members of the
747 planning commission, based on necessary and reasonable expenses and on meetings actually
748 attended.

749 Section 11. Section **17-27a-306** is amended to read:

750 **17-27a-306. Townships.**

751 (1) (a) (i) Subject to Subsection (1)(a)(ii), a county legislative body may, without
752 having received a petition under Subsection (1)(b), enact an ordinance establishing a township
753 within the unincorporated county or dividing the unincorporated county into townships.

754 (ii) Before enacting an ordinance under Subsection (1)(a)(i), the county legislative
755 body shall, after providing reasonable advance notice, hold a public hearing on the proposal to
756 establish a township or to divide the unincorporated county into townships.

757 (b) If 25% of the private real property owners in a contiguous area of the
758 unincorporated county petition the county legislative body to establish a township for that area,
759 the county legislative body shall:

760 (i) hold a public hearing to discuss the petition;

761 (ii) at least one week before the public hearing, publish notice of the petition and the
762 time, date, and place of the public hearing at least once in a newspaper of general circulation in
763 the county; and

764 (iii) at the public hearing, consider oral and written testimony from the public and vote
765 on the question of whether or not to establish a township.

766 (c) If the county legislative body establishes a township pursuant to a petition, the
767 members of the township planning commission shall be appointed as provided in Subsection
768 17-27a-301(3)(b) to perform the duties established in this part for the township.

769 (d) Except as provided in Subsection (1)(e), each township shall:

770 (i) contain:

771 (A) at least 20% but not more than 80% of:

772 (I) the total private land area in the unincorporated county; or
773 (II) the total value of locally assessed taxable property in the unincorporated county; or
774 (B) (I) in a county of the first, second, or third class, at least 5% of the total population
775 of the unincorporated county; or
776 (II) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of
777 the unincorporated county; or
778 (ii) have been declared by the United States Census Bureau as a census designated
779 place.
780 (e) (i) (A) A township that was dissolved under [~~Chapter 389,~~] Laws of Utah 1997,
781 Chapter 389, is reinstated as a township under this part with the same boundaries and name as
782 before the dissolution, if the former township consisted of a single, contiguous land area.
783 (B) Notwithstanding Subsection (1)(e)(i)(A), a county legislative body may enact an
784 ordinance establishing as a township under this part a former township that was dissolved
785 under [~~Chapter 389,~~] Laws of Utah 1997, Chapter 389, even though the former township does
786 not qualify to be reinstated under Subsection (1)(e)(i)(A).
787 (C) A township reinstated under Subsection (1)(e)(i)(A) or established under
788 Subsection (1)(e)(i)(B) shall be subject to the provisions of this part.
789 (ii) Each planning district established under [~~Chapter 225,~~] Laws of Utah 1995,
790 Chapter 225, and each township planning district established under [~~Chapter 389,~~] Laws of
791 Utah 1997, Chapter 389, shall continue in existence as a township, subject to the provisions of
792 this part.
793 (f) (i) After May 1, 2002, the legislative body of each county in which a township that
794 has been reconstituted under [~~Chapter 389,~~] Laws of Utah 1997, Chapter 389, or reinstated
795 under Subsection (1)(e)(i) is located shall review the township and determine whether its
796 continued existence is advisable.
797 (ii) In conducting the review required under Subsection (1)(f)(i), the county legislative
798 body shall hold a public hearing with reasonable, advance, published notice of the hearing and
799 the purpose of the hearing.
800 (iii) Each township that has been reconstituted under [~~Chapter 389,~~] Laws of Utah
801 1997, Chapter 389, or reinstated or established under Subsection (1)(e)(i) and its planning
802 commission shall continue in effect, unless, within 90 days after conducting the review and

803 public hearing required under Subsections (1)(f)(i) and (ii), the county legislative body by
804 ordinance dissolves the township and its planning commission.

805 (g) A township established under this section on or after May 5, 1997, may use the
806 word "township" in its name.

807 (2) (a) If the county legislative body establishes a township without having received a
808 petition, the county legislative body may:

809 (i) assign to the countywide planning commission the duties established in this part that
810 would have been assumed by a township planning commission designated under Subsection

811 (2)(a)(ii); or

812 (ii) designate a planning commission for the township.

813 (b) (i) If the county legislative body fails to designate a planning commission for a
814 township, 40% of the private real property owners in the area proposed to be included in the
815 township, as shown by the last county assessment roll, may petition the county legislative body
816 to designate and appoint a planning commission for the township.

817 (ii) If the county legislative body determines that the petition is validly signed by 40%
818 of the private real property owners in the township, as shown by the last county assessment
819 roll, it shall designate and appoint a planning commission for the township.

820 (3) (a) Except as provided in Subsection (1)(f)(iii), a county legislative body may
821 dissolve township planning commissions created under the authority of this section only by
822 following the procedures and requirements of this Subsection (3).

823 (b) If 20% of the private real property owners in the county petition the county
824 legislative body to dissolve township planning commissions and to appoint a countywide
825 planning commission, the county legislative body shall:

826 (i) hold a public hearing to discuss the petition;

827 (ii) at least one week before the public hearing, publish notice of the petition and the
828 time, date, and place of the public hearing at least once in a newspaper of general circulation in
829 the county; and

830 (iii) at the public hearing, consider oral and written testimony from the public and vote
831 on the question of whether or not to dissolve township planning commissions and to appoint a
832 countywide planning commission.

833 (c) (i) If the county legislative body fails to dissolve township planning commissions

834 and to appoint a countywide planning commission when petitioned to do so by private real
835 property owners under this Subsection (3), 40% of private real property owners in the county,
836 as shown by the last county assessment roll, may petition the county legislative body to
837 dissolve the township planning commissions and to appoint a countywide planning
838 commission.

839 (ii) If the county legislative body determines that the petition is validly signed by 40%
840 of private real property owners in the township, as shown by the last county assessment roll, it
841 shall dissolve the township planning commissions and appoint a countywide planning
842 commission.

843 Section 12. Section 17-27a-307 is amended to read:

844 **17-27a-307. Certain township planning and zoning board dissolved.**

845 Except as provided in Subsection 17-27a-306(1)(f), the planning and zoning board of
846 each township formed before May 5, 1997, under [~~Chapter 308,~~] Laws of Utah 1996, Chapter
847 308, is dissolved.

848 Section 13. Section 17-27a-603 is amended to read:

849 **17-27a-603. Plat required when land is subdivided -- Approval of plat --**
850 **Recording plat.**

851 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of
852 subdivision under Subsection 17-27a-103[~~(39)~~](42), whenever any land is laid out and platted,
853 the owner of the land shall provide an accurate plat that describes or specifies:

854 (a) a name or designation of the subdivision that is distinct from any plat already
855 recorded in the county recorder's office;

856 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
857 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
858 intended to be used as a street or for any other public use, and whether any such area is
859 reserved or proposed for dedication for a public purpose;

860 (c) the lot or unit reference, block or building reference, street or site address, street
861 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
862 and width of the blocks and lots intended for sale; and

863 (d) every existing right-of-way and easement grant of record for underground facilities,
864 as defined in Section 54-8a-2, and for other utility facilities.

865 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
866 ordinances and this part and has been approved by the culinary water authority and the sanitary
867 sewer authority, the county shall approve the plat.

868 (b) Counties are encouraged to receive a recommendation from the fire authority before
869 approving a plat.

870 (3) The county may withhold an otherwise valid plat approval until the owner of the
871 land provides the legislative body with a tax clearance indicating that all taxes, interest, and
872 penalties owing on the land have been paid.

873 (4) (a) The owner of the land shall acknowledge the plat before an officer authorized
874 by law to take the acknowledgment of conveyances of real estate and shall obtain the signature
875 of each individual designated by the county.

876 (b) The surveyor making the plat shall certify that the surveyor:

877 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
878 Professional Land Surveyors Licensing Act;

879 (ii) has completed a survey of the property described on the plat in accordance with
880 Section 17-23-17 and has verified all measurements; and

881 (iii) has placed monuments as represented on the plat.

882 (c) (i) As applicable, the owner or operator of the underground and utility facilities
883 shall approve the:

884 (A) boundary, course, dimensions, and intended use of the right-of-way and easement
885 grants of record;

886 (B) location of existing underground and utility facilities; and

887 (C) conditions or restrictions governing the location of the facilities within the
888 right-of-way, and easement grants of records, and utility facilities within the subdivision.

889 (ii) The approval of an owner or operator under Subsection (4)(c)(i):

890 (A) indicates only that the plat approximates the location of the existing underground
891 and utility facilities but does not warrant or verify their precise location; and

892 (B) does not affect a right that the owner or operator has under:

893 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

894 (II) a recorded easement or right-of-way;

895 (III) the law applicable to prescriptive rights; or

896 (IV) any other provision of law.

897 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
898 land shall, within the time period designated by ordinance, record the plat in the county
899 recorder's office in the county in which the lands platted and laid out are situated.

900 (b) An owner's failure to record a plat within the time period designated by ordinance
901 renders the plat voidable.

902 Section 14. Section **17-52-201** is amended to read:

903 **17-52-201. Procedure for initiating adoption of optional plan -- Limitations --**
904 **Pending proceedings.**

905 (1) An optional plan proposing an alternate form of government for a county may be
906 adopted as provided in this chapter.

907 (2) The process to adopt an optional plan establishing an alternate form of county
908 government may be initiated by:

909 (a) the county legislative body as provided in Section 17-52-202; or

910 (b) registered voters of the county as provided in Section 17-52-203.

911 (3) (a) If the process to adopt an optional plan has been initiated under [~~Chapter 26,~~
912 Laws of Utah 1973, Chapter 26, Section 3, 4, or 5, or Section 17-52-202 or 17-52-203, the
913 county legislative body may not initiate the process again under Section 17-52-202 unless the
914 earlier proceeding:

915 (i) has been concluded by an affirmative or negative vote of registered voters; or

916 (ii) has not been concluded but has been pending for at least two years.

917 (b) A county legislative body may not initiate the process to adopt an optional plan
918 under Section 17-52-202 within four years of an election at which voters approved or rejected
919 an optional plan proposed as a result of a process initiated by the county legislative body.

920 (c) Registered voters of a county may not initiate the process to adopt an optional plan
921 under Section 17-52-203 within four years of an election at which voters approved or rejected
922 an optional plan proposed as a result of a process initiated by registered voters.

923 Section 15. Section **17-53-216** is amended to read:

924 **17-53-216. Business license fees and taxes -- Application information to be**
925 **transmitted to the county assessor.**

926 (1) For the purpose of this section, "business" means any enterprise carried on for the

927 purpose of gain or economic profit, except that the acts of employees rendering services to
928 employers are not included in this definition.

929 (2) The legislative body of a county may by ordinance provide for the licensing of
930 businesses within the unincorporated areas of the county for the purpose of regulation and
931 revenue.

932 (3) All license fees and taxes shall be uniform in respect to the class upon which they
933 are imposed.

934 (4) The county business licensing agency shall transmit the information from each
935 approved business license application to the county assessor within 60 days following the
936 approval of the application.

937 (5) This section may not be construed to enhance, diminish, or otherwise alter the
938 taxing power of counties existing prior to the effective date of [~~Chapter 144,~~] Laws of Utah
939 1988, Chapter 144.

940 Section 16. Section **19-2-103** is amended to read:

941 **19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem**
942 **and expenses.**

943 (1) The board comprises 11 members, one of whom shall be the executive director and
944 ten of whom shall be appointed by the governor with the consent of the Senate.

945 (2) The members shall be knowledgeable of air pollution matters and shall be:

946 (a) a practicing physician and surgeon licensed in the state not connected with industry;

947 (b) a registered professional engineer who is not from industry;

948 (c) a representative from municipal government;

949 (d) a representative from county government;

950 (e) a representative from agriculture;

951 (f) a representative from the mining industry;

952 (g) a representative from manufacturing;

953 (h) a representative from the fuel industry; and

954 (i) two representatives of the public not representing or connected with industry, at
955 least one of whom represents organized environmental interests.

956 (3) No more than five of the appointed members shall belong to the same political
957 party.

958 (4) The majority of the members may not derive any significant portion of their income
959 from persons subject to permits or orders under this chapter. Any potential conflict of interest
960 of any member or the executive secretary, relevant to the interests of the board, shall be
961 adequately disclosed.

962 (5) Members serving on the Air Conservation Committee created by [~~Chapter 126,~~
963 Laws of Utah 1981, Chapter 126, as amended, shall serve as members of the board throughout
964 the terms for which they were appointed.

965 (6) (a) Except as required by Subsection (6)(b), members shall be appointed for a term
966 of four years.

967 (b) Notwithstanding the requirements of Subsection (6)(a), the governor shall, at the
968 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
969 board members are staggered so that approximately half of the board is appointed every two
970 years.

971 (7) [~~Members~~] A member may serve more than one term.

972 (8) [~~Members~~] A member shall hold office until the expiration of their terms and until
973 their successors are appointed, but not more than 90 days after the expiration of their terms.

974 (9) When a vacancy occurs in the membership for any reason, the replacement shall be
975 appointed for the unexpired term.

976 (10) The board shall elect annually a chair and a vice chair from its members.

977 (11) (a) The board shall meet at least quarterly, and special meetings may be called by
978 the chair upon his own initiative, upon the request of the executive secretary, or upon the
979 request of three members of the board.

980 (b) Three days' notice shall be given to each member of the board prior to any meeting.

981 (12) Six members constitute a quorum at any meeting, and the action of a majority of
982 members present is the action of the board.

983 (13) (a) (i) [~~Members~~] A member who [~~are~~] is not a government [~~employees~~] employee
984 shall receive no compensation or benefits for [~~their~~] the member's services, but may receive per
985 diem and expenses incurred in the performance of the member's official duties at the rates
986 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

987 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the
988 member's service.

989 (b) (i) [~~State~~] A state government officer and employee [~~members~~] member who [~~do~~]
990 does not receive salary, per diem, or expenses from [~~their~~] the agency the member represents
991 for [~~their~~] the member's service may receive per diem and expenses incurred in the
992 performance of [~~their~~] the member's official duties from the board at the rates established by
993 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

994 (ii) [~~State~~] A state government officer and employee [~~members~~] member may decline
995 to receive per diem and expenses for [~~their~~] the member's service.

996 (c) (i) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive
997 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for
998 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of
999 [~~their~~] the member's official duties at the rates established by the Division of Finance under
1000 Sections 63A-3-106 and 63A-3-107.

1001 (ii) [~~Local~~] A local government [~~members~~] member may decline to receive per diem
1002 and expenses for [~~their~~] the member's service.

1003 Section 17. Section **19-4-103** is amended to read:

1004 **19-4-103. Drinking Water Board -- Members -- Organization -- Meetings -- Per**
1005 **diem and expenses.**

1006 (1) The board created under Section 19-1-106 comprises 11 members, one of whom is
1007 the executive director and the remainder of whom shall be appointed by the governor with the
1008 consent of the Senate.

1009 (2) No more than five appointed members shall be from the same political party.

1010 (3) The appointed members shall be knowledgeable about drinking water and public
1011 water systems and shall represent different geographical areas within the state insofar as
1012 practicable.

1013 (4) The ten appointed members shall be appointed from the following areas:

1014 (a) two elected officials of municipal government or their representatives involved in
1015 management or operation of public water systems;

1016 (b) two representatives of improvement districts, water conservancy districts, or
1017 metropolitan water districts;

1018 (c) one representative from an industry which manages or operates a public water
1019 system;

1020 (d) one registered professional engineer with expertise in civil or sanitary engineering;

1021 (e) one representative from the state water research community or from an institution
1022 of higher education which has comparable expertise in water research;

1023 (f) two representatives of the public who do not represent other interests named in this
1024 section and who do not receive, and have not received during the past two years, a significant
1025 portion of their income, directly or indirectly, from suppliers; and

1026 (g) one representative from a local health department.

1027 (5) (a) Members of the Utah Safe Drinking Water Committee created by [~~Chapter 126,~~
1028 Laws of Utah 1981, Chapter 126, shall serve as members of the board throughout the terms for
1029 which they were appointed.

1030 (b) Except as required by Subsection (5)(c), as terms of current board members expire,
1031 the governor shall appoint each new member or reappointed member to a four-year term.

1032 (c) Notwithstanding the requirements of Subsection (5)(b), the governor shall, at the
1033 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1034 board members are staggered so that approximately half of the board is appointed every two
1035 years.

1036 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
1037 appointed for the unexpired term.

1038 (7) Each member holds office until the expiration of the member's term, and until a
1039 successor is appointed, but not for more than 90 days after the expiration of the term.

1040 (8) The board shall elect annually a chair and a vice chair from its members.

1041 (9) (a) The board shall meet at least quarterly.

1042 (b) Special meetings may be called by the chair upon his own initiative, upon the
1043 request of the executive secretary, or upon the request of three members of the board.

1044 (c) Reasonable notice shall be given each member of the board prior to any meeting.

1045 (10) Six members constitute a quorum at any meeting and the action of the majority of
1046 the members present is the action of the board.

1047 (11) (a) (i) [~~Members~~] A member who [~~are~~] is not a government [~~employees~~] employee
1048 shall receive no compensation or benefits for [~~their~~] the member's services, but may receive per
1049 diem and expenses incurred in the performance of the member's official duties at the rates
1050 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1051 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the
1052 member's service.

1053 (b) (i) [~~State~~] A state government officer and employee [~~members~~] member who [~~do~~]
1054 does not receive salary, per diem, or expenses from [~~their~~] the agency the member represents
1055 for [~~their~~] the member's service may receive per diem and expenses incurred in the
1056 performance of [~~their~~] the member's official duties from the board at the rates established by
1057 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1058 (ii) [~~State~~] A state government officer and employee [~~members~~] member may decline
1059 to receive per diem and expenses for [~~their~~] the member's service.

1060 (c) (i) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive
1061 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for
1062 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of
1063 [~~their~~] the member's official duties at the rates established by the Division of Finance under
1064 Sections 63A-3-106 and 63A-3-107.

1065 (ii) [~~Local~~] A local government [~~members~~] member may decline to receive per diem
1066 and expenses for [~~their~~] the member's service.

1067 Section 18. Section **19-5-103** is amended to read:

1068 **19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms --**
1069 **Organization -- Meetings -- Per diem and expenses.**

1070 (1) Committee members currently serving on the Water Pollution Control Committee
1071 created under [~~Chapter 126,~~] Laws of Utah 1981, Chapter 126, shall serve on the board
1072 throughout the terms for which they were appointed.

1073 (2) The board comprises the executive director and ten members appointed by the
1074 governor with the consent of the Senate.

1075 (3) No more than five of the appointed members may be from the same political party.

1076 (4) The appointed members, insofar as practicable, shall include the following:

1077 (a) one member representing the mineral industries;

1078 (b) one member representing the food processing industries;

1079 (c) one member representing other manufacturing industries;

1080 (d) two members who are officials of municipal government or their representatives
1081 involved in the management or operation of wastewater treatment facilities;

- 1082 (e) one member representing agricultural and livestock interests;
- 1083 (f) one member representing fish, wildlife, and recreation interests;
- 1084 (g) one member representing improvement and service districts; and
- 1085 (h) two members at large, one of whom represents organized environmental interests,
- 1086 selected with due consideration of the areas of the state affected by water pollution and not
- 1087 representing other interests named in this Subsection (4).

1088 (5) When a vacancy occurs in the membership for any reason, the replacement shall be

1089 appointed for the unexpired term with the consent of the Senate.

1090 (6) (a) Except as required by Subsection (6)(b), [~~members~~] each member shall be

1091 appointed for [~~terms~~] a term of four years and [~~are~~] is eligible for reappointment.

1092 (b) Notwithstanding the requirements of Subsection (6)(a), the governor shall, at the

1093 time of appointment or reappointment, adjust the length of terms to ensure that the terms of

1094 board members are staggered so that approximately half of the board is appointed every two

1095 years.

1096 (7) [~~Members~~] A member shall hold office until the expiration of [~~their~~] the member's

1097 terms and until [~~their successors are~~] that member's successor is appointed, not to exceed 90

1098 days after the formal expiration of [~~their terms~~] the member's term.

1099 (8) The board shall:

1100 (a) organize and annually select one of its members as chair and one of its members as

1101 vice chair;

1102 (b) hold at least four regular meetings each calendar year; and

1103 (c) keep minutes of its proceedings which shall be open to the public for inspection.

1104 (9) Special meetings may be called by the chair and must be called by him upon the

1105 request of three or more members of the board.

1106 (10) Each member of the board and the executive secretary shall be notified of the time

1107 and place of each meeting.

1108 (11) Six members of the board constitute a quorum for the transaction of business, and

1109 the action of a majority of members present is the action of the board.

1110 (12) (a) [~~Members~~] A member shall receive no compensation or benefits for [~~their~~] the

1111 member's services, but may receive per diem and expenses incurred in the performance of the

1112 member's official duties at the rates established by the Division of Finance under Sections

1113 63A-3-106 and 63A-3-107.

1114 (b) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the
1115 member's service.

1116 (c) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive salary,
1117 per diem, or expenses from the entity that [~~they represent~~] the member represents for [~~their~~] the
1118 member's service may receive per diem and expenses incurred in the performance of [~~their~~] the
1119 member's official duties at the rates established by the Division of Finance under Sections
1120 63A-3-106 and 63A-3-107.

1121 (d) [~~Local~~] A local government [~~members~~] member may decline to receive per diem
1122 and expenses for [~~their~~] the member's service.

1123 Section 19. Section **19-6-108.3** is amended to read:

1124 **19-6-108.3. Executive secretary to issue written assurances, make determinations,**
1125 **and partition operation plans -- Board to make rules.**

1126 (1) Based upon risk to human health or the environment from potential exposure to
1127 hazardous waste, the executive secretary may:

1128 (a) even if corrective action is incomplete, issue an enforceable written assurance to a
1129 person acquiring an interest in real property covered by an operation plan that the person to
1130 whom the assurance is issued:

1131 (i) is not a permittee under the operation plan; and

1132 (ii) will not be subject to an enforcement action under this part for contamination that
1133 exists or for violations under this part that occurred before the person acquired the interest in
1134 the real property covered by the operation plan;

1135 (b) determine that corrective action to the real property covered by the operation plan
1136 is:

1137 (i) complete;

1138 (ii) incomplete;

1139 (iii) unnecessary with an environmental covenant; or

1140 (iv) unnecessary without an environmental covenant; and

1141 (c) partition from an operation plan a portion of real property subject to the operation
1142 plan after determining that corrective action for that portion of real property is:

1143 (i) complete;

1144 (ii) unnecessary with an environmental covenant; or
1145 (iii) unnecessary without an environmental covenant.

1146 (2) If the executive secretary determines that an environmental covenant is necessary
1147 under Subsection (1)(b) or (c), the executive secretary shall require that the real property be
1148 subject to an environmental covenant according to Title 57, Chapter 25, Uniform
1149 Environmental Covenants Act.

1150 (3) An assurance issued under Subsection (1) protects the person to whom the
1151 assurance is issued from any cost recovery and contribution action under state law.

1152 (4) By following the procedures and requirements of Title 63, Chapter ~~[46b,]~~ 46a, Utah
1153 Administrative [Procedures] Rulemaking Act, the board may adopt rules to administer this
1154 section.

1155 Section 20. Section **31A-22-605.5** is amended to read:

1156 **31A-22-605.5. Application.**

1157 (1) For purposes of this section "insurance mandate":

1158 (a) means a mandatory obligation with respect to coverage, benefits, or the number or
1159 types of providers imposed on policies of accident and health insurance; and

1160 (b) does not mean an administrative rule imposing a mandatory obligation with respect
1161 to coverage, benefits, or providers unless that mandatory obligation was specifically imposed
1162 on policies of accident and health insurance by statute.

1163 (2) (a) Notwithstanding the provisions of Subsection 31A-1-103(3)(f), any law
1164 imposed under this title that becomes effective after January 1, 2002, which provides for an
1165 insurance mandate for policies of accident and health insurance shall also apply to health
1166 coverage offered to the state employees' risk pool under Subsection 49-20-202(1)(a).

1167 (b) If health coverage offered to the state employees' risk pool under Subsection
1168 49-20-202(1)(a) offers coverage in the same manner and to the same extent as the coverage
1169 required by the insurance mandate imposed under this title or coverage that is greater than the
1170 insurance mandate imposed under this title, the coverage offered to state employees under
1171 Subsection 49-20-202(1)(a) will be considered in compliance with the insurance mandate.

1172 (c) The program regulated under Subsection 49-20-202(1)(a) shall report to the
1173 Retirement and Independent Entities Committee created under Section ~~[63E-1-102]~~ 63E-1-201
1174 by November 30 of each year in which a mandate is imposed under the provisions of this

1175 section. The report shall include the costs and benefits of the particular mandatory obligation.

1176 Section 21. Section **31A-22-723** is amended to read:

1177 **31A-22-723. Group and blanket conversion coverage.**

1178 (1) Notwithstanding Subsection 31A-1-103(3)(f), and except as provided in Subsection
1179 (3), all policies of accident and health insurance offered on a group basis under this title, or
1180 Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act, shall provide that
1181 a person whose insurance under the group policy has been terminated is entitled to choose a
1182 converted individual policy of similar accident and health insurance.

1183 (2) A person who has lost group coverage may elect conversion coverage with the
1184 insurer that provided prior group coverage if the person:

1185 (a) has been continuously covered for a period of six months by the group policy or the
1186 group's preceding policies immediately prior to termination;

1187 (b) has exhausted either Utah mini-COBRA coverage as required in Section
1188 31A-22-722 or federal COBRA coverage;

1189 (c) has not acquired or is not covered under any other group coverage that covers all
1190 preexisting conditions, including maternity, if the coverage exists; and

1191 (d) resides in the insurer's service area.

1192 (3) This section does not apply if the person's prior group coverage:

1193 (a) is a stand alone policy that only provides one of the following:

1194 (i) catastrophic benefits;

1195 (ii) aggregate stop loss benefits;

1196 (iii) specific stop loss benefits;

1197 (iv) benefits for specific diseases;

1198 (v) accidental injuries only;

1199 (vi) dental; or

1200 (vii) vision;

1201 (b) is an income replacement policy;

1202 (c) was terminated because the insured:

1203 (i) failed to pay any required individual contribution;

1204 (ii) performed an act or practice that constitutes fraud in connection with the coverage;

1205 or

1206 (iii) made intentional misrepresentation of material fact under the terms of coverage; or
1207 (d) was terminated pursuant to Subsection 31A-8-402.3(2)(a), 31A-22-721(2)(a), or
1208 31A-30-107(2)(a).

1209 (4) (a) The employer shall provide written notification of the right to an individual
1210 conversion policy within 30 days of the insured's termination of coverage to:

1211 (i) the terminated insured;

1212 (ii) the ex-spouse; or

1213 (iii) in the case of the death of the insured:

1214 (A) the surviving spouse; and

1215 (B) the guardian of any dependents, if different from a surviving spouse.

1216 (b) The notification required by Subsection (4)(a) shall:

1217 (i) be sent by first class mail;

1218 (ii) contain the name, address, and telephone number of the insurer that will provide
1219 the conversion coverage; and

1220 (iii) be sent to the insured's last-known address as shown on the records of the
1221 employer of:

1222 (A) the insured;

1223 (B) the ex-spouse; and

1224 (C) if the policy terminates by reason of the death of the insured to:

1225 (I) the surviving spouse; and

1226 (II) the guardian of any dependents, if different from a surviving spouse.

1227 (5) (a) An insurer is not required to issue a converted policy which provides benefits in
1228 excess of those provided under the group policy from which conversion is made.

1229 (b) Except as provided in Subsection (5)(c), if the conversion is made from a health
1230 benefit plan, the employee or member must be offered at least the basic benefit plan as
1231 provided in Subsection 31A-22-613.5(2)[(a)].

1232 (c) If the benefit levels required under Subsection (5)(b) exceed the benefit levels
1233 provided under the group policy, the conversion policy may offer benefits which are
1234 substantially similar to those provided under the group policy.

1235 (6) Written application for the converted policy shall be made and the first premium
1236 paid to the insurer no later than 60 days after termination of the group accident and health

1237 insurance.

1238 (7) The converted policy shall be issued without evidence of insurability.

1239 (8) (a) The initial premium for the converted policy for the first 12 months and
1240 subsequent renewal premiums shall be determined in accordance with premium rates
1241 applicable to age, class of risk of the person, and the type and amount of insurance provided.

1242 (b) The initial premium for the first 12 months may not be raised based on pregnancy
1243 of a covered insured.

1244 (c) The premium for converted policies shall be payable monthly or quarterly as
1245 required by the insurer for the policy form and plan selected, unless another mode or premium
1246 payment is mutually agreed upon.

1247 (9) The converted policy becomes effective at the time the insurance under the group
1248 policy terminates.

1249 (10) (a) A newly issued converted policy covers the employee or the member and must
1250 also cover all dependents covered by the group policy at the date of termination of the group
1251 coverage.

1252 (b) The only dependents that may be added after the policy has been issued are children
1253 and dependents as required by Section 31A-22-610 and Subsections 31A-22-610.5(6) and (7).

1254 (c) At the option of the insurer, a separate converted policy may be issued to cover any
1255 dependent.

1256 (11) (a) To the extent the group policy provided maternity benefits, the conversion
1257 policy shall provide maternity benefits equal to the lesser of the maternity benefits of the group
1258 policy or the conversion policy until termination of a pregnancy that exists on the date of
1259 conversion if one of the following is pregnant on the date of the conversion:

1260 (i) the insured;

1261 (ii) a spouse of the insured; or

1262 (iii) a dependent of the insured.

1263 (b) The requirements of this Subsection (11) do not apply to a pregnancy that occurs
1264 after the date of conversion.

1265 (12) Except as provided in this Subsection (12), a converted policy is renewable with
1266 respect to all individuals or dependents at the option of the insured. An insured may be
1267 terminated from a converted policy for the following reasons:

- 1268 (a) a dependent is no longer eligible under the policy;
- 1269 (b) for a network plan, if the individual no longer lives, resides, or works in:
- 1270 (i) the insured's service area; or
- 1271 (ii) the area for which the covered carrier is authorized to do business; or
- 1272 (c) the individual fails to pay premiums or contributions in accordance with the terms
- 1273 of the converted policy, including any timeliness requirements;
- 1274 (d) the individual performs an act or practice that constitutes fraud in connection with
- 1275 the coverage;
- 1276 (e) the individual makes an intentional misrepresentation of material fact under the
- 1277 terms of the coverage; or
- 1278 (f) coverage is terminated uniformly without regard to any health status-related factor
- 1279 relating to any covered individual.

1280 (13) Conditions pertaining to health may not be used as a basis for classification under

1281 this section.

1282 Section 22. Section **31A-28-114** is amended to read:

1283 **31A-28-114. Miscellaneous provisions.**

1284 (1) Nothing in this part shall be construed to reduce the liability for unpaid assessments

1285 of the insureds of an impaired or insolvent insurer operating under a plan with assessment

1286 liability.

1287 (2) (a) Records shall be kept of all meetings of the board of directors to discuss the

1288 activities of the association in carrying out ~~it~~ its powers and duties under Section

1289 31A-28-108.

1290 (b) Records of the association with respect to an impaired or insolvent insurer may not

1291 be disclosed before the earlier of:

1292 (i) the termination of a liquidation, rehabilitation, or conservation proceeding involving

1293 the impaired or insolvent insurer;

1294 (ii) the termination of the impairment or insolvency of the insurer; or

1295 (iii) upon the order of a court of competent jurisdiction.

1296 (c) Nothing in this Subsection (2) shall limit the duty of the association to render a

1297 report of its activities under Section 31A-28-115.

1298 (3) (a) For the purpose of carrying out its obligations under this part, the association

1299 shall be considered to be a creditor of an impaired or insolvent insurer to the extent of assets
1300 attributable to covered policies reduced by any amounts to which the association is entitled as
1301 subrogee pursuant to Subsection 31A-28-108(14).

1302 (b) Assets of the impaired or insolvent insurer attributable to covered policies shall be
1303 used to continue all covered policies and pay all contractual obligations of the impaired or
1304 insolvent insurer as required by this part.

1305 (c) As used in this Subsection (3), assets attributable to covered policies are that
1306 proportion of the assets which the reserves that should have been established for covered
1307 policies bear to the reserves that should have been established for all policies of insurance
1308 written by the impaired or insolvent insurer.

1309 (4) (a) As a creditor of the impaired or insolvent insurer under Subsection (3) and
1310 consistent with Section 31A-27a-701, the association and any other similar association are
1311 entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the
1312 assets become available to reimburse the association and any other similar association.

1313 (b) If, within 120 days of a final determination of insolvency of an insurer by the
1314 receivership court, the liquidator has not made an application to the court for the approval of a
1315 proposal to disburse assets out of marshaled assets to all guaranty associations having
1316 obligations because of the insolvency, the association is entitled to make application to the
1317 receivership court for approval of the association's proposal for disbursement of these assets.

1318 (5) (a) Prior to the termination of any liquidation, rehabilitation, or conservation
1319 proceeding, the court may take into consideration the contributions of the respective parties,
1320 including:

1321 (i) the association;

1322 (ii) the shareholders;

1323 (iii) policyowners of the insolvent insurer; and

1324 (iv) any other party with a bona fide interest in making an equitable distribution of the
1325 ownership rights of the insolvent insurer.

1326 (b) In making a determination under Subsection (5)(a), the court shall consider the
1327 welfare of the policyholders of the continuing or successor insurer.

1328 (c) A distribution to any stockholder of an impaired or insolvent insurer may not be
1329 made until and unless the total amount of valid claims of the association with interest has been

1330 fully recovered by the association for funds expended in carrying out its powers and duties
1331 under Section 31A-28-108 with respect to the insurer.

1332 (6) (a) If an order for liquidation or rehabilitation of an insurer domiciled in this state
1333 has been entered, the receiver appointed under the order shall have a right to recover on behalf
1334 of the insurer, from any affiliate that controlled the insurer, the amount of distributions, other
1335 than stock dividends paid by the insurer on its capital stock, made at any time during the five
1336 years preceding the petition for liquidation or rehabilitation subject to the limitations of
1337 Subsections (6)(b) through (d).

1338 (b) A distribution described in Subsection (6)(a) may not be recovered if the insurer
1339 shows that:

1340 (i) when paid the distribution was lawful and reasonable; and

1341 (ii) the insurer did not know and could not reasonably have known that the distribution
1342 might adversely affect the ability of the insurer to fulfill its contractual obligations.

1343 (c) (i) A person that was an affiliate that controlled the insurer at the time the
1344 distributions were paid shall be liable up to the amount of distributions received.

1345 (ii) A person that was an affiliate that controlled the insurer at the time the distributions
1346 were declared shall be liable up to the amount of distributions that would have been received if
1347 they had been paid immediately.

1348 (iii) If two or more persons are liable with respect to the same distributions, they shall
1349 be jointly and severally liable.

1350 (d) The maximum amount recoverable under this Subsection (6) shall be the amount
1351 needed in excess of all other available assets of the insolvent insurer to pay the contractual
1352 obligations of the insolvent insurer.

1353 (e) If any person liable under Subsection (6)(c) is insolvent, all of its affiliates that
1354 controlled it at the time the distribution was paid shall be jointly and severally liable for any
1355 resulting deficiency in the amount recovered from the insolvent affiliate.

1356 Section 23. Section **31A-28-222** is amended to read:

1357 **31A-28-222. Application of amendments.**

1358 (1) The amendments in [~~Chapter 363,~~] Laws of Utah 2001, Chapter 363, shall become
1359 effective on April 30, 2001 and apply to the association's obligations under policies of
1360 insolvent insurers as they exist on or after April 30, 2001.

1361 (2) Notwithstanding Subsection (1), the amendments to Subsections 31A-28-203(3)
1362 and 31A-28-207(1)(a) in [~~Chapter 363,~~] Laws of Utah 2001, Chapter 363, that add coverage for
1363 unearned premium claims shall apply only to insurers that become insolvent after April 30,
1364 2001.

1365 Section 24. Section **34A-2-103** is amended to read:

1366 **34A-2-103. Employers enumerated and defined -- Regularly employed --**
1367 **Statutory employers.**

1368 (1) (a) The state, and each county, city, town, and school district in the state are
1369 considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.

1370 (b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah
1371 Occupational Disease Act prescribed in Sections 34A-2-105 and 34A-3-102, the state is
1372 considered to be a single employer and includes any office, department, agency, authority,
1373 commission, board, institution, hospital, college, university, or other instrumentality of the
1374 state.

1375 (2) (a) Except as provided in Subsection (4), each person, including each public utility
1376 and each independent contractor, who regularly employs one or more workers or operatives in
1377 the same business, or in or about the same establishment, under any contract of hire, express or
1378 implied, oral or written, is considered an employer under this chapter and Chapter 3, Utah
1379 Occupational Disease Act.

1380 (b) As used in this Subsection (2):

1381 (i) "Independent contractor" means any person engaged in the performance of any work
1382 for another who, while so engaged, is:

1383 (A) independent of the employer in all that pertains to the execution of the work;

1384 (B) not subject to the routine rule or control of the employer;

1385 (C) engaged only in the performance of a definite job or piece of work; and

1386 (D) subordinate to the employer only in effecting a result in accordance with the
1387 employer's design.

1388 (ii) "Regularly" includes all employments in the usual course of the trade, business,
1389 profession, or occupation of the employer, whether continuous throughout the year or for only a
1390 portion of the year.

1391 (3) (a) The client company in an employee leasing arrangement under Title 58, Chapter

1392 59, Professional Employer Organization Registration Act, is considered the employer of leased
1393 employees and shall secure workers' compensation benefits for them by complying with
1394 Subsection 34A-2-201(1) or (2) and commission rules.

1395 (b) An insurance carrier may underwrite workers' compensation secured in accordance
1396 with Subsection (3)(a) showing the leasing company as the named insured and each client
1397 company as an additional insured by means of individual endorsements.

1398 (c) Endorsements shall be filed with the division as directed by commission rule.

1399 (d) The division shall promptly inform the Division of Occupation and Professional
1400 Licensing within the Department of Commerce if the division has reason to believe that an
1401 employee leasing company is not in compliance with Subsection 34A-2-201(1) or (2) and
1402 commission rules.

1403 (4) A domestic employer who does not employ one employee or more than one
1404 employee at least 40 hours per week is not considered an employer under this chapter and
1405 Chapter 3, Utah Occupational Disease Act.

1406 (5) (a) As used in this Subsection (5):

1407 (i) (A) "agricultural employer" means a person who employs agricultural labor as
1408 defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in
1409 Subsection 35A-4-206(3); and

1410 (B) notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a
1411 member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural
1412 employer is a corporation, partnership, or other business entity, "agricultural employer" means
1413 an officer, director, or partner of the business entity;

1414 (ii) "employer's immediate family" means:

1415 (A) an agricultural employer's:

1416 (I) spouse;

1417 (II) grandparent;

1418 (III) parent;

1419 (IV) sibling;

1420 (V) child;

1421 (VI) grandchild;

1422 (VII) nephew; or

1423 (VIII) niece;

1424 (B) a spouse of any person provided in Subsection (5)(a)(ii)(A)(II) through (VIII); or

1425 (C) an individual who is similar to those listed in Subsections (5)(a)(ii)(A) or (B) as

1426 defined by rules of the commission; and

1427 (iii) "nonimmediate family" means a person who is not a member of the employer's

1428 immediate family.

1429 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an

1430 agricultural employer is not considered an employer of a member of the employer's immediate

1431 family.

1432 (c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an

1433 agricultural employer is not considered an employer of a nonimmediate family employee if:

1434 (i) for the previous calendar year the agricultural employer's total annual payroll for all

1435 nonimmediate family employees was less than \$8,000; or

1436 (ii) (A) for the previous calendar year the agricultural employer's total annual payroll

1437 for all nonimmediate family employees was equal to or greater than \$8,000 but less than

1438 \$50,000; and

1439 (B) the agricultural employer maintains insurance that covers job-related injuries of the

1440 employer's nonimmediate family employees in at least the following amounts:

1441 (I) \$300,000 liability insurance, as defined in Section 31A-1-301; and

1442 (II) \$5,000 for health care benefits similar to benefits under health care insurance as

1443 defined in Section 31A-1-301.

1444 (d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an

1445 agricultural employer is considered an employer of a nonimmediate family employee if:

1446 (i) for the previous calendar year the agricultural employer's total annual payroll for all

1447 nonimmediate family employees is equal to or greater than \$50,000; or

1448 (ii) (A) for the previous year the agricultural employer's total payroll for nonimmediate

1449 family employees was equal to or exceeds \$8,000 but is less than \$50,000; and

1450 (B) the agricultural employer fails to maintain the insurance required under Subsection

1451 (5)(c)(ii)(B).

1452 (6) An employer of agricultural laborers or domestic servants who is not considered an

1453 employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under

1454 this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

1455 (a) this chapter and Chapter 3, Utah Occupational Disease Act; and

1456 (b) the rules of the commission.

1457 (7) (a) If any person who is an employer procures any work to be done wholly or in
1458 part for the employer by a contractor over whose work the employer retains supervision or
1459 control, and this work is a part or process in the trade or business of the employer, the
1460 contractor, all persons employed by the contractor, all subcontractors under the contractor, and
1461 all persons employed by any of these subcontractors, are considered employees of the original
1462 employer for the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

1463 (b) Any person who is engaged in constructing, improving, repairing, or remodeling a
1464 residence that the person owns or is in the process of acquiring as the person's personal
1465 residence may not be considered an employee or employer solely by operation of Subsection
1466 (7)(a).

1467 (c) A partner in a partnership or an owner of a sole proprietorship is not considered an
1468 employee under Subsection (7)(a) if the employer who procures work to be done by the
1469 partnership or sole proprietorship obtains and relies on either:

1470 (i) a valid certification of the partnership's or sole proprietorship's compliance with
1471 Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of
1472 workers' compensation benefits pursuant to Section 34A-2-201; or

1473 (ii) if a partnership or sole proprietorship with no employees other than a partner of the
1474 partnership or owner of the sole proprietorship, a workers' compensation policy issued by an
1475 insurer pursuant to Subsection 31A-21-104~~(8)~~(9) stating that:

1476 (A) the partnership or sole proprietorship is customarily engaged in an independently
1477 established trade, occupation, profession, or business; and

1478 (B) the partner or owner personally waives the partner's or owner's entitlement to the
1479 benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the
1480 partnership or sole proprietorship.

1481 (d) A director or officer of a corporation is not considered an employee under
1482 Subsection (7)(a) if the director or officer is excluded from coverage under Subsection
1483 34A-2-104(4).

1484 (e) A contractor or subcontractor is not an employee of the employer under Subsection

1485 (7)(a), if the employer who procures work to be done by the contractor or subcontractor obtains
1486 and relies on either:

1487 (i) a valid certification of the contractor's or subcontractor's compliance with Section
1488 34A-2-201; or

1489 (ii) if a partnership, corporation, or sole proprietorship with no employees other than a
1490 partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a
1491 workers' compensation policy issued by an insurer pursuant to Subsection 31A-21-104~~(8)~~(9)
1492 stating that:

1493 (A) the partnership, corporation, or sole proprietorship is customarily engaged in an
1494 independently established trade, occupation, profession, or business; and

1495 (B) the partner, corporate officer, or owner personally waives the partner's, corporate
1496 officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah
1497 Occupational Disease Act, in the operation of the partnership's, corporation's, or sole
1498 proprietorship's enterprise under a contract of hire for services.

1499 (f) (i) For purposes of this Subsection (7)(f), "eligible employer" means a person who:

1500 (A) is an employer; and

1501 (B) procures work to be done wholly or in part for the employer by a contractor,
1502 including:

1503 (I) all persons employed by the contractor;

1504 (II) all subcontractors under the contractor; and

1505 (III) all persons employed by any of these subcontractors.

1506 (ii) Notwithstanding the other provisions in this Subsection (7), if the conditions of
1507 Subsection (7)(f)(iii) are met, an eligible employer is considered an employer for purposes of
1508 Section 34A-2-105 of the contractor, subcontractor, and all persons employed by the contractor
1509 or subcontractor described in Subsection (7)(f)(i)(B).

1510 (iii) Subsection (7)(f)(ii) applies if the eligible employer:

1511 (A) under Subsection (7)(a) is liable for and pays workers' compensation benefits as an
1512 original employer under Subsection (7)(a) because the contractor or subcontractor fails to
1513 comply with Section 34A-2-201;

1514 (B) (I) secures the payment of workers' compensation benefits for the contractor or
1515 subcontractor pursuant to Section 34A-2-201;

1516 (II) procures work to be done that is part or process of the trade or business of the
1517 eligible employer; and

1518 (III) does the following with regard to a written workplace accident and injury
1519 reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

1520 (Aa) adopts the workplace accident and injury reduction program;

1521 (Bb) posts the workplace accident and injury reduction program at the work site at
1522 which the eligible employer procures work; and

1523 (Cc) enforces the workplace accident and injury reduction program according to the
1524 terms of the workplace accident and injury reduction program; or

1525 (C) (I) obtains and relies on:

1526 (Aa) a valid certification described in Subsection (7)(c)(i) or (7)(e)(i);

1527 (Bb) a workers' compensation policy described in Subsection (7)(c)(ii) or (7)(e)(ii); or

1528 (Cc) proof that a director or officer is excluded from coverage under Subsection
1529 34A-2-104(4);

1530 (II) is liable under Subsection (7)(a) for the payment of workers' compensation benefits
1531 if the contractor or subcontractor fails to comply with Section 34A-2-201;

1532 (III) procures work to be done that is part or process in the trade or business of the
1533 eligible employer; and

1534 (IV) does the following with regard to a written workplace accident and injury
1535 reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

1536 (Aa) adopts the workplace accident and injury reduction program;

1537 (Bb) posts the workplace accident and injury reduction program at the work site at
1538 which the eligible employer procures work; and

1539 (Cc) enforces the workplace accident and injury reduction program according to the
1540 terms of the workplace accident and injury reduction program.

1541 Section 25. Section **41-8-1** is amended to read:

1542 **41-8-1. Operation of vehicle by persons under 16 prohibited -- Exceptions for**
1543 **off-highway vehicles and off-highway implements of husbandry.**

1544 (1) A person under 16 years of age, whether resident or nonresident of this state, may
1545 not operate a motor vehicle upon any highway of this state.

1546 (2) This section does not apply to a person operating:

1547 (a) a motor vehicle under a permit issued under Section [~~53-3-210;~~ 53-3-210.5[~~;~~ or
1548 ~~53A-13-208~~];

1549 (b) an off-highway vehicle registered under Section 41-22-3 either:

1550 (i) on a highway designated as open for off-highway vehicle use; or

1551 (ii) in the manner prescribed by Section 41-22-10.3; or

1552 (c) an off-highway implement of husbandry in the manner prescribed by Subsections
1553 41-22-5.5(3) through (5).

1554 Section 26. Section **41-10-1** is amended to read:

1555 **41-10-1. State Tax Commission designated vehicle department.**

1556 The State Tax Commission is hereby designated as the vehicle department of this state
1557 referred to in [~~Chapters 43, 44 and 45,~~] Laws of Utah, 1933, Chapters 43, 44, and 45.

1558 Section 27. Section **49-11-701** is amended to read:

1559 **49-11-701. Allowance increase to offset tax liability -- Administration.**

1560 (1) This section applies to members of any system administered by the board under this
1561 title, whose retirement allowance remained exempt from the tax imposed under Title 59,
1562 Chapter 10, Individual Income Tax Act, pursuant to [~~Section 2, Chapter 195,~~] Laws of Utah
1563 1988, Chapter 195, Section 2, but whose allowance has subsequently become subject to that
1564 tax.

1565 (2) Any member who meets the conditions established under Subsection (1) shall
1566 receive the following:

1567 (a) the administrator shall calculate the member's retirement allowance pursuant to the
1568 formula governing the system from which the member retired;

1569 (b) the administrator shall then increase the allowance calculated under Subsection
1570 (2)(a) by 3%; and

1571 (c) the adjusted retirement allowance under Subsection (2)(b) is the new basis upon
1572 which any future adjustments to benefits are made.

1573 (3) (a) For all members who retire or are receiving retirement allowances in calendar
1574 year 1989, the administrator shall apply the 3% adjustment under Subsection (2) to all
1575 retirement allowances received in 1989, so that the period for which the allowance becomes
1576 subject to the tax under Title 59, Chapter 10, Individual Income Tax Act, and the period for
1577 which the 3% adjustment is given are the same.

1578 (b) For all members who retire after December 31, 1989, and who meet the
1579 requirements of Subsection (1), the administrator shall apply the 3% adjustment under
1580 Subsection (2) beginning on the effective date of retirement.

1581 (4) Any penalty or interest for underpayment of taxes under Title 59, Chapter 1,
1582 General Taxation Policies, or 10, Individual Income Tax Act, shall be waived for members
1583 whose noncompliance is attributable to Section 49-11-611 and this section. This only applies
1584 to tax year 1989.

1585 (5) The administrator shall comply with Title 59, Chapter 10, Part 4, Withholding of
1586 Tax, with respect to withholding of taxes.

1587 (6) (a) The retirement board shall annually certify the contribution rate necessary for
1588 each system to comply with this section and may adopt rules to administer this section.

1589 (b) This contribution rate shall be reported separately from the total contribution rate
1590 necessary to fund the systems on an actuarially sound basis and may not be used in comparative
1591 studies of public employee benefits.

1592 Section 28. Section **53-2-402** is amended to read:

1593 **53-2-402. Definitions.**

1594 (1) Unless otherwise defined in this section, the terms defined in Part 1, Homeland
1595 Security Act, shall have the same meaning for this part.

1596 (2) As used in this part:

1597 (a) "Declared disaster" means one or more events:

1598 (i) within the state;

1599 (ii) that occur within a limited period of time;

1600 (iii) that involve:

1601 (A) a significant number of persons being at risk of bodily harm, sickness, or death; or

1602 (B) a significant portion of real property at risk of loss;

1603 (iv) that are sudden in nature and generally occur less frequently than every three years;

1604 and

1605 (v) that results in:

1606 (A) the president of the United States declaring an emergency or major disaster in the
1607 state;

1608 (B) the governor declaring a state of emergency under Title 63, Chapter 5a, Disaster

1609 Response and Recovery; or
1610 (C) the chief executive officer of a local government declaring a local emergency under
1611 Title 63, Chapter 5a, Disaster Response and Recovery.

1612 (b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account
1613 created in Section 53-2-403.

1614 (c) "Emergency preparedness" means the following done for the purpose of being
1615 prepared for an emergency as defined by the division by rule made in accordance with Title 63,
1616 Chapter 46a, Utah Administrative Rulemaking Act:

1617 (i) the purchase of equipment;

1618 (ii) the training of personnel; or

1619 (iii) the obtaining of a certification.

1620 (d) (i) "Emergency disaster services" means the following that are of a temporary basis:

1621 (A) evacuation;

1622 (B) shelter;

1623 (C) medical triage;

1624 (D) emergency transportation;

1625 (E) repair of infrastructure;

1626 (F) safety services, including fencing or roadblocks;

1627 (G) sandbagging;

1628 (H) emergency debris removal;

1629 (I) temporary bridges;

1630 (J) procurement and distribution of food, water, or ice;

1631 (K) procurement and deployment of generators;

1632 (L) rescue or recovery; or

1633 (M) services similar to those described in Subsections (2)(d)(i)(A) through (L), as
1634 defined by the division by rule, that are generally required within the first 96 hours of a
1635 declared disaster.

1636 (ii) "Emergency disaster services" does not include:

1637 (A) emergency preparedness; or

1638 (B) notwithstanding whether or not a county participates in the Wildland Fire
1639 Suppression Fund created in Section [~~65A-8-6.1~~] 65A-8-204, any fire suppression or

1640 presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the
1641 county participates in the Wildland Fire Suppression Fund.

1642 (e) "Local fund" means a local government disaster fund created in accordance with
1643 Section 53-2-405.

1644 (f) "Local government" means a county, city, or town.

1645 (g) "Special fund" means a fund other than a general fund of a local government that is
1646 created for a special purpose established under the uniform system of budgeting, accounting,
1647 and reporting.

1648 Section 29. Section **53-2-403** is amended to read:

1649 **53-2-403. State Disaster Recovery Restricted Account.**

1650 (1) (a) There is created a restricted account in the General Fund known as the "State
1651 Disaster Recovery Restricted Account."

1652 (b) The disaster recovery fund shall consist of:

1653 [~~(i)~~] ~~monies deposited into the disaster recovery fund in accordance with Section~~
1654 ~~53-2-102.5;~~]

1655 [(~~ii~~)] (i) monies deposited into the disaster recovery fund in accordance with Section
1656 63-38-2.7;

1657 [(~~iii~~)] (ii) monies appropriated to the disaster recovery fund by the Legislature;

1658 [(~~iv~~)] (iii) any other public or private monies received by the division that are:

1659 (A) given to the division for purposes consistent with this section; and

1660 (B) deposited into the disaster recovery fund at the request of:

1661 (I) the division; or

1662 (II) the person giving the monies; and

1663 [(~~v~~)] (iv) interest or other earnings derived from the disaster recovery fund.

1664 (c) Monies in the disaster recovery fund may only be used as follows:

1665 (i) without the monies being appropriated by the Legislature, in any fiscal year the
1666 division may use \$100,000 to fund, in accordance with Section 53-2-404, costs to the state of
1667 emergency disaster services in response to a declared disaster; and

1668 (ii) subject to being appropriated by the Legislature, monies not described in
1669 Subsection (1)(c)(i) may be used to fund costs to the state directly related to a declared disaster
1670 that are not costs related to:

1671 (A) emergency disaster services;
1672 (B) emergency preparedness; or
1673 (C) notwithstanding whether or not a county participates in the Wildland Fire
1674 Suppression Fund created in Section [~~65A-8-6.1~~] 65A-8-204, any fire suppression or
1675 presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the
1676 county participates in the Wildland Fire Suppression Fund.

1677 (2) The state treasurer shall invest monies in the disaster recovery fund according to
1678 Title 51, Chapter 7, State Money Management Act, except that the state treasurer shall deposit
1679 all interest or other earnings derived from the disaster recovery fund into the disaster recovery
1680 fund.

1681 (3) (a) Except as provided in Subsection (1), the monies in the disaster recovery fund
1682 may not be diverted, appropriated, or used for a purpose that is not listed in this section.

1683 (b) Notwithstanding Section 63-38-3.6, the Legislature may not appropriate monies
1684 from the disaster recovery fund to eliminate or otherwise reduce an operating deficit if the
1685 monies appropriated from the disaster recovery fund are used for a purpose other than one
1686 listed in this section.

1687 (c) The Legislature may not amend the purposes for which monies in the disaster
1688 recovery fund may be used except by the affirmative vote of two-thirds of all the members
1689 elected to each house.

1690 Section 30. Section **53-3-202** is amended to read:

1691 **53-3-202. Drivers must be licensed -- Taxicab endorsement -- Violation.**

1692 (1) A person may not drive a motor vehicle on a highway in this state unless the person
1693 is:

1694 (a) granted the privilege to operate a motor vehicle by being licensed as a driver by the
1695 division under this chapter;

1696 (b) driving an official United States Government class D motor vehicle with a valid
1697 United States Government driver permit or license for that type of vehicle;

1698 (c) driving a road roller, road machinery, or any farm tractor or implement of
1699 husbandry temporarily drawn, moved, or propelled on the highways;

1700 (d) a nonresident who is at least 16 years of age and younger than 18 years of age who
1701 has in his immediate possession a valid license certificate issued to him in his home state or

1702 country and is driving as a class D or M driver;

1703 (e) a nonresident who is at least 18 years of age and who has in his immediate
1704 possession a valid license certificate issued to him in his home state or country if driving in the
1705 class or classes identified on the home state license certificate, except those persons referred to
1706 in Part 6 of this chapter;

1707 (f) driving under a [~~temporary learner permit, instruction permit, practice permit, or~~]
1708 learner permit in accordance with Section [~~53-3-210;~~] 53-3-210.5[, ~~or 53A-13-208~~];

1709 (g) driving with a temporary license certificate issued in accordance with Section
1710 53-3-207; or

1711 (h) exempt under Title 41, Chapter 22, Off-Highway Vehicles.

1712 (2) A person may not drive or, while within the passenger compartment of a motor
1713 vehicle, exercise any degree or form of physical control of a motor vehicle being towed by a
1714 motor vehicle upon a highway unless the person:

1715 (a) holds a valid license issued under this chapter for the type or class of motor vehicle
1716 being towed; or

1717 (b) is exempted under either Subsection (1)(b) or (1)(c).

1718 (3) A person may not drive a motor vehicle as a taxicab on a highway of this state
1719 unless the person has a taxicab endorsement issued by the division on his license certificate.

1720 (4) (a) A person may not operate an electric assisted bicycle as defined under Section
1721 41-6a-102 unless the person has a valid class M or class D license issued under this chapter.

1722 (b) Subsection (4)(a) is an exception to the provisions of Section 53-3-104.

1723 (5) A person who violates this section is guilty of a class C misdemeanor.

1724 Section 31. Section **53-3-204** is amended to read:

1725 **53-3-204. Persons who may not be licensed.**

1726 (1) (a) The division may not license a person who:

1727 (i) is younger than 16 years of age;

1728 (ii) has not completed a course in driver training approved by the commissioner;

1729 (iii) if the person is a minor, has not completed the driving requirement under Section
1730 53-3-211;

1731 (iv) is not a resident of the state, unless the person is issued a temporary CDL under
1732 Subsection 53-3-407(2)(b); or

1733 (v) if the person is 17 years of age or younger, has not held a learner permit issued
1734 under Section 53-3-210.5 for six months.

1735 (b) Subsections (1)(a)(i), (ii), and (iii) do not apply to a person:

1736 (i) who has been licensed before July 1, 1967; or

1737 (ii) who is 16 years of age or older making application for a license who has been
1738 licensed in another state or country[~~; or~~].

1739 [~~(iii) who is applying for a permit under Section 53-3-210 or 53A-13-208.]~~

1740 [~~(c) Subsection (1)(a)(v) does not apply to a person applying for a provisional class D~~
1741 ~~license certificate before February 1, 2007 if the person has been issued a temporary learner~~
1742 ~~permit or practice permit under Section 53-3-210.]~~

1743 (2) The division may not issue a license certificate to a person:

1744 (a) whose license has been suspended, denied, cancelled, or disqualified during the
1745 period of suspension, denial, cancellation, or disqualification;

1746 (b) whose privilege has been revoked, except as provided in Section 53-3-225;

1747 (c) who has previously been adjudged mentally incompetent and who has not at the
1748 time of application been restored to competency as provided by law;

1749 (d) who is required by this chapter to take an examination unless the person
1750 successfully passes the examination; or

1751 (e) whose driving privileges have been denied or suspended under:

1752 (i) Section 78-3a-506 by an order of the juvenile court; or

1753 (ii) Section 53-3-231.

1754 (3) The division may grant a class D or M license to a person whose commercial
1755 license is disqualified under Part 4, Uniform Commercial Driver License Act, if the person is
1756 not otherwise sanctioned under this chapter.

1757 Section 32. Section **53-3-227** is amended to read:

1758 **53-3-227. Driving a motor vehicle prohibited while driving privilege denied,**
1759 **suspended, disqualified, or revoked -- Penalties.**

1760 (1) A person whose driving privilege has been denied, suspended, disqualified, or
1761 revoked under this chapter or under the laws of the state in which the person's driving privilege
1762 was granted and who drives any motor vehicle upon the highways of this state while that
1763 driving privilege is denied, suspended, disqualified, or revoked shall be punished as provided

1764 in this section.

1765 (2) A person convicted of a violation of Subsection (1), other than a violation specified
1766 in Subsection (3), is guilty of a class C misdemeanor.

1767 (3) (a) A person is guilty of a class B misdemeanor if the person's conviction under
1768 Subsection (1) is based on the person driving a motor vehicle while the person's driving
1769 privilege is suspended, disqualified, or revoked for:

1770 (i) a refusal to submit to a chemical test under Section 41-6a-520;

1771 (ii) a violation of Section 41-6a-502;

1772 (iii) a violation of a local ordinance that complies with the requirements of Section
1773 41-6a-510;

1774 (iv) a violation of Section 41-6a-517;

1775 (v) a violation of Section 76-5-207;

1776 (vi) a criminal action that the person plead guilty to as a result of a plea bargain after
1777 having been originally charged with violating one or more of the sections or ordinances under
1778 this Subsection (3);

1779 (vii) a revocation or suspension which has been extended under Subsection
1780 53-3-220(2);

1781 (viii) where disqualification is the result of driving a commercial motor vehicle while
1782 the person's CDL is disqualified, suspended, canceled, or revoked under Subsection
1783 53-3-414(1); or

1784 (ix) a violation of Section 41-6a-530.

1785 (b) A person is guilty of a class B misdemeanor if the person's conviction under
1786 Subsection (1) is based on the person driving a motor vehicle while the person's driving
1787 privilege is suspended, disqualified, or revoked by any state, the United States, or any district,
1788 possession, or territory of the United States for violations corresponding to the violations listed
1789 in ~~[Subsections]~~ Subsection (3)(a)~~(i) through (viii)~~.

1790 (c) A fine imposed under this Subsection (3) shall be at least the maximum fine for a
1791 class C misdemeanor under Section 76-3-301.

1792 Section 33. Section **53-5-711** is amended to read:

1793 **53-5-711. Law enforcement officials and judges -- Training requirements --**
1794 **Qualification -- Revocation.**

- 1795 (1) For purposes of this section and Section 76-10-523:
- 1796 (a) "Judge" means a judge or justice of a court of record or court not of record, but does
- 1797 not include a judge pro tem or senior judge.
- 1798 (b) "Law enforcement official of this state" means:
- 1799 (i) a member of the Board of Pardons and [~~Paroles~~] Parole;
- 1800 (ii) a district attorney, deputy district attorney, county attorney or deputy county
- 1801 attorney of a county not in a prosecution district;
- 1802 (iii) the attorney general;
- 1803 (iv) an assistant attorney general designated as a criminal prosecutor; or
- 1804 (v) a city attorney or a deputy city attorney designated as a criminal prosecutor.
- 1805 (2) To qualify for the exemptions enumerated in Section 76-10-523, a law enforcement
- 1806 official or judge shall complete the following training requirements:
- 1807 (a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and
- 1808 (b) successfully complete an additional course of training as established by the
- 1809 commissioner of public safety designed to assist them while carrying out their official law
- 1810 enforcement and judicial duties as agents for the state or its political subdivisions.
- 1811 (3) Annual requalification requirements for law enforcement officials and judges shall
- 1812 be established by the:
- 1813 (a) Board of Pardons and [~~Paroles~~] Parole by rule for its members;
- 1814 (b) Judicial Council by rule for judges; and
- 1815 (c) the district attorney, county attorney in a county not in a prosecution district, the
- 1816 attorney general, or city attorney by policy for prosecutors under their jurisdiction.
- 1817 (4) The division may:
- 1818 (a) issue a certificate of qualification to a judge or law enforcement official who has
- 1819 completed the requirements of Subsection (1), which certificate of qualification is valid until
- 1820 revoked;
- 1821 (b) revoke the certificate of qualification of a judge or law enforcement official who
- 1822 fails to meet the annual requalification criteria established pursuant to Subsection (3); and
- 1823 (c) certify instructors for the training requirements of this section.
- 1824 Section 34. Section **53A-1-408** is amended to read:
- 1825 **53A-1-408. Appropriations reallocation.**

1826 (1) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures
1827 Act, the State Board of Education may reallocate between line items appropriations for the
1828 support of public education for the fiscal year beginning July 1, 2001 and ending June 30,
1829 2002:

1830 (a) as described in Items 231 through 239 in [~~Chapter 334,~~] Laws of Utah 2001,
1831 Chapter 334; and

1832 (b) as modified by:

1833 (i) [~~Chapter 5,~~] Laws of Utah 2001, First Special Session [2001], Chapter 5;

1834 (ii) H.B. 1, 2002 General Session; and

1835 (iii) H.B. 3, 2002 General Session.

1836 (2) The total amount of money reallocated under Subsection (1) may not exceed the
1837 sum of the reductions made by H.B. 1, 2002 General Session, and H.B. 3, 2002 General
1838 Session.

1839 Section 35. Section **53A-11-910** is amended to read:

1840 **53A-11-910. Disruptive student behavior.**

1841 (1) As used in this section:

1842 (a) "Disruptive student behavior" includes:

1843 (i) the grounds for suspension or expulsion described in Section 53A-11-904; and

1844 (ii) the conduct described in Subsection 53A-11-908(2)(b).

1845 (b) "Parent" includes:

1846 (i) a custodial parent of a school-age minor;

1847 (ii) a legally appointed guardian of a school-age minor; or

1848 (iii) any other person purporting to exercise any authority over the minor which could
1849 be exercised by a person described in Subsection (1)(b)(i) or (ii).

1850 (c) "Qualifying minor" means a school-age minor who:

1851 (i) is at least nine years old; or

1852 (ii) turns nine years old at any time during the school year.

1853 (d) "School year" means the period of time designated by a local school board or local
1854 charter board as the school year for the school where the school-age minor is enrolled.

1855 (2) A local school board, school district, governing board of a charter school, or charter
1856 school may impose administrative penalties on a school-age minor who violates this part.

1857 (3) (a) It is unlawful for a school-age minor to engage in disruptive student behavior.

1858 (b) A qualifying minor is subject to the jurisdiction of the juvenile court if the

1859 qualifying minor:

1860 (i) engages in disruptive student behavior, that does not result in suspension or

1861 expulsion, at least six times during the school year;

1862 (ii) (A) engages in disruptive student behavior, that does not result in suspension or

1863 expulsion, at least three times during the school year; and

1864 (B) engages in disruptive student behavior, that results in suspension or expulsion, at

1865 least once during the school year; or

1866 (iii) engages in disruptive student behavior, that results in suspension or expulsion, at

1867 least twice during the school year.

1868 (4) (a) A local school board or governing board of a charter school shall:

1869 (i) authorize a school administrator or a designee of a school administrator to issue

1870 notices of disruptive student behavior to qualifying minors; and

1871 (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to

1872 contest a notice of disruptive student behavior.

1873 (b) A school representative shall provide to a parent of a school-age minor, a list of

1874 resources available to assist the parent in resolving the school-age minor's disruptive student

1875 behavior problem.

1876 (c) A local school board or governing board of a charter school shall establish

1877 procedures for a school counselor or other designated school representative to work with a

1878 qualifying minor who engages in disruptive student behavior in order to attempt to resolve the

1879 minor's disruptive student behavior problems before the qualifying minor becomes subject to

1880 the jurisdiction of the juvenile court as provided for under this section.

1881 (5) The notice of disruptive student behavior described in Subsection (4)(a):

1882 (a) shall be issued to a qualifying minor who:

1883 (i) engages in disruptive student behavior, that does not result in suspension or

1884 expulsion, three times during the school year; or

1885 (ii) engages in disruptive student behavior, that results in suspension or expulsion, once

1886 during the school year;

1887 (b) shall require that the qualifying minor and a parent of the qualifying minor:

1888 (i) meet with school authorities to discuss the qualifying minor's disruptive student
1889 behavior; and

1890 (ii) cooperate with the local school board or governing board of a charter school in
1891 correcting the school-age minor's disruptive student behavior;

1892 (c) shall contain a statement indicating:

1893 (i) the number of additional times that, if the qualifying minor engages in disruptive
1894 student behavior that does not result in suspension or expulsion, will result in the qualifying
1895 minor receiving a habitual disruptive student behavior citation; and

1896 (ii) that the qualifying minor will receive a habitual disruptive student behavior citation
1897 if the qualifying minor engages in disruptive student behavior that results in suspension or
1898 expulsion; and

1899 (d) shall be mailed by certified mail to, or served on, a parent of the qualifying minor.

1900 (6) A habitual disruptive student behavior citation:

1901 (a) may only be issued to a qualifying minor who:

1902 (i) engages in disruptive student behavior, that does not result in suspension or
1903 expulsion, at least six times during the school year;

1904 (ii) (A) engages in disruptive student behavior, that does not result in suspension or
1905 expulsion, at least three times during the school year; and

1906 (B) engages in disruptive student behavior, that results in suspension or expulsion, at
1907 least once during the school year; or

1908 (iii) engages in disruptive student behavior, that results in suspension or expulsion, at
1909 least twice during the school year; and

1910 (b) may only be issued by a school administrator, a designee of a school administrator,
1911 or a truancy specialist, who is authorized by a local school board or governing board of a local
1912 charter school to issue habitual disruptive student behavior citations.

1913 (7) (a) A qualifying minor to whom a habitual disruptive student behavior citation is
1914 issued under Subsection (6) shall be referred to the juvenile court for violation of Subsection
1915 (3).

1916 (b) Within five days after the day on which a habitual disruptive student behavior
1917 citation is issued, a representative of the school district or charter school shall provide
1918 documentation, to a parent of the qualifying minor who receives the citation, of the efforts

1919 made by a school counselor or representative under Subsection (4)(c).

1920 (8) Nothing in this part prohibits a local school board, school district, governing board
 1921 of a charter school, or charter school from taking any lawful action not in conflict with the
 1922 provisions of this section, including action described in this part and action relating to a
 1923 habitually truant or ungovernable child, to address a disruptive student behavior problem of:

1924 (a) a school-age minor who is not a qualifying minor; or

1925 (b) a qualifying minor, regardless of the number of times that the qualifying minor has
 1926 engaged in disruptive student behavior during the school year.

1927 Section 36. Section **53A-17a-131.16** is amended to read:

1928 **53A-17a-131.16. State contribution for school district hold harmless program.**

1929 (1) The state's contribution of \$3,897,110 for a school district hold harmless program
 1930 for the fiscal year beginning July 1, 2001, is appropriated to the State Board of Education for
 1931 distribution to school districts impacted by the block grant programs established under
 1932 [~~Chapter 335,~~] Laws of Utah 2001, Chapter 335, for the fiscal year beginning July 1, 2001.

1933 (2) (a) The board shall allocate the appropriation to school districts and the Utah
 1934 Schools for the Deaf and the Blind as provided for in rules of the State Board of Education.

1935 (b) The rules shall provide for a reallocation of the total appropriation based on final
 1936 year end data.

1937 (c) Each school district shall receive its equitable share of the total which may differ
 1938 from the amount specified in [~~Chapter 335,~~] Laws of Utah 2001, Chapter 335, Section 22.

1939 (d) A district may not receive more or less than its equitable share of the total.

1940 Section 37. Section **53A-29-103** is amended to read:

1941 **53A-29-103. Interns -- Workers' compensation medical benefits.**

1942 (1) An intern participating in an internship under Section 53A-29-102 is considered to
 1943 be a volunteer government worker of the sponsoring public school, or an employee of the
 1944 sponsoring private school, solely for purposes of receiving workers' compensation medical
 1945 benefits.

1946 (2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy
 1947 against the school and the cooperating employer for all injuries and occupational diseases as
 1948 provided under Title [~~35~~] 34A, Chapters [~~†~~] 2, Workers' Compensation Act and [~~2~~] 3, Utah
 1949 Occupational Disease Act.

1950 Section 38. Section **53B-2-107** is amended to read:

1951 **53B-2-107. Appropriations reallocation.**

1952 (1) Notwithstanding the requirements of Title 63, Chapter 38, Budgetary Procedures
1953 Act, appropriations for the support of higher education for the fiscal year beginning July 1,
1954 2001 and ending June 30, 2002, may be reallocated between line items as provided in this
1955 section.

1956 (2) (a) The president of the University of Utah may reallocate between line items the
1957 appropriations:

1958 (i) described in Items 143-150 and Item 152 in [~~Chapter 334,~~] Laws of Utah 2001,
1959 Chapter 334; and

1960 (ii) as modified by:

1961 (A) H.B. 1, 2002 General Session; and

1962 (B) H.B. 3, 2002 General Session.

1963 (b) The total amount of money reallocated may not exceed the sum of the reductions
1964 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

1965 (3) (a) The president of Utah State University may reallocate between line items the
1966 appropriations:

1967 (i) described in Items 154-166 in [~~Chapter 334,~~] Laws of Utah 2001, Chapter 334; and

1968 (ii) as modified by:

1969 (A) H.B. 1, 2002 General Session; and

1970 (B) H.B. 3, 2002 General Session.

1971 (b) The total amount of money reallocated may not exceed the sum of the reductions
1972 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

1973 (4) (a) The president of Weber State University may reallocate between line items the
1974 appropriations:

1975 (i) described in Items 168 and 169 in [~~Chapter 334,~~] Laws of Utah 2001, Chapter 334;
1976 and

1977 (ii) as modified by:

1978 (A) H.B. 1, 2002 General Session; and

1979 (B) H.B. 3, 2002 General Session.

1980 (b) The total amount of money reallocated may not exceed the sum of the reductions

1981 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

1982 (5) (a) The president of Southern Utah University may reallocate between line items
1983 the appropriations:

1984 (i) described in Items 170-172 in [~~Chapter 334;~~] Laws of Utah 2001, Chapter 334; and

1985 (ii) as modified by:

1986 (A) H.B. 1, 2002 General Session; and

1987 (B) H.B. 3, 2002 General Session.

1988 (b) The total amount of money reallocated may not exceed the sum of the reductions

1989 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

1990 (6) (a) The president of Snow College may reallocate between line items the
1991 appropriations:

1992 (i) described in Items 173-175 in [~~Chapter 334;~~] Laws of Utah 2001, Chapter 334; and

1993 (ii) as modified by:

1994 (A) H.B. 1, 2002 General Session; and

1995 (B) H.B. 3, 2002 General Session.

1996 (b) The total amount of money reallocated may not exceed the sum of the reductions

1997 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

1998 (7) (a) The president of Dixie State College may reallocate between line items the
1999 appropriations:

2000 (i) described in Items 177-179 in [~~Chapter 334;~~] Laws of Utah 2001, Chapter 334; and

2001 (ii) as modified by:

2002 (A) H.B. 1, 2002 General Session; and

2003 (B) H.B. 3, 2002 General Session.

2004 (b) The total amount of money reallocated may not exceed the sum of the reductions

2005 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

2006 (8) (a) The president of the College of Eastern Utah may reallocate between line items
2007 the appropriations:

2008 (i) described in Items 180-183 in [~~Chapter 334;~~] Laws of Utah 2001, Chapter 334; and

2009 (ii) as modified by:

2010 (A) H.B. 1, 2002 General Session; and

2011 (B) H.B. 3, 2002 General Session.

2012 (b) The total amount of money reallocated may not exceed the sum of the reductions
2013 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

2014 (9) (a) The president of Utah Valley State College may reallocate between line items
2015 the appropriations:

2016 (i) described in Items 184 and 185 in [~~Chapter 334,~~] Laws of Utah 2001, Chapter 334;
2017 and

2018 (ii) as modified by:

2019 (A) H.B. 1, 2002 General Session; and

2020 (B) H.B. 3, 2002 General Session.

2021 (b) The total amount of money reallocated may not exceed the sum of the reductions
2022 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

2023 (10) (a) The president of Salt Lake Community College may reallocate between line
2024 items the appropriations:

2025 (i) described in Items 186-188 in [~~Chapter 334,~~] Laws of Utah 2001, Chapter 334; and

2026 (ii) as modified by:

2027 (A) H.B. 1, 2002 General Session; and

2028 (B) H.B. 3, 2002 General Session.

2029 (b) The total amount of money reallocated may not exceed the sum of the reductions
2030 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

2031 (11) (a) The State Board of Regents may reallocate between line items the
2032 appropriations:

2033 (i) described in Items 189, 190, and 192-199 in [~~Chapter 334,~~] Laws of Utah 2001,
2034 Chapter 334; and

2035 (ii) as modified by:

2036 (A) H.B. 1, 2002 General Session; and

2037 (B) H.B. 3, 2002 General Session.

2038 (b) The total amount of money reallocated may not exceed the sum of the reductions
2039 made in H.B. 1, 2002 General Session and H.B. 3, 2002 General Session.

2040 Section 39. Section **54-7-12.9** is amended to read:

2041 **54-7-12.9. Gross receipts tax decrease on electrical corporations -- Tariffs --**

2042 **Procedure.**

2043 (1) As used in this section:

2044 ~~[(b)]~~ (a) (i) "electrical corporation" includes every corporation, cooperative association,
2045 and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing
2046 any electric plant, or in any way furnishing electric power for public service or to its consumers
2047 or members for domestic, commercial, or industrial use, within this state, that:

2048 (A) pays property taxes under Title 59, Chapter 2, Property Tax Act; and

2049 (B) is subject to rate regulation by the commission; and

2050 (ii) "electrical corporation" does not include independent energy producers, or
2051 electricity that is generated on or distributed by the producer solely for the producer's own use,
2052 the use of the producer's tenants, or for the use of members of an association of unit owners
2053 formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public
2054 generally~~[-]; and~~

2055 ~~[(a)]~~ (b) "gross receipts tax" means the tax:

2056 (i) imposed by Title 59, Chapter 8a, Gross Receipts Tax on Electrical Corporations
2057 Act; and

2058 (ii) repealed by ~~[Section 5, Chapter 221,]~~ Laws of Utah 2006~~[-; and], Chapter 221,~~
2059 Section 5.

2060 (2) An electrical corporation shall:

2061 (a) file new tariffs with the commission on or before July 31, 2006 as part of its 2006
2062 general rate case revenue requirement:

2063 (i) reflecting the decrease in the electrical corporation's rates as a result of the repeal of
2064 the gross receipts tax by ~~[Section 5, Chapter 221,]~~ Laws of Utah 2006, Chapter 221, Section 5;
2065 and

2066 (ii) spreading the amount of the decrease described in Subsection (2)(a)(i) among all
2067 classes of the electrical corporation's customers on the same basis that the gross receipts tax
2068 was allocated to each class of the electrical corporation's customers under the rates effective on
2069 the day on which the rate determined by the commission take effect under the electrical
2070 corporation's 2006 general rate case filed on or before September 1, 2006; and

2071 (b) on or before the day on which the electrical corporation files new tariffs with the
2072 commission under Subsection (2)(a), file with the commission a complete report of the
2073 calculation of the allocation required by this section.

2074 Section 40. Section **57-1-5** is amended to read:

2075 **57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of**
2076 **joint tenancy.**

2077 (1) (a) Beginning on May 5, 1997, every ownership interest in real estate granted to
2078 two persons in their own right who are designated as husband and wife in the granting
2079 documents is presumed to be a joint tenancy interest with rights of survivorship, unless
2080 severed, converted, or expressly declared in the grant to be otherwise.

2081 (b) Every ownership interest in real estate that does not qualify for the joint tenancy
2082 presumption as provided in Subsection (1)(a) is presumed to be a tenancy in common interest
2083 unless expressly declared in the grant to be otherwise.

2084 (2) (a) Use of words "joint tenancy" or "with rights of survivorship" or "and to the
2085 survivor of them" or words of similar import means a joint tenancy.

2086 (b) Use of words "tenancy in common" or "with no rights of survivorship" or
2087 "undivided interest" or words of similar import declare a tenancy in common.

2088 (3) A sole owner of real property creates a joint tenancy in himself and another or
2089 others:

2090 (a) by making a transfer to himself and another or others as joint tenants by use of the
2091 words as provided in Subsection (2)(a); or

2092 (b) by conveying to another person or persons an interest in land in which an interest is
2093 retained by the grantor and by declaring the creation of a joint tenancy by use of the words as
2094 provided in Subsection (2)(a).

2095 (4) In all cases, the interest of joint tenants shall be equal and undivided.

2096 (5) (a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide
2097 conveyance of the joint tenant's interest in property held in joint tenancy to himself or another,
2098 the joint tenancy is severed and converted into a tenancy in common.

2099 (b) If there is more than one joint tenant remaining after a joint tenant severs a joint
2100 tenancy under Subsection (5)(a), the remaining joint tenants continue to hold their interest in
2101 joint tenancy.

2102 (6) The amendments to this section in [~~Chapter 124,~~] Laws of Utah 1997, Chapter 124,
2103 have no retrospective operation and shall govern instruments executed and recorded on or after
2104 May 5, 1997.

2105 Section 41. Section **57-1-21** is amended to read:

2106 **57-1-21. Trustees of trust deeds -- Qualifications.**

2107 (1) (a) The trustee of a trust deed shall be:

2108 (i) any active member of the Utah State Bar who maintains a place within the state

2109 where the trustor or other interested parties may meet with the trustee to:

2110 (A) request information about what is required to reinstate or payoff the obligation
2111 secured by the trust deed;

2112 (B) deliver written communications to the lender as required by both the trust deed and
2113 by law;

2114 (C) deliver funds to reinstate or payoff the loan secured by the trust deed; or

2115 (D) deliver funds by a bidder at a foreclosure sale to pay for the purchase of the
2116 property secured by the trust deed[-];

2117 (ii) any depository institution as defined in Section 7-1-103, or insurance company
2118 authorized to do business and actually doing business in Utah under the laws of Utah or the
2119 United States;

2120 (iii) any corporation authorized to conduct a trust business and actually conducting a
2121 trust business in Utah under the laws of Utah or the United States;

2122 (iv) any title insurance company or agency that:

2123 (A) holds a certificate of authority or license under Title 31A, Insurance Code, to
2124 conduct insurance business in the state;

2125 (B) is actually doing business in the state; and

2126 (C) maintains a bona fide office in the state;

2127 (v) any agency of the United States government; or

2128 (vi) any association or corporation that is licensed, chartered, or regulated by the Farm
2129 Credit Administration or its successor.

2130 (b) For purposes of this Subsection (1), a person maintains a bona fide office within the
2131 state if that person maintains a physical office in the state:

2132 (i) that is open to the public;

2133 (ii) that is staffed during regular business hours on regular business days; and

2134 (iii) at which a trustor of a trust deed may in person:

2135 (A) request information regarding a trust deed; or

2136 (B) deliver funds, including reinstatement or payoff funds.

2137 (c) This Subsection (1) is not applicable to a trustee of a trust deed existing prior to
2138 May 14, 1963, nor to any agreement that is supplemental to that trust deed.

2139 (d) The amendments in [~~Chapter 209,~~] Laws of Utah 2002, Chapter 209, to this
2140 Subsection (1) apply only to a trustee that is appointed on or after May 6, 2002.

2141 (2) The trustee of a trust deed may not be the beneficiary of the trust deed, unless the
2142 beneficiary is qualified to be a trustee under Subsection (1)(a)(ii), (iii), (v), or (vi).

2143 (3) The power of sale conferred by Section 57-1-23 may only be exercised by the
2144 trustee of a trust deed if the trustee is qualified under Subsection (1)(a)(i) or (iv).

2145 (4) A trust deed with an unqualified trustee or without a trustee shall be effective to
2146 create a lien on the trust property, but the power of sale and other trustee powers under the trust
2147 deed may be exercised only if the beneficiary has appointed a qualified successor trustee under
2148 Section 57-1-22.

2149 Section 42. Section **57-1-21.5** is amended to read:

2150 **57-1-21.5. Trustees of trust deeds -- Duties -- Prohibited conduct -- Penalties.**

2151 (1) Except as provided in Subsection (2), the following duties of the trustee may not be
2152 delegated:

2153 (a) the preparation and execution of:

2154 (i) the notice of default and election to sell;

2155 (ii) the cancellation of notice of default and election to sell;

2156 (iii) the notice of sale; and

2157 (iv) the trustee's deed;

2158 (b) the notification of foreclosure through publication, posting, and certified or
2159 registered mail;

2160 (c) the receiving and responding to requests for reinstatement or payoff requirements;

2161 and

2162 (d) the handling of reinstatement or payoff funds.

2163 (2) Nothing in this section is intended to prevent:

2164 (a) the trustee from using clerical or office staff:

2165 (i) that is under the trustee's direct and immediate supervision; and

2166 (ii) to assist in the duties described in Subsection (1);

2167 (b) the trustee from using the services of others for publication, posting, marketing, or
2168 advertising the sale; or

2169 (c) a beneficiary of a trust deed or the servicing agent of the beneficiary from directly
2170 performing the functions described in:

2171 (i) Subsection (1)(c); or

2172 (ii) Subsection (1)(d).

2173 (3) The amendments in [~~Chapter 209,~~] Laws of Utah 2002, Chapter 209, to Subsection
2174 (2) do not apply to a foreclosure if the notice of default related to the foreclosure was filed
2175 before May 6, 2002.

2176 (4) (a) Except as provided in Subsection (4)(c), a trustee may not solicit or receive any
2177 fee for referring business to a third party.

2178 (b) Fees prohibited under Subsection (4)(a) include:

2179 (i) a commission;

2180 (ii) a referral based fee, including a fee for the referral of:

2181 (A) title work;

2182 (B) posting services; or

2183 (C) publishing services; or

2184 (iii) a fee similar to a fee described in Subsection (4)(b)(i) or (ii).

2185 (c) Subsection (4)(a) does not apply to:

2186 (i) fees received by a trustee for the trustee acting as co-legal counsel, if the trustee is
2187 otherwise permitted by law to receive fees as co-legal counsel; or

2188 (ii) a nonpreferred participation in net profits based upon an ownership interest or
2189 franchise relationship that is not otherwise prohibited by law.

2190 (5) A trustee may not require the following to pay any costs that exceed the actual costs
2191 incurred by the trustee:

2192 (a) a trustor reinstating or paying off a loan; or

2193 (b) a beneficiary acquiring property through foreclosure.

2194 (6) (a) A person that violates Subsection (4) or (5) is guilty of a class B misdemeanor.

2195 (b) In addition to a person's liability under Subsection (6)(a), if a person violates
2196 Subsection (4) or (5), that person is liable to the trustor for an amount equal to the greater of:

2197 (i) the actual damages of the trustor as a result of the violation; or

2198 (ii) \$1,000.

2199 (c) In an action brought under Subsection (6)(b), the party that does not prevail in the
2200 action that is brought under Subsection (6)(b) shall pay the attorney fees of the prevailing party.

2201 Section 43. Section **58-1-501.5** is amended to read:

2202 **58-1-501.5. Anatomic pathology services -- Billing violations.**

2203 (1) As used in this section, the following definitions apply:

2204 (a) (i) "Anatomic pathology services" including "technical or professional component
2205 of anatomic pathology services" means:

2206 (A) histopathology or surgical pathology, meaning the gross examination of, histologic
2207 processing of, or microscopic examination of human organ tissue performed by a physician or
2208 under the supervision of a physician;

2209 (B) cytopathology, meaning the examination of human cells, from fluids, aspirates,
2210 washings, brushings, or smears, including the pap test examination performed by a physician or
2211 under the supervision of a physician;

2212 (C) hematology, meaning the microscopic evaluation of human bone marrow aspirates
2213 and biopsies performed by a physician or under the supervision of a physician and peripheral
2214 human blood smears when the attending or treating physician or other practitioner of the
2215 healing arts or a technologist requests that a blood smear be reviewed by a pathologist;

2216 (D) subcellular pathology and molecular pathology; and

2217 (E) blood bank services performed by a pathologist.

2218 (ii) "Anatomic pathology services" including "technical or professional component of
2219 anatomic pathology services" does not include the initial collection or packaging of a sample
2220 for transport.

2221 (b) "Clinical laboratory" or "laboratory" means a facility for the biological,
2222 microbiological, serological, chemical, immunohematological, hematological, biophysical,
2223 cytological, pathological, or other examination of materials derived from the human body for
2224 the purpose of providing information for the diagnosis, prevention, or treatment of any disease
2225 or impairment of human beings or the assessment of the health of human beings.

2226 (c) "Health care facility" has the meaning provided in Section 26-21-2.

2227 (d) "Health care provider" includes:

2228 (i) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice

- 2229 Act;
- 2230 (ii) a [~~chiropractor~~] chiropractic physician licensed under Chapter 73, Chiropractic
- 2231 Physician Practice Act;
- 2232 (iii) a dentist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;
- 2233 (iv) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;
- 2234 (v) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act;
- 2235 (vi) an osteopathic physician and surgeon licensed under Chapter 68, Utah Osteopathic
- 2236 Medical Practice Act;
- 2237 (vii) a [~~podiatrist~~] podiatric physician licensed under Chapter 5a, Podiatric Physician
- 2238 Licensing Act;
- 2239 (viii) a physician and surgeon licensed under Chapter 67, Utah Medical Practice Act;
- 2240 and
- 2241 (ix) a [~~physician's~~] physician assistant licensed under Chapter 70a, Physician Assistant
- 2242 Act.
- 2243 (e) "Insurer" includes:
- 2244 (i) any entity offering accident and health insurance as defined in Section 31A-1-301;
- 2245 (ii) workers' compensation benefits;
- 2246 (iii) a health maintenance organization; or
- 2247 (iv) any self-insurance, as defined in Section 31A-1-301, that offers health care
- 2248 insurance or benefits.
- 2249 (2) (a) A health care provider who orders anatomic pathology services for a patient
- 2250 from an independent physician or laboratory may not directly or indirectly mark up, charge a
- 2251 commission, or make a profit on the anatomic pathology service provided by the independent
- 2252 physician or laboratory.
- 2253 (b) Nothing in Subsection (2)(a):
- 2254 (i) restricts the ability of a health care provider, who has not performed or supervised
- 2255 either the technical or professional component of the anatomic pathology service, to obtain
- 2256 payment for services related solely to the collection and packaging of a sample and
- 2257 administrative billing costs; or
- 2258 (ii) restricts the ability of the lab function in the Department of Health to bill for
- 2259 services.

2260 (3) A health care provider when billing a patient directly for anatomic pathology
2261 services provided by an independent physician or laboratory shall furnish an itemized bill
2262 which conforms with the billing practices of the American Medical Association that
2263 conspicuously discloses the charge for each anatomic pathology service, physician or
2264 laboratory name, and address for each anatomic pathology service rendered to the patient by the
2265 physician or laboratory that performed the anatomic pathology service.

2266 (4) The disclosure to be made under Subsection (3) shall not be required when the
2267 anatomic pathology service is being ordered by a hospital, a laboratory performing either the
2268 professional or technical component of the service, or a physician performing either the
2269 professional or technical component of the service, a public health clinic, or a state or federal
2270 agency.

2271 (5) Failure to comply with the requirements of this section shall be considered to be
2272 unprofessional conduct.

2273 Section 44. Section **58-37-5.5** is amended to read:

2274 **58-37-5.5. Recognized controlled substance analogs.**

2275 (1) A substance listed under Subsection (2) is an analog, as defined in Subsection
2276 58-37-2(1)[~~(f)~~](g), if the substance, in any quantity, and in any material, compound, mixture, or
2277 preparation, is present in:

2278 (a) any product manufactured, distributed, or possessed for the purpose of human
2279 consumption; or

2280 (b) any product, the use or administration of which results in human consumption.

2281 (2) Substances referred to in Subsection (1) include, but are not limited to:

2282 (a) gamma butyrolactone (GBL);

2283 (b) butyrolactone;

2284 (c) 1,2 butanolide;

2285 (d) 2-oxanolone;

2286 (e) tetrahydro-2-furanone;

2287 (f) dihydro-2 (3H)-furanone;

2288 (g) tetramethylene glycol;

2289 (h) 1,4 butanediol; and

2290 (i) gamma valerolactone.

2291 Section 45. Section **58-67-302.5** is amended to read:

2292 **58-67-302.5. Licensing of graduates of foreign medical schools.**

2293 (1) Notwithstanding any other provision of law to the contrary, an individual enrolled
2294 in a medical school outside the United States, its territories, the District of Columbia, or
2295 Canada is eligible for licensure as a physician and surgeon in this state if the individual has
2296 satisfied the following requirements:

2297 (a) meets all the requirements of Section 58-67-302, except for Subsection
2298 58-67-302(1)(d);

2299 (b) has studied medicine in a medical school located outside the United States which is
2300 recognized by an organization approved by the division;

2301 (c) has completed all of the formal requirements of the foreign medical school except
2302 internship or social service;

2303 (d) has attained a passing score on the educational commission for foreign medical
2304 graduates examination or other qualifying examinations such as the United States Medical
2305 Licensing Exam parts I and II, which are approved by the division or a medical school
2306 approved by the division;

2307 (e) has satisfactorily completed one calendar year of supervised clinical training under
2308 the direction of a United States medical education setting accredited by the liaison committee
2309 for graduate medical education and approved by the division;

2310 (f) has completed the postgraduate hospital training required by Subsection
2311 58-67-302(1)(f)(i); and

2312 (g) has passed the examination required by the division of all applicants for licensure.

2313 (2) Satisfaction of the requirements of Subsection (1) is in lieu of:

2314 (a) the completion of any foreign internship or social service requirements; and

2315 (b) the certification required by Subsection 58-67-302(1)(e).

2316 (3) Individuals who satisfy the requirements of Subsections (1)(a) through (f) shall be
2317 eligible for admission to graduate medical education programs within the state, including
2318 internships and residencies, which are accredited by the liaison committee for graduate medical
2319 education.

2320 (4) A document issued by a medical school located outside the United States shall be
2321 considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a

2322 physician and surgeon in this state if:

2323 (a) the foreign medical school is recognized by an organization approved by the
2324 division;

2325 (b) the document granted by the foreign medical school is issued after the completion
2326 of all formal requirements of the medical school except internship or social service; and

2327 (c) the foreign medical school certifies that the person to whom the document was
2328 issued has satisfactorily completed the requirements of [~~this~~] Subsection (1)(c).

2329 (5) The provisions for licensure under this section shall be known as the "fifth pathway
2330 program."

2331 Section 46. Section **58-72-301** is amended to read:

2332 **58-72-301. License required -- License classification.**

2333 (1) A license is required to engage in the practice of acupuncture, except as specifically
2334 provided in Section 58-1-307 or 58-72-304.

2335 (2) The division shall issue to a person who qualifies under this chapter a license in the
2336 classification of licensed acupuncturist.

2337 Section 47. Section **58-72-501** is amended to read:

2338 **58-72-501. Acupuncture licensee -- Restriction on titles used.**

2339 (1) (a) A person practicing as a licensed acupuncturist may not display or in any way
2340 use any title, words, or insignia in conjunction with the person's name or practice except the
2341 words "licensed acupuncturist" or "L.Ac.".

2342 (b) When used in conjunction with the person's practice, the term "licensed
2343 acupuncturist" or "L.Ac." shall be displayed next to the name of the licensed acupuncturist.

2344 (2) (a) A licensed acupuncturist may not use the term "physician," "physician or
2345 surgeon," or "doctor" in conjunction with the acupuncturist's name or practice.

2346 (b) "Doctor of acupuncture" or "oriental medical doctor" may be used if the term is
2347 commensurate with the degree in acupuncture received by the practitioner.

2348 (3) Medical doctors or [~~chiropractors~~] chiropractic physicians who choose to practice
2349 acupuncture shall represent themselves as medical doctors or [~~chiropractors~~] chiropractic
2350 physicians practicing acupuncture and not as licensed acupuncturists.

2351 Section 48. Section **59-2-405.2** is amended to read:

2352 **59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal**

2353 **property -- Distribution of revenues -- Rulemaking authority -- Determining the length of**
2354 **a vessel.**

2355 (1) As used in this section:

2356 (a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor
2357 vehicle that:

2358 (A) is an:

2359 (I) all-terrain type I vehicle as defined in Section 41-22-2; or

2360 (II) all-terrain type II vehicle as defined in Section 41-22-2;

2361 (B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway
2362 Vehicles; and

2363 (C) has:

2364 (I) an engine with more than 150 cubic centimeters displacement;

2365 (II) a motor that produces more than five horsepower; or

2366 (III) an electric motor; and

2367 (ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a
2368 snowmobile.

2369 (b) "Camper" means a camper:

2370 (i) as defined in Section 41-1a-102; and

2371 (ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
2372 Registration.

2373 (c) (i) "Canoe" means a vessel that:

2374 (A) is long and narrow;

2375 (B) has curved sides; and

2376 (C) is tapered:

2377 (I) to two pointed ends; or

2378 (II) to one pointed end and is blunt on the other end; and

2379 (ii) "canoe" includes:

2380 (A) a collapsible inflatable canoe;

2381 (B) a kayak;

2382 (C) a racing shell; or

2383 (D) a rowing scull.

- 2384 (d) "Dealer" is as defined in Section 41-1a-102.
- 2385 (e) "Jon boat" means a vessel that:
- 2386 (i) has a square bow; and
- 2387 (ii) has a flat bottom.
- 2388 (f) "Motor vehicle" is as defined in Section 41-22-2.
- 2389 (g) "Other motorcycle" means a motor vehicle that:
- 2390 (i) is:
- 2391 (A) a motorcycle as defined in Section 41-1a-102; and
- 2392 (B) designed primarily for use and operation over unimproved terrain;
- 2393 (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,
- 2394 Registration; and
- 2395 (iii) has:
- 2396 (A) an engine with more than 150 cubic centimeters displacement; or
- 2397 (B) a motor that produces more than five horsepower.
- 2398 (h) (i) "Other trailer" means a portable vehicle without motive power that is primarily
- 2399 used:
- 2400 (A) to transport tangible personal property; and
- 2401 (B) for a purpose other than a commercial purpose; and
- 2402 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
- 2403 purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a
- 2404 purpose other than a commercial purpose.
- 2405 (i) "Outboard motor" is as defined in Section 41-1a-102.
- 2406 (j) "Personal watercraft" means a personal watercraft:
- 2407 (i) as defined in Section 73-18-2; and
- 2408 (ii) that is required to be registered in accordance with Title 73, Chapter 18, State
- 2409 Boating Act.
- 2410 (k) (i) "Pontoon" means a vessel that:
- 2411 (A) is:
- 2412 (I) supported by one or more floats; and
- 2413 (II) propelled by either inboard or outboard power; and
- 2414 (B) is not:

- 2415 (I) a houseboat; or
2416 (II) a collapsible inflatable vessel; and
2417 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2418 commission may by rule define the term "houseboat".
- 2419 (I) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption,
2420 or reduction:
- 2421 (i) of all or a portion of a qualifying payment;
2422 (ii) granted by a county during the refund period; and
2423 (iii) received by a qualifying person.
- 2424 (m) (i) "Qualifying payment" means the payment made:
2425 (A) of a uniform statewide fee in accordance with this section:
2426 (I) by a qualifying person;
2427 (II) to a county; and
2428 (III) during the refund period; and
2429 (B) on an item of qualifying tangible personal property; and
2430 (ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for
2431 an item of qualifying tangible personal property, the qualifying payment for that qualifying
2432 tangible personal property is equal to the difference between:
- 2433 (A) the payment described in this Subsection (1)(m) for that item of qualifying tangible
2434 personal property; and
2435 (B) the amount of the qualifying adjustment, exemption, or reduction.
- 2436 (n) "Qualifying person" means a person that paid a uniform statewide fee:
2437 (i) during the refund period;
2438 (ii) in accordance with this section; and
2439 (iii) on an item of qualifying tangible personal property.
- 2440 (o) "Qualifying tangible personal property" means a:
2441 (i) qualifying vehicle; or
2442 (ii) qualifying watercraft.
- 2443 (p) "Qualifying vehicle" means:
2444 (i) an all-terrain vehicle with an engine displacement that is 100 or more cubic
2445 centimeters but 150 or less cubic centimeters;

- 2446 (ii) an other motorcycle with an engine displacement that is 100 or more cubic
2447 centimeters but 150 or less cubic centimeters;
- 2448 (iii) a small motor vehicle with an engine displacement that is 100 or more cubic
2449 centimeters but 150 or less cubic centimeters;
- 2450 (iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters
2451 but 150 or less cubic centimeters; or
- 2452 (v) a street motorcycle with an engine displacement that is 100 or more cubic
2453 centimeters but 150 or less cubic centimeters.
- 2454 (q) "Qualifying watercraft" means a:
- 2455 (i) canoe;
- 2456 (ii) collapsible inflatable vessel;
- 2457 (iii) jon boat;
- 2458 (iv) pontoon;
- 2459 (v) sailboat; or
- 2460 (vi) utility boat.
- 2461 (r) "Refund period" means the time period:
- 2462 (i) beginning on January 1, 2006; and
- 2463 (ii) ending on December 29, 2006.
- 2464 (s) "Sailboat" means a sailboat as defined in Section 73-18-2.
- 2465 (t) (i) "Small motor vehicle" means a motor vehicle that:
- 2466 (A) is required to be registered in accordance with Title 41, Motor Vehicles; and
- 2467 (B) has:
- 2468 (I) an engine with 150 or less cubic centimeters displacement; or
- 2469 (II) a motor that produces five or less horsepower; and
- 2470 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2471 commission may by rule develop a process for an owner of a motor vehicle to certify whether
2472 the motor vehicle has:
- 2473 (A) an engine with 150 or less cubic centimeters displacement; or
- 2474 (B) a motor that produces five or less horsepower.
- 2475 (u) "Snowmobile" means a motor vehicle that:
- 2476 (i) is a snowmobile as defined in Section 41-22-2;

2477 (ii) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway
2478 Vehicles; and

2479 (iii) has:

2480 (A) an engine with more than 150 cubic centimeters displacement; or

2481 (B) a motor that produces more than five horsepower.

2482 (v) "Street motorcycle" means a motor vehicle that:

2483 (i) is:

2484 (A) a motorcycle as defined in Section 41-1a-102; and

2485 (B) designed primarily for use and operation on highways;

2486 (ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,

2487 Registration; and

2488 (iii) has:

2489 (A) an engine with more than 150 cubic centimeters displacement; or

2490 (B) a motor that produces more than five horsepower.

2491 (w) "Tangible personal property owner" means a person that owns an item of
2492 qualifying tangible personal property.

2493 (x) "Tent trailer" means a portable vehicle without motive power that:

2494 (i) is constructed with collapsible side walls that:

2495 (A) fold for towing by a motor vehicle; and

2496 (B) unfold at a campsite;

2497 (ii) is designed as a temporary dwelling for travel, recreational, or vacation use;

2498 (iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2,

2499 Registration; and

2500 (iv) does not require a special highway movement permit when drawn by a
2501 self-propelled motor vehicle.

2502 (y) (i) Except as provided in Subsection (1)(y)(ii), "travel trailer" means a travel trailer:

2503 (A) as defined in Section 41-1a-102; and

2504 (B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2,

2505 Registration; and

2506 (ii) notwithstanding Subsection (1)(y)(i), "travel trailer" does not include:

2507 (A) a camper; or

- 2508 (B) a tent trailer.
- 2509 (z) (i) "Utility boat" means a vessel that:
- 2510 (A) has:
- 2511 (I) two or three bench seating;
- 2512 (II) an outboard motor; and
- 2513 (III) a hull made of aluminum, fiberglass, or wood; and
- 2514 (B) does not have:
- 2515 (I) decking;
- 2516 (II) a permanent canopy; or
- 2517 (III) a floor other than the hull; and
- 2518 (ii) notwithstanding Subsection (1)(z)(i), "utility boat" does not include a collapsible
- 2519 inflatable vessel.
- 2520 (aa) "Vessel" means a vessel:
- 2521 (i) as defined in Section 73-18-2, including an outboard motor of the vessel; and
- 2522 (ii) that is required to be registered in accordance with Title 73, Chapter 18, State
- 2523 Boating Act.
- 2524 (2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
- 2525 beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:
- 2526 (i) exempt from the tax imposed by Section 59-2-103; and
- 2527 (ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as
- 2528 provided in this section.
- 2529 (b) The following tangible personal property applies to Subsection (2)(a) if that
- 2530 tangible personal property is required to be registered with the state:
- 2531 (i) an all-terrain vehicle;
- 2532 (ii) a camper;
- 2533 (iii) an other motorcycle;
- 2534 (iv) an other trailer;
- 2535 (v) a personal watercraft;
- 2536 (vi) a small motor vehicle;
- 2537 (vii) a snowmobile;
- 2538 (viii) a street motorcycle;

- 2539 (ix) a tent trailer;
- 2540 (x) a travel trailer; and
- 2541 (xi) a vessel if that vessel is less than 31 feet in length as determined under Subsection
- 2542 (6).

2543 (3) For purposes of this section, the uniform statewide fees are:

2544 (a) for an all-terrain vehicle, an other motorcycle, or a snowmobile:

| 2545 Age of All-Terrain Vehicle, Other Motorcycle, or Snowmobile | Uniform Statewide Fee |
|--|-----------------------|
| 2546 12 or more years | \$10 |
| 2547 9 or more years but less than 12 years | \$20 |
| 2548 6 or more years but less than 9 years | \$30 |
| 2549 3 or more years but less than 6 years | \$35 |
| 2550 Less than 3 years | \$45 |

2551 (b) for a camper or a tent trailer:

| 2552 Age of Camper or Tent Trailer | Uniform Statewide Fee |
|---|-----------------------|
| 2553 12 or more years | \$10 |
| 2554 9 or more years but less than 12 years | \$25 |
| 2555 6 or more years but less than 9 years | \$35 |
| 2556 3 or more years but less than 6 years | \$50 |
| 2557 Less than 3 years | \$70 |

2558 (c) for an other trailer:

| 2559 Age of Other Trailer | Uniform Statewide Fee |
|---|-----------------------|
| 2560 12 or more years | \$10 |
| 2561 9 or more years but less than 12 years | \$15 |
| 2562 6 or more years but less than 9 years | \$20 |
| 2563 3 or more years but less than 6 years | \$25 |
| 2564 Less than 3 years | \$30 |

2565 (d) for a personal watercraft:

| 2566 Age of Personal Watercraft | Uniform Statewide Fee |
|---|-----------------------|
| 2567 12 or more years | \$10 |
| 2568 9 or more years but less than 12 years | \$25 |
| 2569 6 or more years but less than 9 years | \$35 |

| | | |
|------|---|-----------------------|
| 2570 | 3 or more years but less than 6 years | \$45 |
| 2571 | Less than 3 years | \$55 |
| 2572 | (e) for a small motor vehicle: | |
| 2573 | Age of Small Motor Vehicle | Uniform Statewide Fee |
| 2574 | 6 or more years | \$10 |
| 2575 | 3 or more years but less than 6 years | \$15 |
| 2576 | Less than 3 years | \$25 |
| 2577 | (f) for a street motorcycle: | |
| 2578 | Age of Street Motorcycle | Uniform Statewide Fee |
| 2579 | 12 or more years | \$10 |
| 2580 | 9 or more years but less than 12 years | \$35 |
| 2581 | 6 or more years but less than 9 years | \$50 |
| 2582 | 3 or more years but less than 6 years | \$70 |
| 2583 | Less than 3 years | \$95 |
| 2584 | (g) for a travel trailer: | |
| 2585 | Age of Travel Trailer | Uniform Statewide Fee |
| 2586 | 12 or more years | \$20 |
| 2587 | 9 or more years but less than 12 years | \$65 |
| 2588 | 6 or more years but less than 9 years | \$90 |
| 2589 | 3 or more years but less than 6 years | \$135 |
| 2590 | Less than 3 years | \$175 |
| 2591 | (h) \$10 regardless of the age of the vessel if the vessel is: | |
| 2592 | (i) less than 15 feet in length; | |
| 2593 | (ii) a canoe; | |
| 2594 | (iii) a jon boat; or | |
| 2595 | (iv) a utility boat; | |
| 2596 | (i) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age: | |
| 2597 | Length of Vessel | Uniform Statewide Fee |
| 2598 | 15 feet or more in length but less than 19 feet in length | \$15 |
| 2599 | 19 feet or more in length but less than 23 feet in length | \$25 |
| 2600 | 23 feet or more in length but less than 27 feet in length | \$40 |

2601 27 feet or more in length but less than 31 feet in length \$75

2602 (j) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
2603 sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

| 2604 | Age of Vessel | Uniform Statewide Fee |
|------|--|-----------------------|
| 2605 | 12 or more years | \$25 |
| 2606 | 9 or more years but less than 12 years | \$65 |
| 2607 | 6 or more years but less than 9 years | \$80 |
| 2608 | 3 or more years but less than 6 years | \$110 |
| 2609 | Less than 3 years | \$150 |

2610 (k) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
2611 sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

| 2612 | Age of Vessel | Uniform Statewide Fee |
|------|--|-----------------------|
| 2613 | 12 or more years | \$50 |
| 2614 | 9 or more years but less than 12 years | \$120 |
| 2615 | 6 or more years but less than 9 years | \$175 |
| 2616 | 3 or more years but less than 6 years | \$220 |
| 2617 | Less than 3 years | \$275 |

2618 (l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
2619 sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

| 2620 | Age of Vessel | Uniform Statewide Fee |
|------|--|-----------------------|
| 2621 | 12 or more years | \$100 |
| 2622 | 9 or more years but less than 12 years | \$180 |
| 2623 | 6 or more years but less than 9 years | \$240 |
| 2624 | 3 or more years but less than 6 years | \$310 |
| 2625 | Less than 3 years | \$400 |

2626 (m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon,
2627 sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

| 2628 | Age of Vessel | Uniform Statewide Fee |
|------|--|-----------------------|
| 2629 | 12 or more years | \$120 |
| 2630 | 9 or more years but less than 12 years | \$250 |
| 2631 | 6 or more years but less than 9 years | \$350 |

| | | |
|------|---------------------------------------|-------|
| 2632 | 3 or more years but less than 6 years | \$500 |
| 2633 | Less than 3 years | \$700 |

2634 (4) Notwithstanding Section 59-2-407, tangible personal property subject to the
2635 uniform statewide fees imposed by this section that is brought into the state shall, as a
2636 condition of registration, be subject to the uniform statewide fees unless all property taxes or
2637 uniform fees imposed by the state of origin have been paid for the current calendar year.

2638 (5) (a) The revenues collected in each county from the uniform statewide fees imposed
2639 by this section shall be distributed by the county to each taxing entity in which each item of
2640 tangible personal property subject to the uniform statewide fees is located in the same
2641 proportion in which revenues collected from the ad valorem property tax are distributed.

2642 (b) Each taxing entity described in Subsection (5)(a) that receives revenues from the
2643 uniform statewide fees imposed by this section shall distribute the revenues in the same
2644 proportion in which revenues collected from the ad valorem property tax are distributed.

2645 (6) (a) For purposes of the uniform statewide fee imposed by this section, the length of
2646 a vessel shall be determined as provided in this Subsection (6).

2647 (b) (i) Except as provided in Subsection (6)(b)(ii), the length of a vessel shall be
2648 measured as follows:

2649 (A) the length of a vessel shall be measured in a straight line; and

2650 (B) the length of a vessel is equal to the distance between the bow of the vessel and the
2651 stern of the vessel.

2652 (ii) Notwithstanding Subsection (6)(b)(i), the length of a vessel may not include the
2653 length of:

2654 (A) a swim deck;

2655 (B) a ladder;

2656 (C) an outboard motor; or

2657 (D) an appurtenance or attachment similar to Subsections (6)(b)(ii)(A) through (C) as
2658 determined by the commission by rule.

2659 (iii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2660 the commission may by rule define what constitutes an appurtenance or attachment similar to
2661 Subsections (6)(b)(ii)(A) through (C).

2662 (c) The length of a vessel:

- 2663 (i) (A) for a new vessel, is the length:
- 2664 (I) listed on the manufacturer's statement of origin if the length of the vessel measured
- 2665 under Subsection (6)(b) is equal to the length of the vessel listed on the manufacturer's
- 2666 statement of origin; or
- 2667 (II) listed on a form submitted to the commission by a dealer in accordance with
- 2668 Subsection (6)(d) if the length of the vessel measured under Subsection (6)(b) is not equal to
- 2669 the length of the vessel listed on the manufacturer's statement of origin; or
- 2670 (B) for a vessel other than a new vessel, is the length:
- 2671 (I) corresponding to the model number if the length of the vessel measured under
- 2672 Subsection (6)(b) is equal to the length of the vessel determined by reference to the model
- 2673 number; or
- 2674 (II) listed on a form submitted to the commission by an owner of the vessel in
- 2675 accordance with Subsection (6)(d) if the length of the vessel measured under Subsection (6)(b)
- 2676 is not equal to the length of the vessel determined by reference to the model number; and
- 2677 (ii) (A) is determined at the time of the:
- 2678 (I) first registration as defined in Section 41-1a-102 that occurs on or after January 1,
- 2679 2006; or
- 2680 (II) first renewal of registration that occurs on or after January 1, 2006; and
- 2681 (B) may be determined after the time described in Subsection (6)(c)(ii)(A) only if the
- 2682 commission requests that a dealer or an owner submit a form to the commission in accordance
- 2683 with Subsection (6)(d).
- 2684 (d) (i) A form under Subsection (6)(c) shall:
- 2685 (A) be developed by the commission;
- 2686 (B) be provided by the commission to:
- 2687 (I) a dealer; or
- 2688 (II) an owner of a vessel;
- 2689 (C) provide for the reporting of the length of a vessel;
- 2690 (D) be submitted to the commission at the time the length of the vessel is determined in
- 2691 accordance with Subsection (6)(c)(ii);
- 2692 (E) be signed by:
- 2693 (I) if the form is submitted by a dealer, that dealer; or

2694 (II) if the form is submitted by an owner of the vessel, an owner of the vessel; and
2695 (F) include a certification that the information set forth in the form is true.
2696 (ii) A certification made under Subsection (6)(d)(i)(F) is considered as if made under
2697 oath and subject to the same penalties as provided by law for perjury.
2698 (iii) (A) A dealer or an owner that submits a form to the commission under Subsection
2699 (6)(c) is considered to have given the dealer's or owner's consent to an audit or review by:
2700 (I) the commission;
2701 (II) the county assessor; or
2702 (III) the commission and the county assessor.
2703 (B) The consent described in Subsection (6)(d)(iii)(A) is a condition to the acceptance
2704 of any form.
2705 (7) (a) A county that collected a qualifying payment from a qualifying person during
2706 the refund period shall issue a refund to the qualifying person as described in Subsection (7)(b)
2707 if:
2708 (i) the difference described in Subsection (7)(b) is \$1 or more; and
2709 (ii) the qualifying person submitted a form in accordance with Subsections (7)(c) and
2710 (d).
2711 (b) The refund amount shall be calculated as follows:
2712 (i) for a qualifying vehicle, the refund amount is equal to the difference between:
2713 (A) the qualifying payment the qualifying person paid on the qualifying vehicle during
2714 the refund period; and
2715 (B) the amount of the statewide uniform fee:
2716 (I) for that qualifying vehicle; and
2717 (II) that the qualifying person would have been required to pay:
2718 (Aa) during the refund period; and
2719 (Bb) in accordance with this section had [~~Section 1, Chapter 3,~~] Laws of Utah 2006,
2720 Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and
2721 (ii) for a qualifying watercraft, the refund amount is equal to the difference between:
2722 (A) the qualifying payment the qualifying person paid on the qualifying watercraft
2723 during the refund period; and
2724 (B) the amount of the statewide uniform fee:

- 2725 (I) for that qualifying watercraft;
- 2726 (II) that the qualifying person would have been required to pay:
- 2727 (Aa) during the refund period; and
- 2728 (Bb) in accordance with this section had [~~Section 1, Chapter 3,~~] Laws of Utah 2006,
2729 Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.
- 2730 (c) Before the county issues a refund to the qualifying person in accordance with
2731 Subsection (7)(a) the qualifying person shall submit a form to the county to verify the
2732 qualifying person is entitled to the refund.
- 2733 (d) (i) A form under Subsection (7)(c) or (8) shall:
- 2734 (A) be developed by the commission;
- 2735 (B) be provided by the commission to the counties;
- 2736 (C) be provided by the county to the qualifying person or tangible personal property
2737 owner;
- 2738 (D) provide for the reporting of the following:
- 2739 (I) for a qualifying vehicle:
- 2740 (Aa) the type of qualifying vehicle; and
- 2741 (Bb) the amount of cubic centimeters displacement;
- 2742 (II) for a qualifying watercraft:
- 2743 (Aa) the length of the qualifying watercraft;
- 2744 (Bb) the age of the qualifying watercraft; and
- 2745 (Cc) the type of qualifying watercraft;
- 2746 (E) be signed by the qualifying person or tangible personal property owner; and
- 2747 (F) include a certification that the information set forth in the form is true.
- 2748 (ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under
2749 oath and subject to the same penalties as provided by law for perjury.
- 2750 (iii) (A) A qualifying person or tangible personal property owner that submits a form to
2751 a county under Subsection (7)(c) or (8) is considered to have given the qualifying person's
2752 consent to an audit or review by:
- 2753 (I) the commission;
- 2754 (II) the county assessor; or
- 2755 (III) the commission and the county assessor.

2756 (B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance
2757 of any form.

2758 (e) The county shall make changes to the commission's records with the information
2759 received by the county from the form submitted in accordance with Subsection (7)(c).

2760 (8) A county shall change its records regarding an item of qualifying tangible personal
2761 property if the tangible personal property owner submits a form to the county in accordance
2762 with Subsection (7)(d).

2763 (9) (a) For purposes of this Subsection (9) "owner of tangible personal property" means
2764 a person that was required to pay a uniform statewide fee:

2765 (i) during the refund period;

2766 (ii) in accordance with this section; and

2767 (iii) on an item of tangible personal property subject to the uniform statewide fees
2768 imposed by this section.

2769 (b) A county that collected revenues from uniform statewide fees imposed by this
2770 section during the refund period shall notify an owner of tangible personal property:

2771 (i) of the tangible personal property classification changes made to this section
2772 pursuant to [~~Section 1, Chapter 3,~~] Laws of Utah 2006, Fifth Special Session, Chapter 3,
2773 Section 1;

2774 (ii) that the owner of tangible personal property may obtain and file a form to modify
2775 the county's records regarding the owner's tangible personal property; and

2776 (iii) that the owner may be entitled to a refund pursuant to Subsection (7).

2777 Section 49. Section **59-7-116** is amended to read:

2778 **59-7-116. Taxation of regulated investment companies.**

2779 (1) A regulated investment company or a fund of such a company, as defined in
2780 Sections 851(a) or 851[~~(f)~~](g), Internal Revenue Code, which is organized under the laws of
2781 Utah, shall determine Utah taxable income as follows:

2782 (a) calculate investment company taxable income, as determined in Section 852(b)(2),
2783 Internal Revenue Code;

2784 (b) add any municipal interest and the exclusion of net capital gain provided in Section
2785 852(b)(2)(A), Internal Revenue Code; and

2786 (c) subtract the deduction for the capital gain dividends and exempt interest dividends

2787 as defined in Sections 852(b)(3)~~(c)~~(C) and 852(b)(5), Internal Revenue Code.

2788 (2) A regulated investment company which is organized under the laws of Utah or a
2789 fund of such a company, shall be taxed at the same rate and in the same manner as a
2790 corporation as provided in this chapter.

2791 Section 50. Section **61-1-30** is amended to read:

2792 **61-1-30. Prior law repealed -- Savings clause.**

2793 (1) The Securities Act, Title 61, Chapter 1, [~~Utah Code Annotated 1953,~~] as amended
2794 by [~~Chapter 129,~~] Laws of Utah 1957, Chapter 129, is hereby repealed except as saved in this
2795 section.

2796 (2) Prior law exclusively governs all suits, actions, prosecutions, or proceedings which
2797 are pending or may be initiated on the basis of facts or circumstances occurring before the
2798 effective date of this chapter, except that no civil suit or action may be maintained to enforce
2799 any liability under prior law unless brought within any period of limitation which applied when
2800 the cause of action accrued and in any event within two years after the effective date of this
2801 chapter.

2802 (3) All effective registrations under prior law, all administrative orders relating to such
2803 registrations, and all conditions imposed upon such registrations remain in effect so long as
2804 they would have remained in effect if this chapter had not been passed. They are considered to
2805 have been filed, entered, or imposed under this chapter, but are governed by prior law.

2806 (4) Prior law applies in respect of any offer or sale made within one year after the
2807 effective date of this chapter pursuant to an offering begun in good faith before its effective
2808 date on the basis of an exemption available under prior law.

2809 (5) Judicial review of all administrative orders as to which review proceedings have
2810 not been instituted by the effective date of this chapter are governed by Section 61-1-23, except
2811 that no review proceeding may be instituted unless the petition is filed within any period of
2812 limitation which applied to a review proceeding when the order was entered and in any event
2813 within 60 days after the effective date of this chapter.

2814 Section 51. Section **62A-4a-207** is amended to read:

2815 **62A-4a-207. Legislative Oversight Panel -- Responsibilities.**

2816 (1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the
2817 following members:

2818 (i) two members of the Senate, one from the majority party and one from the minority
2819 party, appointed by the president of the Senate; and

2820 (ii) three members of the House of Representatives, two from the majority party and
2821 one from the minority party, appointed by the speaker of the House of Representatives.

2822 (b) Members of the panel shall serve for two-year terms, or until their successors are
2823 appointed.

2824 (c) A vacancy exists whenever a member ceases to be a member of the Legislature, or
2825 when a member resigns from the panel. Vacancies shall be filled by the appointing authority,
2826 and the replacement shall fill the unexpired term.

2827 (2) The president of the Senate shall designate one of the senators appointed to the
2828 panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of
2829 Representatives shall designate one of the representatives appointed to the panel under
2830 Subsection (1) as the House chair of the panel.

2831 (3) The panel shall follow the interim committee rules established by the Legislature.

2832 (4) The panel shall:

2833 (a) examine and observe the process and execution of laws governing the child welfare
2834 system by the executive branch and the judicial branch;

2835 (b) upon request, receive testimony from the public, the juvenile court, and from all
2836 state agencies involved with the child welfare system including, but not limited to, the division,
2837 other offices and agencies within the department, the attorney general's office, the Office of the
2838 Guardian Ad Litem Director, and school districts;

2839 (c) before October 1, 2002, and before October 1 of each year thereafter receive reports
2840 from the division, the attorney general, and the judicial branch identifying the cases not in
2841 compliance with the time limits established in Section 78-3a-308, regarding pretrial and
2842 adjudication hearings, Section 78-3a-311, regarding dispositional hearings and reunification
2843 services, and Section 78-3a-312, regarding permanency hearings and petitions for termination,
2844 and the reasons for the noncompliance;

2845 (d) receive recommendations from, and make recommendations to the governor, the
2846 Legislature, the attorney general, the division, the Office of the Guardian Ad Litem Director,
2847 the juvenile court, and the public;

2848 (e) (i) receive reports from the executive branch and the judicial branch on budgetary

2849 issues impacting the child welfare system; and

2850 (ii) recommend, as it considers advisable, budgetary proposals to the Health and
2851 Human Services [~~Joint~~] Appropriations Subcommittee, the Executive Offices and Criminal
2852 Justice Appropriations Subcommittee, and the Executive Appropriations Committee, which
2853 recommendation should be made before December 1 of each year;

2854 (f) study and recommend proposed changes to laws governing the child welfare
2855 system;

2856 (g) study actions the state can take to preserve, unify, and strengthen the child's family
2857 ties whenever possible in the child's best interest, including recognizing the constitutional
2858 rights and claims of parents whenever those family ties are severed or infringed;

2859 (h) perform such other duties related to the oversight of the child welfare system as the
2860 panel considers appropriate; and

2861 (i) annually report its findings and recommendations to the president of the Senate, the
2862 speaker of the House of Representatives, the Health and Human Services Interim Committee,
2863 and the Judiciary Interim Committee.

2864 (5) (a) The panel has authority to review and discuss individual cases.

2865 (b) When an individual case is discussed, the panel's meeting may be closed pursuant
2866 to Title 52, Chapter 4, Open and Public Meetings Act.

2867 (c) When discussing an individual case, the panel shall make reasonable efforts to
2868 identify and consider the concerns of all parties to the case.

2869 (6) (a) The panel has authority to make recommendations to the Legislature, the
2870 governor, the Board of Juvenile Court Judges, the division, and any other statutorily created
2871 entity related to the policies and procedures of the child welfare system. The panel does not
2872 have authority to make recommendations to the court, the division, or any other public or
2873 private entity regarding the disposition of any individual case.

2874 (b) The panel may hold public hearings, as it considers advisable, in various locations
2875 within the state in order to afford all interested persons an opportunity to appear and present
2876 their views regarding the child welfare system in this state.

2877 (7) (a) All records of the panel regarding individual cases shall be classified private,
2878 and may be disclosed only in accordance with federal law and the provisions of Title 63,
2879 Chapter 2, Government Records Access and Management Act.

2880 (b) The panel shall have access to all of the division's records, including those
2881 regarding individual cases. In accordance with Title 63, Chapter 2, Government Records
2882 Access and Management Act, all documents and information received by the panel shall
2883 maintain the same classification that was designated by the division.

2884 (8) In order to accomplish its oversight functions, the panel has:

- 2885 (a) all powers granted to legislative interim committees in Section 36-12-11; and
- 2886 (b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena
2887 Powers.

2888 (9) Members of the panel shall receive salary and expenses in accordance with Section
2889 36-2-2.

2890 (10) (a) The Office of Legislative Research and General Counsel shall provide staff
2891 support to the panel.

2892 (b) The panel is authorized to employ additional professional assistance and other staff
2893 members as it considers necessary and appropriate.

2894 Section 52. Section **63-34-6** is amended to read:

2895 **63-34-6. Division directors -- Appointment -- Removal -- Jurisdiction of executive**
2896 **director -- Natural resources planning.**

2897 (1) (a) The chief administrative officer of each division within the Department of
2898 Natural Resources shall be a director appointed by the executive director of the Department of
2899 Natural Resources with the concurrence of the board having policy authority for the division.

2900 (b) The director of each division may be removed from office by the executive director
2901 of the Department of Natural Resources.

2902 (c) The appointment and term of office of the state engineer, notwithstanding anything
2903 to the contrary contained in this section, shall be in accordance with Section 73-2-1.

2904 (2) (a) The executive director of the Department of Natural Resources shall have
2905 administrative jurisdiction over each of the division directors for the purpose of implementing
2906 department policy as established by the division boards.

2907 (b) The executive director of the Department of Natural Resources may consolidate
2908 personnel and service functions in the respective divisions under his administrative jurisdiction
2909 to effectuate efficiency and economy in the operations of the department, and may establish a
2910 departmental services division to perform service functions.

2911 (c) This jurisdiction includes the authority of the executive director to employ law
2912 enforcement officers and special function officers within the Department of Natural Resources.
2913 These law enforcement officers shall have all of the powers of conservation officers provided
2914 in Title 23, [~~Fish and Game~~] Wildlife Resources Code of Utah, and law enforcement officers,
2915 with the exception of the power to serve civil process.

2916 (3) (a) The executive director of the Department of Natural Resources, in cooperation
2917 with the governmental entities having policymaking authority regarding natural resources, may
2918 engage in studies and comprehensive planning for the development and conservation of the
2919 state's natural resources.

2920 (b) The executive director shall submit any plans to the governor for review and
2921 approval.

2922 Section 53. Section **63-38c-103** is amended to read:

2923 **63-38c-103. Definitions.**

2924 As used in this chapter:

2925 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations
2926 from unrestricted General Fund sources and from non-Uniform School Fund income tax
2927 revenues as presented in the governor's executive budgets.

2928 (b) Appropriations includes appropriations that are contingent upon available surpluses
2929 in the General Fund.

2930 (c) "Appropriations" does not mean:

2931 (i) debt service expenditures;

2932 (ii) emergency expenditures;

2933 (iii) expenditures from all other fund or subfund sources presented in the executive
2934 budgets;

2935 (iv) transfers or appropriations from the Education Fund to the Uniform School Fund;

2936 (v) transfers into, or appropriations made to, the General Fund Budget Reserve

2937 Account established in Section 63-38-2.5;

2938 (vi) transfers into, or appropriations made to, the Education Budget Reserve Account
2939 established in Section 63-38-2.6;

2940 (vii) transfers in accordance with Section 63-38-2.7 into, or appropriations made to the
2941 State Disaster Recovery Restricted Account created in Section 53-2-403;

2942 (viii) monies appropriated to fund the total one-time project costs for the construction
2943 of capital developments as defined in Section 63A-5-104;

2944 (ix) transfers or deposits into or appropriations made to the Centennial Highway Fund
2945 Restricted Account created by Section 72-2-118;

2946 (x) transfers or deposits into or appropriations made to the Transportation Investment
2947 Fund of 2005 created by Section 72-2-124; or

2948 (xi) transfers or deposits into or appropriations made to:

2949 (A) the Department of Transportation from any source; or

2950 (B) any transportation-related account or fund from any source.

2951 (2) "Base year real per capita appropriations" means the result obtained for the state by
2952 dividing the fiscal year 1985 actual appropriations of the state less debt monies by:

2953 (a) the state's July 1, 1983 population; and

2954 (b) the fiscal year 1983 inflation index divided by 100.

2955 (3) "Calendar year" means the time period beginning on January 1 of any given year
2956 and ending on December 31 of the same year.

2957 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate
2958 expenditures and includes the settlement under [~~Chapter 4,~~] Laws of Utah 1988, Fourth Special
2959 Session, Chapter 4.

2960 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
2961 ending on June 30 of the subsequent year.

2962 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
2963 capital and operations appropriations from General Fund and non-Uniform School Fund
2964 income tax revenue sources, less debt monies.

2965 (7) "Inflation index" means the change in the general price level of goods and services
2966 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic
2967 Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

2968 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could
2969 be, or could have been, spent in any given year under the limitations of this chapter.

2970 (b) "Maximum allowable appropriations limit" does not mean actual appropriations
2971 spent or actual expenditures.

2972 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two

2973 fiscal years previous to the fiscal year for which the maximum allowable inflation and
 2974 population appropriations limit is being computed under this chapter.

2975 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal
 2976 years previous to the fiscal year for which the maximum allowable inflation and population
 2977 appropriations limit is being computed under this chapter.

2978 (11) "Population" means the number of residents of the state as of July 1 of each year
 2979 as calculated by the Governor's Office of Planning and Budget according to the procedures and
 2980 requirements of Section 63-38c-202.

2981 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and
 2982 other monetary exaction and interest connected with it that are recorded as unrestricted revenue
 2983 of the General Fund and from non-Uniform School Fund income tax revenues, except as
 2984 specifically exempted by this chapter.

2985 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,
 2986 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an
 2987 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

2988 Section 54. Section **63-55-253** is amended to read:

2989 **63-55-253. Repeal dates, Titles 53, 53A, and 53B.**

2990 The following provisions [~~of Title 53A~~] are repealed on the following dates:

2991 [~~(5)~~] (1) Section 53-3-232, Conditional licenses, is repealed July 1, 2015.

2992 [~~(1)~~] (2) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is
 2993 repealed July 1, 2010.

2994 [~~(2)~~] (3) Title 53A, Chapter 1a, Part 9, Voluntary Extended-day Kindergarten Program,
 2995 is repealed July 1, 2011.

2996 [~~(3)~~] (4) The State Instructional Materials Commission, created in Section 53A-14-101,
 2997 is repealed July 1, 2011.

2998 [~~(4)~~ Title 53A, Chapter 20a, Public Education Revenue Bond Act, is repealed July 1,
 2999 2007.]

3000 Section 55. Section **63-55b-153** is amended to read:

3001 **63-55b-153. Repeal dates -- Titles 53, 53A, and 53B.**

3002 [~~(1)~~ Section 53-3-210 is repealed February 1, 2007.]

3003 [~~(2)~~] (1) Section 53A-1-403.5 is repealed July 1, 2012.

3004 [~~(3)~~ Subsection 53A-1a-511(7)(c) is repealed July 1, 2007.]

3005 [~~(4)~~ (2) Section 53A-3-702 is repealed July 1, 2008.

3006 [~~(5)~~ (3) Section 53A-6-112 is repealed July 1, 2009.

3007 [~~(6)~~ (4) Section 53A-17a-152 is repealed July 1, 2010.

3008 Section 56. Section **63-55b-163** is amended to read:

3009 **63-55b-163. Repeal dates, Title 63 to Title 63B.**

3010 [~~(1)~~ Section 63-38a-105 is repealed July 1, 2007.]

3011 [~~(2)~~ Sections 63-63b-101 and 63-63b-102 are repealed on July 1, 2007.]

3012 [~~(3)~~] Section 63B-14-101 is repealed December 31, 2008.

3013 Section 57. Section **63-63a-8** is amended to read:

3014 **63-63a-8. Children's Legal Defense Account.**

3015 (1) There is created a restricted account within the General Fund known as the
3016 Children's Legal Defense Account.

3017 (2) The purpose of the Children's Legal Defense Account is to provide for programs
3018 that protect and defend the rights, safety, and quality of life of children.

3019 (3) (a) The Legislature shall appropriate money from the account for the administrative
3020 and related costs of the following programs:

3021 [~~(a)~~] (i) implementing the Mandatory Educational Course on Children's Needs for
3022 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
3023 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation Pilot Program - Child
3024 Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18; and

3025 [~~(b)~~] (ii) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,
3026 78-3a-318, 78-3a-912, 78-11-6, and 78-7-9; the training of guardian ad litem and volunteers as
3027 provided in Section 78-3a-912; and termination of parental rights as provided in Sections
3028 78-3a-118, 78-3a-119, 78-3a-903, and Title 78, Chapter 3a, Part 4, Termination of Parental
3029 Rights Act.

3030 (b) This account may not be used to supplant funding for the guardian ad litem
3031 program in the juvenile court as provided in Section 78-3a-912[~~;~~and].

3032 [~~(c)~~ implementing and administering the Expedited Parent-time Enforcement Pilot
3033 Program as provided in Section 30-3-38.]

3034 (4) The following withheld fees shall be allocated only to the Children's Legal Defense

3035 Account and used only for the purposes provided in Subsections (3)(a) [~~through (c)~~] and (b):

3036 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
3037 as provided in Section 17-16-21; and

3038 (b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any
3039 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

3040 (5) The Division of Finance shall allocate the monies described in Subsection (4) from
3041 the General Fund to the Children's Legal Defense Account.

3042 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30
3043 of any fiscal year shall lapse into the General Fund.

3044 Section 58. Section **63-97-201** is amended to read:

3045 **63-97-201. Creation of Tobacco Settlement Restricted Account.**

3046 (1) There is created within the General Fund a restricted account known as the
3047 "Tobacco Settlement Restricted Account."

3048 (2) The account shall earn interest.

3049 (3) The account shall consist of:

3050 (a) until July 1, 2003, 50% of all funds of every kind that are received by the state that
3051 are related to the settlement agreement that the state entered into with leading tobacco
3052 manufacturers on November 23, 1998;

3053 (b) on and after July 1, 2003 and until July 1, 2004, 80% of all funds of every kind that
3054 are received by the state that are related to the settlement agreement that the state entered into
3055 with leading tobacco manufacturers on November 23, 1998;

3056 (c) on and after July 1, 2004 and until July 1, 2005, 70% of all funds of every kind that
3057 are received by the state that are related to the settlement agreement that the state entered into
3058 with leading tobacco manufacturers on November 23, 1998;

3059 (d) on and after July 1, 2005 and until July 1, 2007, 75% of all funds of every kind that
3060 are received by the state that are related to the settlement agreement that the state entered into
3061 with leading tobacco manufacturers on November 23, 1998;

3062 (e) on and after July 1, 2007, 60% of all funds of every kind that are received by the
3063 state that are related to the settlement agreement that the state entered into with leading tobacco
3064 manufacturers on November 23, 1998; and

3065 (f) interest earned on the account.

3066 (4) To the extent that funds will be available for appropriation in a given fiscal year,
3067 those funds shall be appropriated from the account in the following order:

3068 (a) \$10,300,000 to the Department of Health for the Children's Health Insurance
3069 Program created in Section 26-40-103 and for restoration of dental benefits in the Children's
3070 Health Insurance Program;

3071 (b) \$4,000,000 to the Department of Health for alcohol, tobacco, and other drug
3072 prevention, reduction, cessation, and control programs that promote unified messages and
3073 make use of media outlets, including radio, newspaper, billboards, and television, and with a
3074 preference in funding given to tobacco-related programs;

3075 (c) \$193,700 to the Administrative Office of the Courts and \$1,296,300 to the
3076 Department of Human Services for the statewide expansion of the drug court program;

3077 (d) \$77,400 to the Board of Pardons, \$81,700 to the Department of Corrections, and
3078 \$350,900 to the Department of Human Services for a drug board pilot program;

3079 (e) \$4,000,000 to the State Board of Regents for the University of Utah Health
3080 Sciences Center to benefit the health and well-being of Utah citizens through in-state research,
3081 treatment, and educational activities; and

3082 (f) any remaining funds as directed by the Legislature through appropriation.

3083 (5) (a) If tobacco funds in dispute for ~~[attorneys]~~ attorney fees are received by the state,
3084 those funds shall be divided and deposited in accordance with Subsection (3) and Section
3085 63-97-301.

3086 (b) The amount appropriated from the Tobacco Settlement Restricted Account to the
3087 Department of Health for alcohol, tobacco, and other drug programs described in Subsection
3088 (4)(b), including the funding preference for tobacco-related programs, shall be increased by up
3089 to \$2,000,000 in a given fiscal year to the extent that funds in dispute for ~~[attorneys]~~ attorney
3090 fees are available to the state for appropriation from the account.

3091 (6) Each state agency identified in Subsection (4) shall provide an annual report on the
3092 program and activities funded under Subsection (4) to:

3093 (a) the Health and Human Services Interim Committee no later than September 1; and

3094 (b) the Health and Human Services ~~[Joint]~~ Appropriations Subcommittee.

3095 Section 59. Section **63A-5-222** is amended to read:

3096 **63A-5-222. Critical land near state prison -- Definitions -- Preservation as open**

3097 **land -- Management and use of land -- Restrictions on transfer -- Wetlands development**
3098 **-- Conservation easement.**

3099 (1) For purposes of this section:

3100 (a) "Corrections" means the Department of Corrections created under Section 64-13-2.

3101 (b) "Critical land" means a parcel of approximately 250 acres of land owned by the
3102 division and located on the east edge of the Jordan River between about 12300 South and
3103 14600 South in Salt Lake County, approximately the southern half of whose eastern boundary
3104 abuts the Denver and Rio Grande Western Railroad right of way.

3105 (c) (i) "Open land" means land that is:

3106 (A) preserved in or restored to a predominantly natural, open, and undeveloped
3107 condition; and

3108 (B) used for:

3109 (I) wildlife habitat;

3110 (II) cultural or recreational use;

3111 (III) watershed protection; or

3112 (IV) another use consistent with the preservation of the land in or restoration of the
3113 land to a predominantly natural, open, and undeveloped condition.

3114 (ii) (A) "Open land" does not include land whose predominant use is as a developed
3115 facility for active recreational activities, including baseball, tennis, soccer, golf, or other
3116 sporting or similar activity.

3117 (B) The condition of land does not change from a natural, open, and undeveloped
3118 condition because of the development or presence on the land of facilities, including trails,
3119 waterways, and grassy areas, that:

3120 (I) enhance the natural, scenic, or aesthetic qualities of the land; or

3121 (II) facilitate the public's access to or use of the land for the enjoyment of its natural,
3122 scenic, or aesthetic qualities and for compatible recreational activities.

3123 (2) (a) (i) The critical land shall be preserved in perpetuity as open land.

3124 (ii) The long-term ownership and management of the critical land should eventually be
3125 turned over to the Department of Natural Resources created under Section 63-34-3 or another
3126 agency or entity that is able to accomplish the purposes and intent of this section.

3127 (b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions

3128 should be taken on or with respect to the critical land, including:

3129 (i) the development and implementation of a program to eliminate noxious vegetation
3130 and restore and facilitate the return of natural vegetation on the critical land;

3131 (ii) the development of a system of trails through the critical land that is compatible
3132 with the preservation of the critical land as open land;

3133 (iii) the development and implementation of a program to restore the natural features of
3134 and improve the flows of the Jordan River as it crosses the critical land;

3135 (iv) the preservation of the archeological site discovered on the critical land and the
3136 development of an interpretive site in connection with the archeological discovery;

3137 (v) in restoring features on the critical land, the adoption of methods and plans that will
3138 enhance the critical land's function as a wildlife habitat;

3139 (vi) taking measures to reduce safety risks on the critical land; and

3140 (vii) the elimination or rehabilitation of a prison dump site on the critical land.

3141 (3) (a) Except as provided in Subsection (3)(b), no interest in the critical land may be
3142 sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that the
3143 critical land that is transferred will be preserved as open land in perpetuity.

3144 (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to
3145 resolve boundary disputes with adjacent property owners and easements may be granted for
3146 trails and other purposes consistent with Subsection (2)(b) and with the preservation of the
3147 critical land as open land.

3148 (4) The division shall use the funds remaining from the appropriation under [~~Chapter~~
3149 ~~399,~~] Laws of Utah 1998, Chapter 399, for the purposes of:

3150 (a) determining the boundaries and legal description of the critical land;

3151 (b) determining the boundaries and legal description of the adjacent property owned by
3152 the division;

3153 (c) fencing the critical land and adjacent land owned by the division where appropriate
3154 and needed; and

3155 (d) assisting to carry out the intent of this section.

3156 (5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the
3157 critical land may develop or allow a public agency or private entity to develop more wetlands
3158 on the critical land than exist naturally or existed previously.

3159 (b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title
3160 may transfer jurisdiction of all or a portion of the critical land to a public agency or private
3161 entity to provide for the development and management of wetlands and designated wetland
3162 buffer areas.

3163 (ii) Before transferring jurisdiction of any part of the critical land under Subsection
3164 (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to
3165 obtain approval from the appropriate federal agency to allow mitigation credits in connection
3166 with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

3167 (6) Notwithstanding any other provision of this section, corrections shall have access to
3168 the cooling pond located on the critical land as long as that access to and use of the cooling
3169 pond are not inconsistent with the preservation of the critical land as open land.

3170 (7) The Department of Corrections, the division, and all other state departments,
3171 divisions, or agencies shall cooperate together to carry out the intent of this section.

3172 (8) In order to ensure that the land referred to in this section is preserved as open land,
3173 the division shall, as soon as practicable, place the land under a perpetual conservation
3174 easement in favor of an independent party such as a reputable land conservation organization or
3175 a state or local government agency with experience in conservation easements.

3176 Section 60. Section **63B-6-502** is amended to read:

3177 **63B-6-502. Other capital facility authorizations and intent language.**

3178 (1) It is the intent of the Legislature that the University of Utah use institutional funds
3179 to plan, design, and construct:

3180 (a) the Health Science Lab Building under the supervision of the director of the
3181 Division of Facilities Construction and Management unless supervisory authority is delegated
3182 by the director; and

3183 (b) the gymnastics facility under the supervision of the director of the Division of
3184 Facilities Construction and Management unless supervisory authority is delegated by the
3185 director.

3186 (2) It is the intent of the Legislature that Southern Utah University use institutional
3187 funds to plan, design, and construct a science center addition under the supervision of the
3188 director of the Division of Facilities Construction and Management unless supervisory
3189 authority is delegated by the director.

3190 (3) It is the intent of the Legislature that Utah Valley State College use institutional
3191 funds to plan, design, and construct a student center addition under the supervision of the
3192 director of the Division of Facilities Construction and Management unless supervisory
3193 authority is delegated by the director.

3194 (4) (a) It is the intent of the Legislature that the Division of Facilities Construction and
3195 Management lease property at the Draper Prison to an entity for the purpose of constructing
3196 recycling and transfer facilities to employ inmates if the following conditions are satisfactorily
3197 met:

- 3198 (i) the entity assures continuous employment of state inmates;
- 3199 (ii) the lease with the entity provides an appropriate return to the state;
- 3200 (iii) the lease has an initial term of not to exceed 20 years;
- 3201 (iv) the lease protects the state from all liability;
- 3202 (v) the entity guarantees that no adverse environmental impact will occur;
- 3203 (vi) the state retains the right to:
 - 3204 (A) monitor the types of wastes that are processed; and
 - 3205 (B) prohibit the processing of types of wastes that are considered to be a risk to the
3206 state or surrounding property uses;
- 3207 (vii) the lease provides for adequate security arrangements;
- 3208 (viii) the entity assumes responsibility for any taxes or fees associated with the facility;
- 3209 and

3210 (ix) the entity assumes responsibility for bringing utilities to the site and any state
3211 expenditures for roads, etc. are considered in establishing the return to the state.

3212 (b) Except as provided in Subsections (4)(c) and (d), the facility may be constructed
3213 without direct supervision by the Division of Facilities Construction and Management.

3214 (c) Notwithstanding Subsection (4)(b), the Division of Facilities Construction and
3215 Management shall:

- 3216 (i) review the design, plans, and specifications of the project; and
- 3217 (ii) approve them if they are appropriate.

3218 (d) Notwithstanding Subsection (4)(b), the Division of Facilities Construction and
3219 Management may:

- 3220 (i) require that the project be submitted to the local building official for plan review

3221 and inspection; and

3222 (ii) inspect the project.

3223 (5) It is the intent of the Legislature that:

3224 (a) the \$221,497.86 authorized for the Capitol Hill Day Care Center in Subsection (4)
3225 of [~~Section 56, Chapter 304,~~] Laws of Utah 1992, Chapter 304, Section 56, be used for general
3226 capital improvements; and

3227 (b) the Building Board should, in allocating the \$221,497.86, if appropriate under the
3228 Board's normal allocation and prioritization process, give preference to projects for the
3229 Division of Parks and Recreation.

3230 Section 61. Section **73-10f-1** is amended to read:

3231 **73-10f-1. Definitions.**

3232 As used in this chapter:

3233 (1) "Division" means the Division of Water Resources[;].

3234 (2) "Task force" means the Joint Gubernatorial/Legislative Task Force on the Bear
3235 River created in [~~Chapter 158,~~] Laws of Utah 1989, Chapter 158.

3236 Section 62. Section **73-12a-1** is amended to read:

3237 **73-12a-1. Ratification.**

3238 That certain compact and treaty approved by a representative of the United States of
3239 America and negotiated and entered into by representatives of the states of Utah, Wyoming,
3240 Colorado, New Mexico, Arizona, Nevada and California, sitting as the Colorado River
3241 Commission, which compact and treaty apportions the waters of the Colorado river, and which
3242 commission was created in conformity with [~~Chapter 68, Session~~] Laws of Utah[;] 1921,
3243 Chapter 68, and similar acts of the legislatures of the several respective states named and of the
3244 Congress of the United States, is hereby approved, confirmed, and ratified for and by the state
3245 of Utah.

3246 Section 63. Section **76-7-317.2** is amended to read:

3247 **76-7-317.2. Finding of unconstitutionality -- Revival of old law.**

3248 If Section 76-7-302 as amended by Senate Bill 23, 1991 Annual General Session, is
3249 ever held to be unconstitutional by the United States Supreme Court, Section 76-7-302, as
3250 enacted by [~~Chapter 33,~~] Laws of Utah 1974, Chapter 33, is reenacted and immediately
3251 effective.

3252 Section 64. Section **78-3-21** is amended to read:

3253 **78-3-21. Judicial Council -- Creation -- Members -- Terms and election --**
3254 **Responsibilities -- Reports.**

3255 (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution,
3256 shall be composed of:

3257 (a) the chief justice of the Supreme Court;

3258 (b) one member elected by the justices of the Supreme Court;

3259 (c) one member elected by the judges of the Court of Appeals;

3260 (d) five members elected by the judges of the district courts;

3261 (e) two members elected by the judges of the juvenile courts;

3262 (f) three members elected by the justice court judges; and

3263 (g) a member or ex officio member of the Board of Commissioners of the Utah State
3264 Bar who is an active member of the Bar in good standing elected by the Board of
3265 Commissioners.

3266 (2) (a) The chief justice of the Supreme Court shall act as presiding officer of the
3267 council and chief administrative officer for the courts. The chief justice shall vote only in the
3268 case of a tie.

3269 (b) All members of the council shall serve for three-year terms. If a council member
3270 should die, resign, retire, or otherwise fail to complete a term of office, the appropriate
3271 constituent group shall elect a member to complete the term of office. In courts having more
3272 than one member, the members shall be elected to staggered terms. The person elected to the
3273 Judicial Council by the Board of Commissioners shall be a member or ex officio member of
3274 the Board of Commissioners and an active member of the Bar in good standing at the time the
3275 person is elected. The person may complete a three-year term of office on the Judicial Council
3276 even though the person ceases to be a member or ex officio member of the Board of
3277 Commissioners. The person shall be an active member of the Bar in good standing for the
3278 entire term of the Judicial Council.

3279 (c) Elections shall be held under rules made by the Judicial Council.

3280 (3) The council is responsible for the development of uniform administrative policy for
3281 the courts throughout the state. The presiding officer of the Judicial Council is responsible for
3282 the implementation of the policies developed by the council and for the general management of

3283 the courts, with the aid of the administrator. The council has authority and responsibility to:

3284 (a) establish and assure compliance with policies for the operation of the courts,
3285 including uniform rules and forms; and

3286 (b) publish and submit to the governor, the chief justice of the Supreme Court, and the
3287 Legislature an annual report of the operations of the courts, which shall include financial and
3288 statistical data and may include suggestions and recommendations for legislation.

3289 (4) (a) The Judicial Council shall make rules establishing:

3290 (i) standards for judicial competence; and

3291 (ii) a formal program for the evaluation of judicial performance containing the
3292 elements of and meeting the requirements of this Subsection (4).

3293 (b) The Judicial Council shall ensure that the formal judicial performance evaluation
3294 program has improvement in the performance of individual judges, court commissioners, and
3295 the judiciary as its goal.

3296 (c) The Judicial Council shall ensure that the formal judicial performance evaluation
3297 program includes at least all of the following elements:

3298 (i) a requirement that judges complete a certain number of hours of approved judicial
3299 education each year;

3300 (ii) a requirement that each judge certify that he is:

3301 (A) physically and mentally competent to serve; and

3302 (B) in compliance with the Codes of Judicial Conduct and Judicial Administration; and

3303 (iii) a requirement that the judge receive a satisfactory score on questions identified by
3304 the Judicial Council as relating to judicial certification on a survey of members of the Bar
3305 developed by the Judicial Council in conjunction with the American Bar Association.

3306 (d) The Judicial Council shall ensure that the formal judicial performance evaluation
3307 program considers at least the following criteria:

3308 (i) integrity;

3309 (ii) knowledge;

3310 (iii) understanding of the law;

3311 (iv) ability to communicate;

3312 (v) punctuality;

3313 (vi) preparation;

3314 (vii) attentiveness;

3315 (viii) dignity;

3316 (ix) control over proceedings; and

3317 (x) skills as a manager.

3318 (e) (i) The Judicial Council shall provide the judicial performance evaluation

3319 information and the disciplinary data required by Subsection 20A-7-702(2) to the Lieutenant

3320 Governor for publication in the voter information pamphlet.

3321 (ii) Not later than August 1 of the year before the expiration of the term of office of a

3322 justice court judge, the Judicial Council shall provide the judicial performance evaluation

3323 information required by Subsection 20A-7-702(2) to the appointing authority of a justice court

3324 judge.

3325 (5) The council shall establish standards for the operation of the courts of the state

3326 including, but not limited to, facilities, court security, support services, and staff levels for

3327 judicial and support personnel.

3328 (6) The council shall by rule establish the time and manner for destroying court

3329 records, including computer records, and shall establish retention periods for these records.

3330 (7) (a) Consistent with the requirements of judicial office and security policies, the

3331 council shall establish procedures to govern the assignment of state vehicles to public officers

3332 of the judicial branch.

3333 (b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and

3334 may be assigned for unlimited use, within the state only.

3335 (8) (a) The council shall advise judicial officers and employees concerning ethical

3336 issues and shall establish procedures for issuing informal and formal advisory opinions on

3337 these issues.

3338 (b) Compliance with an informal opinion is evidence of good faith compliance with the

3339 Code of Judicial Conduct.

3340 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial

3341 Conduct.

3342 (9) (a) The council shall establish written procedures authorizing the presiding officer

3343 of the council to appoint judges of courts of record by special or general assignment to serve

3344 temporarily in another level of court in a specific court or generally within that level. The

3345 appointment shall be for a specific period and shall be reported to the council.

3346 (b) These procedures shall be developed in accordance with Subsection 78-3-24(10)
3347 regarding temporary appointment of judges.

3348 (10) The Judicial Council may by rule designate municipalities in addition to those
3349 designated by statute as a location of a trial court of record. There shall be at least one court
3350 clerk's office open during regular court hours in each county. Any trial court of record may
3351 hold court in any municipality designated as a location of a court of record. Designations by
3352 the Judicial Council may not be made between July 1, 1997, and July 1, 1998.

3353 (11) The Judicial Council shall by rule determine whether the administration of a court
3354 shall be the obligation of the administrative office of the courts or whether the administrative
3355 office of the courts should contract with local government for court support services.

3356 (12) The Judicial Council may by rule direct that a district court location be
3357 administered from another court location within the county.

3358 (13) The Judicial Council shall establish and supervise the Office of Guardian Ad
3359 Litem Director, in accordance with the provisions of Sections 78-3a-911 and 78-3a-912, and
3360 assure compliance of the guardian ad litem program with state and federal law, regulation, and
3361 policy, and court rules.

3362 (14) The Judicial Council shall establish and maintain, in cooperation with the Office
3363 of Recovery Services within the Department of Human Services, the part of the state case
3364 registry that contains records of each support order established or modified in the state on or
3365 after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec.
3366 654a.

3367 (15) (a) On or before November 1, 2003, the Judicial Council, by rule, shall select one
3368 or more districts as pilot districts for purposes of Sections 78-3a-115, 78-3a-115.1, and
3369 78-3a-116.

3370 (b) Prior to the 2005 Annual General Session, the Judicial Council shall report to the
3371 Child Welfare Legislative Oversight Panel and the Judiciary Interim Committee on the effects
3372 of [~~Chapter 332,~~] Laws of Utah 2003, Chapter 332, and recommend whether the provisions of
3373 [~~Chapter 332,~~] Laws of Utah 2003, Chapter 332, should be continued, modified, or repealed.

3374 Section 65. Section **78-23-4** is amended to read:

3375 **78-23-4. Declaration of homestead -- Filing -- Contents -- Failure to file --**

3376 **Conveyance by married person -- No execution sale if bid less than exemption --**
3377 **Redemption rights of judgment creditor.**

3378 An individual may select and claim a homestead by complying with the following
3379 requirements:

3380 (1) Filing a signed and acknowledged declaration of homestead with the recorder of the
3381 county or counties in which the homestead claimant's property is located or serving a signed
3382 and acknowledged declaration of homestead upon the sheriff or other officer conducting an
3383 execution prior to the time stated in the notice of such execution.

3384 (2) The declaration of homestead shall contain:

3385 (a) a statement that the claimant is entitled to an exemption and if the claimant is
3386 married a statement that the claimant's spouse has not filed a declaration of homestead;

3387 (b) a description of the property subject to the homestead;

3388 (c) an estimate of the cash value of such property; and

3389 (d) a statement specifying the amount of the homestead claimed and stating the name,
3390 age, and address of any spouse and dependents claimed to determine the value of the
3391 homestead.

3392 (3) If a declaration of homestead is not filed or served as provided in this section, title
3393 shall pass to the purchaser upon execution free and clear of all homestead rights.

3394 (4) If an individual is married, no conveyance of or security interest in, or contract to
3395 convey or create a security interest in property recorded as a homestead prior to the time of
3396 such conveyance, security interest, or contract shall be valid, unless both the husband and wife
3397 join in the execution of the conveyance, security interest, or contract.

3398 (5) Property that includes a homestead shall not be sold at execution if there is no bid
3399 which exceeds the amount of the declared homestead exemption.

3400 (6) If property that includes a homestead is sold under execution the sale shall be
3401 subject to redemption by the judgment debtor as provided in Rule 69[~~(f)~~]C of the Utah Rules of
3402 Civil Procedure. If there is a deficiency the property shall not be subject to another execution
3403 to cover the deficiency.

3404 Section 66. Section **78-30-8** is amended to read:

3405 **78-30-8. Final decree of adoption -- Agreement by adoptive parent or parents.**

3406 (1) Except as provided in Subsection (2), the adoptive parent or parents and the child

3407 being adopted shall appear before the appropriate court, and an agreement shall be executed by
3408 the adoptive parent or parents stating that the child shall be adopted and treated in all respects
3409 as ~~his~~ the adoptive parent or parent's own lawful child.

3410 (2) Except as provided in Subsection 78-30-1(2)(d), a court may waive the requirement
3411 that the adoptive parent or parents and the child being adopted appear before the court if:

3412 (a) the adoption is not contested; and

3413 (b) all requirements of this chapter to obtain a final decree of adoption are otherwise
3414 complied with.

3415 Section 67. Section **78-43-8** is amended to read:

3416 **78-43-8. Repealing clause.**

3417 Title 20 and Title 104, Utah Code Annotated 1943, as amended and [~~Chapters 19, 33~~
3418 ~~and 34,~~] Laws of Utah 1943[~~;~~ ~~Chapters 8 and 10~~], Chapters 19, 33, and 34, Laws of Utah
3419 1947[~~;~~], Chapters 8 and 10, and [~~Chapter 76,~~] Laws of Utah 1949, Chapter 76, are hereby
3420 repealed.

3421 Section 68. **Repealer.**

3422 This bill repeals:

3423 Section **30-3-38, Pilot Program for Expedited Parent-time Enforcement.**

3424 Section **53-2-102.5, Loan program for disasters prior to Disaster Recovery**
3425 **Funding Act.**

Legislative Review Note
as of 1-8-08 12:41 PM

Office of Legislative Research and General Counsel

S.B. 111 - Revisor's Statute

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
