

REVISOR'S STATUTE

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin S. Garn

Senate Sponsor: Sheldon L. Killpack

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This bill modifies parts of the Utah Code to make technical corrections including eliminating references to repealed provisions, making minor wording changes, updating cross references, and correcting numbering.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- modifies parts of the Utah Code to make technical corrections including eliminating references to repealed provisions, making minor wording changes, updating cross references, and correcting numbering.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-1-104, as last amended by Laws of Utah 2007, Chapter 306

7-1-505, as last amended by Laws of Utah 1983, Chapter 8

7-7-38, as last amended by Laws of Utah 1994, Chapter 200

9-3-403, as last amended by Laws of Utah 2004, Chapter 18

17-27a-703, as last amended by Laws of Utah 2008, Chapter 326



- 28 **17D-1-106**, as enacted by Laws of Utah 2008, Chapter 360
- 29 **17D-1-301**, as enacted by Laws of Utah 2008, Chapter 360
- 30 **17D-2-506**, as enacted by Laws of Utah 2008, Chapter 360
- 31 **19-2-103**, as last amended by Laws of Utah 2008, Chapter 250
- 32 **19-6-302**, as last amended by Laws of Utah 2005, Chapter 200
- 33 **19-6-310**, as last amended by Laws of Utah 1995, Chapter 324
- 34 **19-8-119**, as enacted by Laws of Utah 2005, Chapter 200
- 35 **32A-1-119.5**, as enacted by Laws of Utah 2008, Chapter 317
- 36 **32A-5-107**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 37 **32A-8-101**, as last amended by Laws of Utah 2008, Chapter 391
- 38 **36-11-103**, as last amended by Laws of Utah 2008, Chapter 382
- 39 **38-8-1**, as last amended by Laws of Utah 2006, Chapter 42
- 40 **51-9-405**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and
- 41 amended by Laws of Utah 2008, Chapter 382
- 42 **51-9-504**, as enacted by Laws of Utah 2008, Chapter 202
- 43 **53-3-102**, as last amended by Laws of Utah 2008, Chapter 322
- 44 **53-3-204**, as last amended by Laws of Utah 2008, Chapters 3, 250, and 304
- 45 **53-3-205**, as last amended by Laws of Utah 2008, Chapters 304 and 382
- 46 **53-10-208**, as last amended by Laws of Utah 2008, Chapter 3
- 47 **53-10-208.1**, as last amended by Laws of Utah 2008, Chapter 3
- 48 **53B-8a-105**, as last amended by Laws of Utah 2007, Chapter 100
- 49 **58-60-114**, as last amended by Laws of Utah 2008, Chapter 3
- 50 **58-60-509**, as last amended by Laws of Utah 2008, Chapter 3
- 51 **58-61-602**, as last amended by Laws of Utah 2008, Chapter 3
- 52 **59-2-924**, as last amended by Laws of Utah 2008, Chapters 61, 118, 231, 236, 330, 360,
- 53 and 382
- 54 **61-1-2**, as last amended by Laws of Utah 1993, Chapter 158
- 55 **61-2-3**, as last amended by Laws of Utah 2008, Chapter 169
- 56 **63D-2-102**, as last amended by Laws of Utah 2008, Chapter 3
- 57 **63I-1-263**, as last amended by Laws of Utah 2008, Chapters 148, 334, 339 and
- 58 renumbered and amended by Laws of Utah 2008, Chapter 382

- 59 **63L-3-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 60 **72-9-107**, as enacted by Laws of Utah 2000, Chapter 150
- 61 **76-3-201.1**, as last amended by Laws of Utah 2003, Chapter 278
- 62 **76-9-802**, as enacted by Laws of Utah 2008, Chapter 15
- 63 **78A-6-203**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 64 **78A-6-1205**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 65 **78A-6-1206**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 66 **78B-6-115**, as renumbered and amended by Laws of Utah 2008, Chapter 3

67 REPEALS:

- 68 **9-3-102**, as enacted by Laws of Utah 1992, Chapter 241



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

71 Section 1. Section **7-1-104** is amended to read:

72 **7-1-104. Exemptions from application of title.**

73 (1) This title does not apply to:

74 (a) investment companies registered under the Investment Company Act of 1940, 15
75 U.S.C. Sec. 80a-1 et seq.;

76 (b) securities brokers and dealers registered pursuant to:

77 (i) Title 61, Chapter 1, Utah Uniform Securities Act; or

78 (ii) the federal Securities Exchange Act of 1934, 15 U.S.C. Sec. 78a et seq.;

79 (c) depository or other institutions performing transaction account services, including
80 third party transactions, in connection with:

81 (i) the purchase and redemption of investment company shares; or

82 (ii) access to a margin or cash securities account maintained by a person identified in
83 Subsection (1)(b); or

84 (d) insurance companies selling interests in an investment company or "separate
85 account" and subject to regulation by the Utah Insurance Department.

86 (2) (a) An institution, organization, or person is not exempt from this title if, within
87 this state, it holds itself out to the public as receiving and holding deposits from residents of
88 this state, whether evidenced by a certificate, promissory note, or otherwise.

89 (b) An investment company is not exempt from this title unless the investment

90 company is registered with the United States Securities and Exchange Commission under the
91 Investment Company Act of 1940, 15 U.S.C. Sec. 80a-1 et seq., and is advised by an
92 investment [~~advisor~~] adviser:

93 (i) which is registered with the United States Securities and Exchange Commission
94 under the Investment [~~Advisors~~] Advisers Act of 1940, 15 U.S.C. Sec. 80b-1 et seq.; and

95 (ii) which advises investment companies and other accounts with a combined value of
96 at least \$50,000,000.

97 Section 2. Section **7-1-505** is amended to read:

98 **7-1-505. Rules and regulations governing persons or institutions not regulated**
99 **under other chapters of title.**

100 With respect to any person or institution or class of institutions subject to the
101 jurisdiction of the department under this [~~article~~] part and not regulated or supervised under
102 any other chapter of this title, the commissioner shall issue appropriate rules and regulations
103 consistent with the purposes and provisions of this title governing the regulation, supervision,
104 and examination of those persons, institutions, or classes of institutions.

105 Section 3. Section **7-7-38** is amended to read:

106 **7-7-38. Reports and examinations required -- Access to records.**

107 Every association shall file such reports and be subject to such examinations as may be
108 required by the commissioner under the provisions of Title 7, Chapter 1, [~~Article 3~~] Part 3,
109 Powers and Duties of Commissioner of Financial Institutions. In lieu of any examination
110 required under that article, the commissioner may accept any examination made by the Office
111 of Thrift Supervision, the Federal Deposit Insurance Corporation, or their successor federal
112 agencies, or an association's supervisory authority of another state. The commissioner, the
113 supervisor, or their examiners or auditors shall have free access to all books and papers of an
114 association, savings and loan holding company or any subsidiary thereof, the principal office of
115 which is located in this state.

116 Section 4. Section **9-3-403** is amended to read:

117 **9-3-403. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and**
118 **expenses.**

119 (1) There is created an independent state agency and a body politic and corporate
120 known as the "Utah Science Center Authority."

- 121 (2) (a) The authority shall be composed of 13 members.
- 122 (b) The governor shall appoint:
- 123 (i) three members representing the informal science and arts community that could
124 include members from the board of directors of the Hansen Planetarium, the Hogle Zoo, the
125 Children's Museum of Utah, the Utah Museum of Natural History, and other related museums,
126 centers, and agencies;
- 127 (ii) one member of the State Board of Education;
- 128 (iii) one member of the Division of Housing and Community Development of the
129 Department of Community and Culture;
- 130 (iv) one member of the Board of ~~Travel~~ Tourism Development;
- 131 (v) one member of the State Board of Regents; and
- 132 (vi) three public members representing Utah industry, the diverse regions of the state,
133 and the public at large.
- 134 (c) The county legislative body of Salt Lake County shall appoint one member to
135 represent Salt Lake County.
- 136 (d) The mayor of Salt Lake City shall appoint one member to represent Salt Lake City
137 Corporation.
- 138 (e) The State Science Advisor or the advisor's designee is also a member of the
139 authority.
- 140 (f) In appointing the three public members, the governor shall ensure that there is
141 representation from the science, technology, and business communities.
- 142 (3) All members shall be residents of Utah.
- 143 (4) Each member shall be appointed for four-year terms beginning July 1 of the year
144 appointed.
- 145 (5) (a) Except as required by Subsection (5)(b), as terms of current authority members
146 expire, the governor shall appoint each new member or reappointed member to a four-year
147 term.
- 148 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
149 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
150 authority members are staggered so that approximately half of the authority is appointed every
151 two years.

152 (6) A member may be removed from office by the governor or for cause by an
153 affirmative vote of nine members of the authority.

154 (7) When a vacancy occurs in the membership for any reason, the replacement shall be
155 appointed by the governor for the unexpired term.

156 (8) Each public member shall hold office for the term of his appointment and until the
157 member's successor has been appointed and qualified.

158 (9) A public member is eligible for reappointment, but may not serve more than two
159 full consecutive terms.

160 (10) The governor shall appoint the chair of the authority from among its members.

161 (11) The members shall elect from among their number a vice chair and other officers
162 they may determine.

163 (12) The chair and vice chair shall be elected for two-year terms.

164 (13) The powers of the authority shall be vested in its members.

165 (14) Seven members constitute a quorum for transaction of authority business.

166 (15) (a) (i) Members who are not government employees shall receive no
167 compensation or benefits for their services, but may receive per diem and expenses incurred in
168 the performance of the member's official duties at the rates established by the Division of
169 Finance under Sections 63A-3-106 and 63A-3-107.

170 (ii) Members may decline to receive per diem and expenses for their service.

171 (b) (i) State government officer and employee members who do not receive salary, per
172 diem, or expenses from their agency for their service may receive per diem and expenses
173 incurred in the performance of their official duties from the authority at the rates established by
174 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

175 (ii) State government officer and employee members may decline to receive per diem
176 and expenses for their service.

177 (c) (i) Local government members who do not receive salary, per diem, or expenses
178 from the entity that they represent for their service may receive per diem and expenses incurred
179 in the performance of their official duties at the rates established by the Division of Finance
180 under Sections 63A-3-106 and 63A-3-107.

181 (ii) Local government members may decline to receive per diem and expenses for their
182 service.

183 (d) (i) Higher education members who do not receive salary, per diem, or expenses
184 from the entity that they represent for their service may receive per diem and expenses incurred
185 in the performance of their official duties from the committee at the rates established by the
186 Division of Finance under Sections 63A-3-106 and 63A-3-107.

187 (ii) Higher education members may decline to receive per diem and expenses for their
188 service.

189 Section 5. Section **17-27a-703** is amended to read:

190 **17-27a-703. Appealing a land use authority's decision -- Panel of experts for**
191 **appeals of geologic hazard decisions.**

192 (1) The applicant, a board or officer of the county, or any person adversely affected by
193 the land use authority's decision administering or interpreting a land use ordinance may, within
194 the time period provided by ordinance, appeal that decision to the appeal authority by alleging
195 that there is error in any order, requirement, decision, or determination made by the land use
196 authority in the administration or interpretation of the land use ordinance.

197 (2) (a) An applicant who has appealed a decision of the land use authority
198 administering or interpreting the county's geologic hazard ordinance may request the county to
199 assemble a panel of qualified experts to serve as the appeal authority for purposes of
200 determining the technical aspects of the appeal.

201 (b) If an applicant makes a request under Subsection (2)(a), the county shall assemble
202 the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant
203 and county:

204 (i) one expert designated by the county;

205 (ii) one expert designated by the applicant; and

206 (iii) one expert chosen jointly by the county's designated expert and the applicant's
207 designated expert.

208 (c) A member of the panel assembled by the county under Subsection (2)(b) may not
209 be associated with the application that is the subject of the appeal.

210 (d) The applicant shall pay:

211 (i) 1/2 of the cost of the panel; and

212 (ii) the ~~[municipality's]~~ county's published appeal fee.

213 Section 6. Section **17D-1-106** is amended to read:

214 **17D-1-106. Special service districts subject to other provisions.**

215 (1) A special service district is, to the same extent as if it were a local district, subject
216 to and governed by:

217 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-109, 17B-1-110, 17B-1-111,
218 17B-1-112, 17B-1-113, and 17B-1-116;

219 (b) Sections 17B-1-304, 17B-1-305, 17B-1-306, 17B-1-307, 17B-1-310, 17B-1-312,
220 and 17B-1-313;

221 (c) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

222 (d) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

223 (e) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

224 (f) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

225 (2) For purposes of applying the provisions listed in Subsection (1) to a special service
226 district, each reference in those provisions to the local district board of trustees means the
227 governing ~~[authority]~~ body.

228 Section 7. Section **17D-1-301** is amended to read:

229 **17D-1-301. Governance of a special service district -- Authority to create and**
230 **delegate authority to an administrative control board -- Limitations on authority to**
231 **delegate.**

232 (1) Each special service district shall be governed by the legislative body of the county
233 or municipality that creates the special service district, subject to any delegation under this
234 section of a right, power, or authority to an administrative control board.

235 (2) At the time a special service district is created or at any time thereafter, the
236 legislative body of a county or municipality that creates a special service district may, by
237 resolution or ordinance:

238 (a) create an administrative control board for the special service district; and

239 (b) subject to Subsection (3), delegate to the administrative control board the exercise
240 of any right, power, or authority that the legislative body possesses with respect to the
241 governance of the special service district.

242 (3) A county or municipal legislative body may not delegate to an administrative
243 control board of a special service district the power to:

244 (a) annex an area to an existing special service district or add a service within the area

245 of an existing special service district under Part 4, Annexing a New Area and Adding a New
246 Service;

247 (b) designate, under Section 17D-1-107, the classes of special service district contracts
248 that are subject to Title 11, Chapter 39, Building Improvements and Public Works Projects;

249 (c) levy a tax on the taxable property within the special service district;

250 (d) issue special service district bonds payable from taxes;

251 (e) call or hold an election for the authorization of a property tax or the issuance of
252 bonds;

253 (f) levy an assessment;

254 (g) issue interim warrants or bonds payable from an assessment; or

255 (h) appoint a board of equalization under Section [~~11-42-404~~] 11-42-403.

256 (4) (a) A county or municipal legislative body that has delegated a right, power, or
257 authority under this section to an administrative control board may at any time modify, limit, or
258 revoke any right, power, or authority delegated to the administrative control board.

259 (b) A modification, limitation, or revocation under Subsection (4)(a) does not affect the
260 validity of an action taken by an administrative control board before the modification,
261 limitation, or revocation.

262 Section 8. Section **17D-2-506** is amended to read:

263 **17D-2-506. Other entities not responsible for local building authority bonds or**
264 **breach of mortgage and other obligations.**

265 (1) Nothing in this part may be construed to require:

266 (a) the state or any political subdivision of the state to pay a bond issued under this
267 part;

268 (b) the state or, except the creating local entity, any political subdivision of the state to
269 pay any rent or lease payment due to a local building authority under the terms of a lease
270 agreement; or

271 (c) the creating local entity to appropriate money to pay:

272 (i) principal of or interest on bonds issued by a local building authority; or

273 (ii) the lease payments under a lease agreement with the local building authority.

274 (2) A breach of a mortgage or a covenant or agreement in a mortgage may not impose a
275 general obligation or liability upon or a charge against:

- 276 (a) the creating local entity; or
- 277 (b) the general credit or taxing power of the state or any political subdivision of the
- 278 state.

279 Section 9. Section **19-2-103** is amended to read:

280 **19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem**
281 **and expenses.**

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

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

- 285 (a) a practicing physician and surgeon licensed in the state not connected with industry;
- 286 (b) a registered professional engineer who is not from industry;
- 287 (c) a representative from municipal government;
- 288 (d) a representative from county government;
- 289 (e) a representative from agriculture;
- 290 (f) a representative from the mining industry;
- 291 (g) a representative from manufacturing;
- 292 (h) a representative from the fuel industry; and
- 293 (i) two representatives of the public not representing or connected with industry, at
294 least one of whom represents organized environmental interests.

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

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

301 (5) Members serving on the Air Conservation Committee created by Laws of Utah
302 1981, Chapter 126, as amended, shall serve as members of the board throughout the terms for
303 which they were appointed.

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

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

307 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
308 board members are staggered so that approximately half of the board is appointed every two
309 years.

310 (7) A member may serve more than one term.

311 (8) A member shall hold office until the expiration of [~~their terms~~] the member's term
312 and until [~~their successors are~~] the member's successor is appointed, but not more than 90 days
313 after the expiration of [~~their terms~~] the member's term.

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

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

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

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

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

323 (13) (a) (i) A member who is not a government employee shall receive no
324 compensation or benefits for the member's services, but may receive per diem and expenses
325 incurred in the performance of the member's official duties at the rates established by the
326 Division of Finance under Sections 63A-3-106 and 63A-3-107.

327 (ii) A member may decline to receive per diem and expenses for the member's service.

328 (b) (i) A state government officer and employee member who does not receive salary,
329 per diem, or expenses from the agency the member represents for the member's service may
330 receive per diem and expenses incurred in the performance of the member's official duties from
331 the board at the rates established by the Division of Finance under Sections 63A-3-106 and
332 63A-3-107.

333 (ii) A state government officer and employee member may decline to receive per diem
334 and expenses for the member's service.

335 (c) (i) A local government member who does not receive salary, per diem, or expenses
336 from the entity that the member represents for the member's service may receive per diem and
337 expenses incurred in the performance of the member's official duties at the rates established by

338 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

339 (ii) A local government member may decline to receive per diem and expenses for the
340 member's service.

341 Section 10. Section **19-6-302** is amended to read:

342 **19-6-302. Definitions.**

343 As used in this part:

344 (1) (a) "Abatement action" means to take steps or contract with someone to take steps
345 to eliminate or mitigate the direct or immediate threat to the public health or the environment
346 caused by a hazardous materials release.

347 (b) "Abatement action" includes control of the source of the contamination.

348 (2) "Bona fide prospective purchaser" has the meaning given in 42 U.S.C. Sec.
349 9601(40) of CERCLA, but with the substitution of "executive director" for "President" and
350 "part" for "chapter," and including "hazardous materials" where the term "hazardous
351 substances" appears.

352 (3) "CERCLA" means 42 U.S.C. 9601 et seq., the Comprehensive Environmental
353 Response, Compensation, and Liability Act.

354 (4) "Cleanup action" means action taken according to the procedures established in this
355 part to prevent, eliminate, minimize, mitigate, or clean up the release of a hazardous material
356 from a facility.

357 (5) "Contiguous property owner" means a person who qualifies for the exemption from
358 liability in 42 U.S.C. Sec. 9607(q)(1) of CERCLA, but with the substitution of "executive
359 director" for "President" and "part" for "chapter[⁺].]"

360 (6) "Enforcement action" means the procedures contained in Section 19-6-306 to
361 enforce orders, rules, and agreements authorized by this part.

362 (7) (a) "Facility" means:

363 (i) any building, structure, installation, equipment, pipe, or pipeline, including any pipe
364 into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch,
365 landfill, storage container, motor vehicle, rolling stock, or aircraft; or

366 (ii) any site or area where a hazardous material or substance has been deposited, stored,
367 disposed of, or placed, or otherwise come to be located.

368 (b) "Facility" does not mean any consumer product in consumer use or any vessel.

369 (8) "Fund" means the Hazardous Substances Mitigation Fund created by Section
370 19-6-307.

371 (9) "Hazardous materials" means hazardous waste as defined in the Utah Hazardous
372 Waste Management Regulations, PCBs, dioxin, asbestos, or a substance regulated under 42
373 U.S.C.[;] Section 6991[~~(2)~~](7).

374 (10) "Hazardous substances" means the definition of hazardous substances contained in
375 CERCLA.

376 (11) "Hazardous substances priority list" means a list of facilities meeting the criteria
377 established by Section 19-6-311 that may be addressed under the authority of this part.

378 (12) "Innocent landowner" means a person who qualifies for the exemption from
379 liability in 42 U.S.C. Sec. 9607(b)(3) of CERCLA.

380 (13) "National Contingency Plan" means the National Oil and Hazardous Substance
381 Contingency plan established by CERCLA.

382 (14) "National Priority List" means the list established by CERCLA.

383 (15) "National priority list site" means a site in Utah that is listed on the National
384 Priority List.

385 (16) "Proposed national priority list site" means a site in Utah that has been proposed
386 by the Environmental Protection Agency for listing on the National Priority List.

387 (17) (a) "Release" means a spilling, leaking, pumping, pouring, emitting, emptying,
388 discharging, injecting, escaping, leaching, dumping, or disposing of substances into the
389 environment that is not authorized under state or federal law, rule, or regulation.

390 (b) "Release" includes abandoning or discarding barrels, containers, and other closed
391 receptacles containing any hazardous material or substance, unless the discard or abandonment
392 is authorized under state or federal law, rule, or regulation.

393 (18) "Remedial action" means action taken consistent with the substantive
394 requirements of CERCLA according to the procedures established by this part to prevent,
395 eliminate, minimize, mitigate, or clean up the release of a hazardous substance from a facility
396 on the hazardous substances priority list.

397 (19) "Remedial action plan" means a plan for remedial action consistent with the
398 substantive requirements of CERCLA and approved by the executive director.

399 (20) "Remedial investigation" means a remedial investigation and feasibility study as

400 defined in the National Contingency Plan established by CERCLA.

401 (21) (a) "Responsible party" means:

402 (i) the owner or operator of a facility;

403 (ii) any person who, at the time any hazardous substance or material was disposed of at
404 the facility, owned or operated the facility;

405 (iii) any person who arranged for disposal or treatment, or arranged with a transporter
406 for transport, for disposal, or treatment of hazardous materials or substances owned or
407 possessed by the person, at any facility owned or operated by another person and containing the
408 hazardous materials or substances; or

409 (iv) any person who accepts or accepted any hazardous materials or substances for
410 transport to a facility selected by that person from which there is a release that causes the
411 incurrence of response costs.

412 (b) For hazardous materials or substances that were delivered by a motor carrier to any
413 facility, "responsible party" does not include the motor carrier, and the motor carrier may not be
414 considered to have caused or contributed to any release at the facility that results from
415 circumstances or conditions beyond its control.

416 (c) "Responsible party" under Subsections (21)(a)(i) and (ii) does not include:

417 (i) any person who does not participate in the management of a facility and who holds
418 indicia of ownership:

419 (A) primarily to protect a security interest in a facility; or

420 (B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an
421 employee benefit plan;

422 (ii) governmental ownership or control of property by involuntary transfers as provided
423 in CERCLA Section 101(20)(D) and 40 CFR 300.1105, National Contingency Plan; or

424 (iii) any person, including a fiduciary or custodian under Title 75, Utah Uniform
425 Probate Code, or under an employee benefit plan who holds indicia of ownership and did not
426 participate in the management of a facility prior to foreclosure in accordance with 42 U.S.C.
427 Sec. 9601(20)(E)(ii) of CERCLA.

428 (d) The exemption created by Subsection (21)(c)(i)(B) does not apply to actions taken
429 by the state or its officials or agencies under this part.

430 (e) The terms "security interest," "participate in management," "foreclose," and

431 "foreclosure" under this part are defined in accordance with 42 U.S.C. Sec. 9601(20)(E), (F),
432 and (G) of CERCLA.

433 (22) "Scored site" means a facility in Utah that meets the requirements of scoring
434 established by the National Contingency Plan for placement on the National Priority List.

435 Section 11. Section **19-6-310** is amended to read:

436 **19-6-310. Apportionment of liability -- Liability agreements -- Legal remedies.**

437 (1) The executive director may recover only the proportionate share of costs of any
438 investigation and abatement performed under Section 19-6-309 and this section from each
439 responsible party, as provided in this section.

440 (2) (a) In apportioning responsibility for the investigation and abatement, or liability
441 for the costs of the investigation and abatement, in any administrative proceeding or judicial
442 action, the following standards apply:

443 (i) liability shall be apportioned in proportion to each responsible party's respective
444 contribution to the release; and

445 (ii) the apportionment of liability shall be based on equitable factors, including the
446 quantity, mobility, persistence, and toxicity of hazardous materials contributed by a responsible
447 party, and the comparative behavior of a responsible party in contributing to the release,
448 relative to other responsible parties.

449 (b) Liability may not be apportioned against a current or previous owner or operator
450 who acquired or became the operator of the facility before March 18, 1985, who may otherwise
451 be a responsible party but who did not know that any hazardous material which is the subject of
452 a release was on, in, or at the facility prior to acquisition or operation of the facility, and the
453 release is not the result of an act or omission of the current or previous owner or operator.

454 (c) Liability may not be apportioned against a current or previous owner or operator
455 who acquired or became the operator of the facility on or after March 18, 1985, who may
456 otherwise be a responsible party but who did not know and had no reason to know, after having
457 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent
458 with good commercial or customary practice at the time of the purchase, that any hazardous
459 material which is the subject of a release was on, in, or at the facility prior to acquisition or
460 operation of the facility, and the release is not the result of an act or omission of the current or
461 previous owner or operator.

462 (d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be
463 considered to have contributed to the release and may be liable for a proportionate share of
464 costs as provided under this section either by affirmatively causing a release or by failing to
465 take action to prevent or abate a release which has originated at or from the facility. A person
466 whose property is contaminated by migration from an offsite release is not considered to have
467 contributed to the release unless the person takes actions which exacerbate the release.

468 (e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person
469 who is not considered to have contributed to a release under Subsection (2)(d) is not considered
470 to have contributed to a release solely by failing to take abatement or remedial action pursuant
471 to an administrative order.

472 (f) (i) The burden of proving proportionate contribution shall be borne by each
473 responsible party.

474 (ii) If a responsible party does not prove his proportionate contribution, the court or the
475 executive director shall apportion liability to the party based solely on available evidence and
476 the standards of Subsection (2)(a).

477 (iii) The ability of a responsible party to pay is not a factor in the apportionment of
478 liability.

479 (g) The court may not impose joint and several liability.

480 (h) Each responsible party is strictly liable solely for his proportionate share of
481 investigation and abatement costs.

482 (3) The failure of the executive director to name all responsible parties is not a defense
483 to an action under this section.

484 (4) (a) Any party who incurs costs under Section 19-6-309 and this section in excess of
485 his liability may seek contribution from any other party who is or may be liable under Section
486 19-6-309 and this section for the excess costs in the district court.

487 (b) In resolving claims made under Subsection (4)(a), the court shall allocate costs
488 using the standards set forth in Subsection (2).

489 (5) (a) A party who has resolved his liability in an agreement under Section 19-6-309
490 and this section is not liable for claims for contribution regarding matters addressed in the
491 settlement.

492 (b) (i) An agreement does not discharge any of the liability of responsible parties who

493 are not parties to the agreement, unless the terms of the agreement provide otherwise.

494 (ii) An agreement made under this subsection reduces the potential liability of other
495 responsible parties by the amount of the agreement.

496 (6) (a) If the executive director obtains less than complete relief from a party who has
497 resolved his liability in an agreement under Section 19-6-309 and this section, the executive
498 director may bring an action against any party who has not resolved his liability in an
499 agreement.

500 (b) In apportioning liability, the standards of Subsection (2) apply.

501 (c) A party who resolved his liability for some or all of the costs in an agreement under
502 Section 19-6-309 and this section may seek contribution from any person who is not party to an
503 agreement under Section 19-6-309 and this section.

504 (7) (a) An agreement made under Section 19-6-309 and this section may provide that
505 the executive director will pay for costs of actions that the parties have agreed to perform, but
506 which the executive director has agreed to finance, under the agreement.

507 (b) If the executive director makes payments from the fund, he may recover the amount
508 paid using the authority of Section 19-6-309 and this section or any other applicable authority.

509 (8) (a) The executive director may not recover costs of any investigation performed
510 under the authority of Subsection [~~19-6-304~~] 19-6-309(2)(b) if the investigation does not
511 confirm that a release presenting a direct and immediate threat to public health has occurred.

512 (b) This subsection takes precedence over any conflicting provision of this section
513 regarding cost recovery.

514 Section 12. Section **19-8-119** is amended to read:

515 **19-8-119. Apportionment or contribution.**

516 (1) Any party who incurs costs under a voluntary agreement entered into under this part
517 in excess of his liability may seek contribution in an action in district court from any other
518 party who is or may be liable under Subsection 19-6-302[~~(+8)~~](21) or 19-6-402(26) for the
519 excess costs after providing written notice to any other party that the party bringing the action
520 has entered into a voluntary agreement and will incur costs.

521 (2) In resolving claims made under Subsection (1), the court shall allocate costs using
522 the standards in Subsection 19-6-310(2).

523 Section 13. Section **32A-1-119.5** is amended to read:

524 **32A-1-119.5. Timing of reporting violations.**

525 (1) As used in this section:

526 (a) "Department compliance officer" means an individual who is:

527 (i) an auditor or inspector; and

528 (ii) employed by the department.

529 (b) "Nondepartment enforcement agency" means an agency that:

530 (i) (A) is a state agency other than the department; or

531 (B) is an agency of a county, city, or town; and

532 (ii) has a responsibility, as provided in another provision of this title, to enforce one or
533 more provisions of this title.

534 (c) "Nondepartment enforcement officer" means an individual who is:

535 (i) a peace officer, examiner, or investigator; and

536 (ii) employed by an agency described in Subsection (1)(b).

537 (2) A disciplinary proceeding may not be initiated or maintained by the commission or
538 department on the basis, in whole or in part, of a violation of this title unless a person listed in
539 Subsections 32A-1-105[~~(15)~~](17)(a)(i) through (vi) against whom the violation is alleged is
540 notified by the department of the violation in accordance with this section.

541 (3) (a) A nondepartment enforcement agency or nondepartment enforcement officer
542 may not report a violation of this title to the department more than eight business days after the
543 day on which a nondepartment enforcement officer or agency completes an investigation that
544 finds a violation of this title.

545 (b) If the commission or department wants the right to initiate or maintain a
546 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a
547 report described in Subsection (3)(a), the department shall notify a person listed in Subsections
548 32A-1-105[~~(15)~~](17)(a)(i) through (vi) alleged by the report to have violated this title:

549 (i) by no later than eight business days of the day on which the department receives the
550 report described in Subsection (3)(a); and

551 (ii) that the commission or department may initiate or maintain a disciplinary
552 proceeding on the basis, in whole or in part, of the violation.

553 (4) If the commission or department wants the right to initiate or maintain a
554 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by

555 report of a department compliance officer, the department shall notify a person listed in
556 Subsections 32A-1-105[(+5)](17)(a)(i) through (vi) alleged by the report to have violated this
557 title:

558 (a) by no later than eight business days of the day on which the department compliance
559 officer completes an investigation that finds a violation of this title; and

560 (b) that the commission or department may initiate or maintain a disciplinary
561 proceeding on the basis, in whole or in part, of the violation.

562 (5) The notice described in Subsection (2), (3)(b), or (4) is not required with respect to
563 a person listed in Subsection 32A-1-105[(+5)](17)(a)(vii).

564 (6) (a) A notice required by Subsection (2), (3)(b), or (4) may be done orally, if after
565 the oral notification the department provides written notification.

566 (b) The written notification described in Subsection (6)(a) may be sent outside the time
567 periods required by this section.

568 (7) The department shall maintain a record of a notification required by Subsection (2),
569 (3)(b), or (4) that includes:

570 (a) the name of the person notified; and

571 (b) the date of the notification.

572 Section 14. Section **32A-5-107** is amended to read:

573 **32A-5-107. Operational restrictions.**

574 A club granted a private club license and the employees, management personnel, and
575 members of the club shall comply with the following conditions and requirements. Failure to
576 comply may result in a suspension or revocation of the private club license or other disciplinary
577 action taken against individual employees or management personnel.

578 (1) A private club shall have a governing body that:

579 (a) consists of three or more members of the private club; and

580 (b) holds regular meetings to:

581 (i) review membership applications; and

582 (ii) conduct other business as required by the bylaws or house rules of the private club.

583 (2) (a) A private club may admit an individual as a member only on written application
584 signed by the applicant, subject to:

585 (i) the applicant paying an application fee as required by Subsection (4); and

- 586 (ii) investigation, vote, and approval of a quorum of the governing body.
- 587 (b) (i) An admission of a member shall be recorded in the official minutes of a regular
- 588 meeting of the governing body.
- 589 (ii) An application, whether approved or disapproved, shall be filed as a part of the
- 590 official records of the private club licensee.
- 591 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an
- 592 applicant and immediately accord the applicant temporary privileges of a member until the
- 593 governing body completes its investigation and votes on the application, subject to the
- 594 following conditions:
- 595 (i) the applicant shall:
- 596 (A) submit a written application; and
- 597 (B) pay the application fee required by Subsection (4);
- 598 (ii) the governing body votes on the application at its next meeting, which shall take
- 599 place no later than 31 days following the day on which the application is submitted; and
- 600 (iii) the applicant's temporary membership privileges terminate if the governing body
- 601 disapproves the application.
- 602 (d) The spouse of a member of any class of private club has the rights and privileges of
- 603 the member:
- 604 (i) to the extent permitted by the bylaws or house rules of the private club; and
- 605 (ii) except to the extent restricted by this title.
- 606 (e) The minor child of a member of a class A private club has the rights and privileges
- 607 of the member:
- 608 (i) to the extent permitted by the bylaws or house rules of the private club; and
- 609 (ii) except to the extent restricted by this title.
- 610 (3) (a) A private club shall maintain a current and complete membership record
- 611 showing:
- 612 (i) the date of application of a proposed member;
- 613 (ii) a member's address;
- 614 (iii) the date the governing body approved a member's admission;
- 615 (iv) the date initiation fees and dues are assessed and paid; and
- 616 (v) the serial number of the membership card issued to a member.

617 (b) A current record shall be kept indicating when a member is dropped or resigns.

618 (4) (a) A private club shall establish in the private club bylaws or house rules

619 application fees and membership dues:

620 (i) as established by commission rules; and

621 (ii) that are collected from all members.

622 (b) An application fee:

623 (i) may not be less than \$4;

624 (ii) shall be paid when the applicant applies for membership; and

625 (iii) at the discretion of the private club, may be credited toward membership dues if
626 the governing body approves the applicant as a member.

627 (5) (a) A private club may, in its discretion, allow an individual to be admitted to or use
628 the private club premises as a guest only under the following conditions:

629 (i) a guest must be previously authorized by one of the following who agrees to host the
630 guest into the private club:

631 (A) an active member of the private club; or

632 (B) a holder of a current visitor card;

633 (ii) a guest must be known by the guest's host based on a preexisting bonafide business
634 or personal relationship with the host before the guest's admittance to the private club;

635 (iii) a guest must be accompanied by the guest's host for the duration of the guest's visit
636 to the private club;

637 (iv) a guest's host must remain on the private club premises for the duration of the
638 guest's visit to the private club;

639 (v) a guest's host is responsible for the cost of services extended to the guest;

640 (vi) a guest has only those privileges derived from the guest's host for the duration of
641 the guest's visit to the private club;

642 (vii) an employee of the private club, while on duty, may not act as a host for a guest;

643 (viii) an employee of the private club, while on duty, may not attempt to locate a
644 member or current visitor card holder to serve as a host for a guest with whom the member or
645 visitor card holder has no acquaintance based on a preexisting bonafide business or personal
646 relationship prior to the guest's arrival at the private club; and

647 (ix) a private club or an employee of the private club may not enter into an agreement

648 or arrangement with a club member or holder of a current visitor card to indiscriminately host a
649 member of the general public into the private club as a guest.

650 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

651 (i) the private club licensee is a class B private club; and

652 (ii) the guest is a member of the same fraternal organization as the private club
653 licensee.

654 (6) A private club may, in its discretion, issue a visitor card to allow an individual to
655 enter and use the private club premises on a temporary basis under the following conditions:

656 (a) a visitor card shall be issued for a period not to exceed three weeks;

657 (b) a fee of not less than \$4 shall be assessed for a visitor card that is issued;

658 (c) a visitor card may not be issued to a minor;

659 (d) a holder of a visitor card may not host more than seven guests at one time;

660 (e) a visitor card issued shall include:

661 (i) the visitor's full name and signature;

662 (ii) the date the visitor card is issued;

663 (iii) the date the visitor card expires;

664 (iv) the club's name; and

665 (v) the serial number of the visitor card; and

666 (f) (i) the private club shall maintain a current record of the issuance of a visitor card
667 on the private club premises; and

668 (ii) the record described in Subsection (6)(f)(i) shall:

669 (A) be available for inspection by the department; and

670 (B) include:

671 (I) the name of the person to whom the visitor card is issued;

672 (II) the date the visitor card is issued;

673 (III) the date the visitor card expires; and

674 (IV) the serial number of the visitor card.

675 (7) A private club may not sell an alcoholic beverage to or allow a patron to be
676 admitted to or use the private club premises other than:

677 (a) a member;

678 (b) a visitor who holds a valid visitor card issued under Subsection (6); or

- 679 (c) a guest of:
680 (i) a member; or
681 (ii) a holder of a valid visitor card.
- 682 (8) (a) A minor may not be:
683 (i) a member, officer, director, or trustee of a private club;
684 (ii) issued a visitor card;
685 (iii) admitted into, use, or be on the premises of a lounge or bar area, as defined by
686 commission rule, of a private club except to the extent authorized under Subsection (8)(c)(ii);
687 (iv) admitted into, use, or be on the premises of a class D private club:
688 (A) that operates as a sexually oriented business as defined by local ordinance; or
689 (B) when a sexually oriented entertainer is performing on the premises; or
690 (v) admitted into, use, or be on the premises of a class D private club except to the
691 extent authorized under Subsections (8)(b) through (g).
- 692 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private
693 club, a minor may be admitted into, use, or be on the premises of a class D private club under
694 the following circumstances:
- 695 (i) during a period when no alcoholic beverages are sold, served, otherwise furnished,
696 or consumed on the premises, but in no event later than 1 p.m.;
- 697 (ii) when accompanied at all times by a member or holder of a current visitor card who
698 is the minor's parent, legal guardian, or spouse; and
- 699 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a food
700 service provider.
- 701 (c) A class D private club may employ a minor on the premises of the private club if:
702 (i) the parent or legal guardian of the minor owns or operates the class D private club;
703 or
704 (ii) the minor performs maintenance and cleaning services during the hours when the
705 private club is not open for business.
- 706 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be
707 admitted into, use, or be on the premises of a dance or concert hall if:
708 (A) the dance or concert hall is located:
709 (I) on the premises of a class D private club; or

710 (II) on the property that immediately adjoins the premises of and is operated by a class
711 D private club; and

712 (B) the commission issues the class D private club a permit to operate a minor dance or
713 concert hall based on the criteria described in Subsection (8)(d)(iii).

714 (ii) If the dance or concert hall is located on the premises of a class D private club, a
715 minor must be properly hosted in accordance with Subsection (5) by:

716 (A) a member; or

717 (B) a holder of a current visitor card.

718 (iii) The commission may issue a minor dance or concert hall permit if:

719 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:

720 (I) not accessible to a minor;

721 (II) clearly defined; and

722 (III) separated from the dance or concert hall area by one or more walls, multiple floor
723 levels, or other substantial physical barriers;

724 (B) a bar or dispensing area is not visible to a minor;

725 (C) consumption of an alcoholic beverage may not occur in:

726 (I) the dance or concert hall area; or

727 (II) an area of the private club accessible to a minor;

728 (D) the private club maintains sufficient security personnel to prevent the passing of
729 beverages from the private club's lounge, bar, or an alcoholic beverage consumption area to:

730 (I) the dance or concert hall area; or

731 (II) an area of the private club accessible to a minor;

732 (E) there are one or more separate entrances, exits, and restroom facilities from the
733 private club's lounge, bar, and alcoholic beverage consumption areas than for:

734 (I) the dance or concert hall area; or

735 (II) an area accessible to a minor; and

736 (F) the private club complies with any other restrictions imposed by the commission by
737 rule.

738 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
739 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
740 on the premises of a concert hall described in Subsection (8)(d)(i) if:

- 741 (i) the requirements of Subsection (8)(d) are met; and
- 742 (ii) signage, product, and dispensing equipment containing recognition of an alcoholic
743 beverage is not visible to the minor.
- 744 (f) A minor under 18 years of age but who is 14 years of age or older who is not
745 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
746 a concert hall described in Subsection (8)(d)(i) if:
 - 747 (i) the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
 - 748 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of the
749 class D private club.
- 750 (g) The commission may suspend or revoke a minor dance or concert permit issued to
751 a class D private club and suspend or revoke the license of the class D private club if:
 - 752 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
 - 753 (ii) the private club sells, serves, or otherwise furnishes an alcoholic beverage to a
754 minor;
 - 755 (iii) the private club licensee or a supervisory or managerial level employee of the
756 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
757 on the basis of an activity that occurs on:
 - 758 (A) the licensed premises; or
 - 759 (B) the dance or concert hall that is located on property that immediately adjoins the
760 premises of and is operated by the class D private club;
 - 761 (iv) there are three or more convictions of patrons of the private club under Title 58,
762 Chapter 37, Utah Controlled Substances Act, based on activities that occur on:
 - 763 (A) the licensed premises; or
 - 764 (B) the dance or concert hall that is located on property that immediately adjoins the
765 premises of and is operated by the class D private club;
 - 766 (v) there is more than one conviction:
 - 767 (A) of:
 - 768 (I) the private club licensee;
 - 769 (II) an employee of the private club licensee;
 - 770 (III) an entertainer contracted by the private club licensee; or
 - 771 (IV) a patron of the private club licensee; and

772 (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that
773 occurs on:

774 (I) the licensed premises; or

775 (II) the dance or concert hall that is located on property that immediately adjoins the
776 premises of and is operated by the class D private club; or

777 (vi) the commission finds acts or conduct contrary to the public welfare and morals
778 involving lewd acts or lewd entertainment prohibited by this title that occurs on:

779 (A) the licensed premises; or

780 (B) the dance or concert hall that is located on property that immediately adjoins the
781 premises of and is operated by the class D private club.

782 (h) Nothing in this Subsection (8) prohibits a class D private club from selling, serving,
783 or otherwise furnishing an alcoholic beverage in a dance or concert area located on the private
784 club premises on days and times when the private club does not allow a minor into those areas.

785 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being
786 more restrictive of a minor's admittance to, use of, or presence on the premises of a private
787 club.

788 (9) (a) A private club shall maintain an expense ledger or record showing in detail all
789 expenditures separated by payments for:

790 (i) malt or brewed beverages;

791 (ii) liquor;

792 (iii) food;

793 (iv) detailed payroll;

794 (v) entertainment;

795 (vi) rent;

796 (vii) utilities;

797 (viii) supplies; and

798 (ix) other expenditures.

799 (b) A private club shall keep a record required by this Subsection (9):

800 (i) in a form approved by the department; and

801 (ii) balanced each month.

802 (c) An expenditure shall be supported by:

- 803 (i) a delivery ticket;
- 804 (ii) an invoice;
- 805 (iii) a receipted bill;
- 806 (iv) a canceled check;
- 807 (v) a petty cash voucher; or
- 808 (vi) other sustaining datum or memorandum.
- 809 (d) An invoice or receipted bill for the current calendar or fiscal year documenting a
- 810 purchase made by the private club shall be maintained.
- 811 (10) (a) A private club shall maintain a minute book that is posted currently by the
- 812 private club.
- 813 (b) The minute book required by this Subsection (10) shall contain the minutes of a
- 814 regular or special meeting of the governing body.
- 815 (c) A private club shall maintain a membership list.
- 816 (11) (a) A private club shall maintain a current copy of the private club's current bylaws
- 817 and current house rules.
- 818 (b) A change in the bylaws or house rules:
- 819 (i) is not effective unless submitted to the department within ten days after adoption;
- 820 and
- 821 (ii) becomes effective 15 days after received by the department unless rejected by the
- 822 department before the expiration of the 15-day period.
- 823 (12) A private club shall maintain accounting and other records and documents as the
- 824 department may require.
- 825 (13) A private club or person acting for the private club, who knowingly forges,
- 826 falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or other
- 827 document of the private club licensee required to be made, maintained, or preserved by this
- 828 title or the rules of the commission for the purpose of deceiving the commission, the
- 829 department, or an official or employee of the commission or department, is subject to:
- 830 (a) the suspension or revocation of the private club's license; and
- 831 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.
- 832 (14) (a) A private club licensee shall maintain and keep a record required by this section
- 833 and a book, record, receipt, or disbursement maintained or used by the licensee, as the

834 department requires, for a minimum period of three years.

835 (b) A record, book, receipt, or disbursement is subject to inspection by an authorized
836 representative of the commission and the department.

837 (c) A private club licensee shall allow the department, through an auditor or examiner
838 of the department, to audit the records of the private club licensee at times the department
839 considers advisable.

840 (d) The department shall audit the records of the private club licensee at least once
841 annually.

842 (15) A private club licensee shall own or lease premises suitable for the private club's
843 activities.

844 (16) (a) A private club licensee may not maintain facilities in a manner that barricades
845 or conceals the private club licensee's operation.

846 (b) A member of the commission, authorized department personnel, or a peace officer
847 shall, upon presentation of credentials, be admitted immediately to the private club and
848 permitted without hindrance or delay to inspect completely the entire private club premises and
849 the books and records of the private club licensee, at any time during which the private club
850 licensee is open for the transaction of business to its members.

851 (17) Public advertising related to a private club licensee by the following shall clearly
852 identify a private club as being "a private club for members":

853 (a) the private club licensee;

854 (b) an employee or agent of the private club licensee; or

855 (c) a person under a contract or agreement with the private club licensee.

856 (18) A private club licensee must have food available at all times when an alcoholic
857 beverage is sold, served, or consumed on the premises.

858 (19) (a) Liquor may not be purchased by a private club licensee except from a state
859 store or package agency.

860 (b) Liquor purchased from a state store or package agency may be transported by the
861 private club licensee from the place of purchase to the licensed premises.

862 (c) Payment for liquor shall be made in accordance with rules established by the
863 commission.

864 (20) A private club licensee may sell or provide a primary spirituous liquor only in a

865 quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered
866 dispensing system approved by the department in accordance with commission rules adopted
867 under this title, except that:

868 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing
869 system if used as a secondary flavoring ingredient in a beverage subject to the following
870 restrictions:

871 (i) the secondary ingredient may be dispensed only in conjunction with the purchase of
872 a primary spirituous liquor;

873 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

874 (iii) the private club licensee shall designate a location where flavorings are stored on
875 the floor plan provided to the department; and

876 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

877 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing
878 system if used:

879 (i) as a flavoring on a dessert; and

880 (ii) in the preparation of a flaming food dish, drink, or dessert;

881 (c) a private club patron may have no more than 2.5 ounces of spirituous liquor at a
882 time before the private club patron[-]; and

883 (d) a private club patron may have no more than two spirituous liquor drinks at a time
884 before the private club patron, except that a private club patron may not have two spirituous
885 liquor drinks before the private club patron if one of the spirituous liquor drinks consists only
886 of the primary spirituous liquor for the other spirituous liquor drink.

887 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to
888 exceed five ounces per glass or individual portion.

889 (ii) An individual portion may be served to a patron in more than one glass as long as
890 the total amount of wine does not exceed five ounces.

891 (iii) An individual portion of wine is considered to be one alcoholic beverage under
892 Subsection (25)(c).

893 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price
894 fixed by the commission to a table of four or more persons.

895 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price

896 fixed by the commission to a table of less than four persons.

897 (c) A wine service may be performed and a service charge assessed by the private club
898 licensee as authorized by commission rule for wine purchased at the private club.

899 (22) (a) Heavy beer may be served in an original container not exceeding one liter at a
900 price fixed by the commission.

901 (b) A flavored malt beverage may be served in an original container not exceeding one
902 liter at a price fixed by the commission.

903 (c) A service charge may be assessed by the private club licensee for heavy beer or a
904 flavored malt beverage purchased at the private club.

905 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club licensee may sell beer for
906 on-premise consumption:

907 (A) in an open container; and

908 (B) on draft.

909 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does
910 not exceed two liters, except that beer may not be sold to an individual patron in a size of
911 container that exceeds one liter.

912 (b) (i) A private club licensee that sells beer pursuant to Subsection (23)(a):

913 (A) may do so without obtaining a separate on-premise beer retailer license from the
914 commission; and

915 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer
916 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are
917 inconsistent with or less restrictive than the operational restrictions under this chapter.

918 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer
919 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the
920 private club's:

921 (A) state liquor license; and

922 (B) alcoholic beverage license issued by the local authority.

923 (24) An alcoholic beverage may not be stored, served, or sold in a place other than as
924 designated in the private club licensee's application, unless the private club licensee first
925 applies for and receives approval from the department for a change of location within the
926 private club.

927 (25) (a) A patron may only make an alcoholic beverage purchase in the private club
928 from and be served by a person employed, designated, and trained by the private club licensee
929 to sell, dispense, and serve an alcoholic beverage.

930 (b) Notwithstanding Subsection (25)(a), a patron who purchases bottled wine from an
931 employee of the private club licensee or carries bottled wine onto the premises of the private
932 club pursuant to Subsection (31) may thereafter serve wine from the bottle to the patron or
933 others at the patron's table.

934 (c) A private club patron may have no more than two alcoholic beverages of any kind at
935 a time before the private club patron, subject to the limitation of Subsection (20)(d).

936 (26) The liquor storage area shall remain locked at all times other than those hours and
937 days when liquor sales and service are authorized by law.

938 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a
939 private club on any day after 1 a.m. or before 10 a.m.

940 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer
941 Licenses, for on-premise beer licenses.

942 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open
943 for one hour after the private club ceases the sale and service of an alcoholic beverage during
944 which time a patron of the private club may finish consuming:

- 945 (A) a single drink containing spirituous liquor;
- 946 (B) a single serving of wine not exceeding five ounces;
- 947 (C) a single serving of heavy beer;
- 948 (D) a single serving of beer not exceeding 26 ounces; or
- 949 (E) a single serving of a flavored malt beverage.

950 (ii) A private club is not required to remain open:

- 951 (A) after all patrons have vacated the premises; or
- 952 (B) during an emergency.

953 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may not
954 allow a patron to remain on the premises of the private club to consume an alcoholic beverage
955 on the premises.

956 (28) An alcoholic beverage may not be sold, served, or otherwise furnished to a:

- 957 (a) minor;

- 958 (b) person actually, apparently, or obviously intoxicated;
- 959 (c) known habitual drunkard; or
- 960 (d) known interdicted person.
- 961 (29) (a) (i) Liquor may be sold only at a price fixed by the commission.
- 962 (ii) Liquor may not be sold at a discount price on any date or at any time.
- 963 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
- 964 beverage to the private club licensee.
- 965 (c) An alcoholic beverage may not be sold at a special or reduced price that encourages
- 966 over consumption or intoxication.
- 967 (d) The price of a single serving of a primary spirituous liquor shall be the same
- 968 whether served as a single drink or in conjunction with another alcoholic beverage.
- 969 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 970 hours of the private club's business day such as a "happy hour."
- 971 (f) More than one alcoholic beverage may not be sold or served for the price of a single
- 972 alcoholic beverage.
- 973 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served
- 974 during a set period for a fixed price.
- 975 (h) A private club licensee may not engage in a promotion involving or offering free
- 976 alcoholic beverages to patrons of the private club.
- 977 (30) An alcoholic beverage may not be purchased for a patron of the private club
- 978 licensee by:
 - 979 (a) the private club licensee; or
 - 980 (b) an employee or agent of the private club licensee.
- 981 (31) (a) A person may not bring onto the premises of a private club licensee an
- 982 alcoholic beverage for on-premise consumption, except a person may bring, subject to the
- 983 discretion of the licensee, bottled wine onto the premises of a private club licensee for
- 984 on-premise consumption.
- 985 (b) Except bottled wine under Subsection (31)(a), a private club licensee or an officer,
- 986 manager, employee, or agent of a private club licensee may not allow:
 - 987 (i) a person to bring onto the private club premises an alcoholic beverage for
 - 988 consumption on the private club premises; or

989 (ii) consumption of an alcoholic beverage described in Subsection (31)(b)(i) on the
990 premises of the private club.

991 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server
992 or other representative of the private club licensee upon entering the private club.

993 (d) A wine service may be performed and a service charge assessed by the private club
994 licensee as authorized by commission rule for wine carried in by a patron.

995 (32) (a) Except as provided in Subsection (32)(b), a private club licensee or an
996 employee of the private club licensee may not permit a patron of the private club to carry from
997 the private club premises an open container that:

998 (i) is used primarily for drinking purposes; and

999 (ii) contains an alcoholic beverage.

1000 (b) A patron may remove the unconsumed contents of a bottle of wine if before
1001 removal, the bottle is recorked or recapped.

1002 (33) (a) A minor may not be employed by a class A, B, or C private club licensee to
1003 sell, dispense, or handle an alcoholic beverage.

1004 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be
1005 employed by a class A or C private club licensee to enter the sale at a cash register or other
1006 sales recording device.

1007 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed
1008 by or be on the premises of a class D private club.

1009 (d) A minor may not be employed to work in a lounge or bar area of a class A, B, or C
1010 private club licensee.

1011 (34) An employee of a private club licensee, while on duty, may not:

1012 (a) consume an alcoholic beverage; or

1013 (b) be intoxicated.

1014 (35) A private club licensee shall have available on the premises for a patron to review
1015 at the time that the ~~[customer]~~ patron requests it, a written alcoholic beverage price list or a
1016 menu containing the price of an alcoholic beverage sold or served by the private club licensee
1017 including:

1018 (a) a set-up charge;

1019 (b) a service charge; or

- 1020 (c) a chilling fee.
- 1021 (36) A private club licensee shall display in a prominent place in the private club:
- 1022 (a) the private club license that is issued by the department;
- 1023 (b) a list of the types and brand names of liquor being served through its calibrated
- 1024 metered dispensing system; and
- 1025 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or
- 1026 drugs is a serious crime that is prosecuted aggressively in Utah."
- 1027 (37) A private club licensee may not on the premises of the private club:
- 1028 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,
- 1029 Chapter 10, Part 11, Gambling;
- 1030 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,
- 1031 Part 11, Gambling; or
- 1032 (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires
- 1033 the risking of something of value for a return or for an outcome when the return or outcome is
- 1034 based upon an element of chance, excluding the playing of an amusement device that confers
- 1035 only an immediate and unrecorded right of replay not exchangeable for value.
- 1036 (38) (a) A private club licensee may not close or cease operation for a period longer
- 1037 than 240 hours, unless:
- 1038 (i) the private club licensee notifies the department in writing at least seven days before
- 1039 the day on which the private club licensee closes or ceases operation; and
- 1040 (ii) the closure or cessation of operation is first approved by the department.
- 1041 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, the private
- 1042 club licensee shall immediately notify the department by telephone.
- 1043 (c) (i) The department may authorize a closure or cessation of operation for a period
- 1044 not to exceed 60 days.
- 1045 (ii) The department may extend the initial period an additional 30 days upon:
- 1046 (A) written request of the private club; and
- 1047 (B) a showing of good cause.
- 1048 (iii) A closure or cessation of operation may not exceed a total of 90 days without
- 1049 commission approval.
- 1050 (d) The notice required by Subsection (38)(a) shall include:

- 1051 (i) the dates of closure or cessation of operation;
- 1052 (ii) the reason for the closure or cessation of operation; and
- 1053 (iii) the date on which the private club licensee will reopen or resume operation.
- 1054 (e) Failure of the private club licensee to provide notice and to obtain department
- 1055 authorization before closure or cessation of operation results in an automatic forfeiture of:
- 1056 (i) the private club license; and
- 1057 (ii) the unused portion of the private club license fee for the remainder of the license
- 1058 year effective immediately.
- 1059 (f) Failure of the private club licensee to reopen or resume operation by the approved
- 1060 date results in an automatic forfeiture of:
- 1061 (i) the private club license; and
- 1062 (ii) the unused portion of the private club license fee for the remainder of the license
- 1063 year.
- 1064 (39) A private club license may not be transferred from one location to another person,
- 1065 without prior written approval of the commission.
- 1066 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give, or
- 1067 attempt in any way to dispose of the private club license to another person, whether for
- 1068 monetary gain or not.
- 1069 (b) A private club license has no monetary value for the purpose of any type of
- 1070 disposition.
- 1071 (41) A private club licensee or an employee of the private club licensee may not
- 1072 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,
- 1073 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:
- 1074 (a) sell, distribute, possess, or use a controlled substance, as defined in Section
- 1075 58-37-2; or
- 1076 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in
- 1077 Section 58-37a-3.
- 1078 Section 15. Section **32A-8-101** is amended to read:
- 1079 **32A-8-101. Commission's power to grant licenses -- Limitations.**
- 1080 (1) The commission may issue an alcoholic beverage manufacturing license to a
- 1081 manufacturer whose business [~~in this state~~] is located in this state for the manufacture, storage,

1082 and sale of alcoholic beverages for each type of license provided by this chapter.

1083 (2) The type of manufacturing licenses issued under this chapter are known as a:

1084 (a) winery license;

1085 (b) distillery license; and

1086 (c) brewery license.

1087 (3) (a) A person may not manufacture an alcoholic beverage unless an alcoholic
1088 beverage manufacturing license is issued by the commission.

1089 (b) A separate license is required for each place of manufacture, storage, and sale of an
1090 alcoholic beverage.

1091 (c) Violation of this Subsection (3) is a class B misdemeanor.

1092 (4) (a) A brewer located outside the state is not required to be licensed under this
1093 chapter.

1094 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from
1095 the department before selling or delivering:

1096 (i) beer to a licensed beer wholesaler in this state;

1097 (ii) on or after October 1, 2008, a flavored malt beverage to the department or a
1098 military installation; or

1099 (iii) if a small brewer, beer to a licensed beer wholesaler or retailer in this state.

1100 (c) A brewer seeking a certificate of approval shall file a written application with the
1101 department, in a form prescribed by the department. The application shall be accompanied by:

1102 (i) a nonrefundable \$50 application fee;

1103 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not
1104 granted;

1105 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and
1106 Firearms to brew beer, heavy beer, or a flavored malt beverage; and

1107 (iv) any other information or documents the department may require.

1108 (d) (i) An application shall be signed and verified by oath or affirmation by:

1109 (A) a partner if the brewer is a partnership; or

1110 (B) an executive officer, manager, or person specifically authorized by a corporation or
1111 limited liability company to sign the application.

1112 (ii) The brewer filing an application shall attach to the application written evidence of

1113 the authority of the person described in Subsection (4)(d)(i) to sign the application.

1114 (e) (i) All certificates of approval expire on December 31 of each year.

1115 (ii) A brewer desiring to renew its certificate shall submit a renewal fee of \$200, and a
1116 completed renewal application to the department no later than November 30 of the year the
1117 certificate expires.

1118 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the
1119 certificate effective on the date the existing certificate expires.

1120 (iv) A renewal application shall be in a form prescribed by the department.

1121 (5) The commission may prescribe by policy, directive, or rule, consistent with this
1122 title, the general operational requirements of licensees relating to:

1123 (a) physical facilities;

1124 (b) conditions of sale, storage, or manufacture of alcoholic beverages;

1125 (c) storage and sales quantity limitations; and

1126 (d) other matters considered appropriate by the commission.

1127 Section 16. Section **36-11-103** is amended to read:

1128 **36-11-103. Licensing requirements.**

1129 (1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the
1130 lieutenant governor by completing the form required by this section.

1131 (b) The lieutenant governor shall issue licenses to qualified lobbyists.

1132 (c) The lieutenant governor shall prepare a Lobbyist License Application Form that
1133 includes:

1134 (i) a place for the lobbyist's name and business address;

1135 (ii) a place for the name and business address of each principal for whom the lobbyist
1136 works or is hired as an independent contractor;

1137 (iii) a place for the name and address of the person who paid or will pay the lobbyist's
1138 registration fee, if the fee is not paid by the lobbyist;

1139 (iv) a place for the lobbyist to disclose any elected or appointed position that the
1140 lobbyist holds in state or local government, if any;

1141 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist
1142 will be reimbursed; and

1143 (vi) a certification to be signed by the lobbyist that certifies that the information

1144 provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and
1145 belief.

1146 (2) Each lobbyist who obtains a license under this section shall update the licensure
1147 information when the lobbyist accepts employment for lobbying by a new client.

1148 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a
1149 lobbying license to an applicant who:

1150 (i) files an application with the lieutenant governor that contains the information
1151 required by this section; and

1152 (ii) pays a \$25 filing fee.

1153 (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals
1154 and expires on December 31 of each even-numbered year.

1155 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:

1156 (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107,
1157 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

1158 (ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304
1159 within one year before the date of the lobbying license application;

1160 (iii) for the term of any suspension imposed under Section 36-11-401; or

1161 (iv) if, within one year before the date of the lobbying license application, the applicant
1162 has been found to have willingly and knowingly:

1163 (A) violated Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303,
1164 36-11-304, 36-11-305, or 36-11-403; or

1165 (B) filed a document required by this chapter that the lobbyist knew contained
1166 materially false information or omitted material information.

1167 (b) An applicant may appeal the disapproval in accordance with the procedures
1168 established by the lieutenant governor under this chapter and Title 63G, Chapter 4,
1169 Administrative Procedures Act.

1170 (5) The lieutenant governor shall deposit license fees in the General Fund.

1171 (6) A principal need not obtain a license under this section, but if the principal makes
1172 expenditures to benefit a public official without using a lobbyist as an agent to confer those
1173 benefits, the principal shall disclose those expenditures as required by ~~[Sections]~~ Section
1174 36-11-201.

1175 (7) Government officers need not obtain a license under this section, but shall disclose
1176 any expenditures made to benefit public officials as required by [~~Sections~~] Section 36-11-201.

1177 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the
1178 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the
1179 reports by Section 36-11-201.

1180 Section 17. Section **38-8-1** is amended to read:

1181 **38-8-1. Definitions.**

1182 As used in this chapter:

1183 (1) "Default" means the failure to perform in a timely manner any obligation or duty set
1184 forth in this chapter or the rental agreement.

1185 (2) "Last known address" means that address provided by the occupant in the latest
1186 rental agreement or the address provided by the occupant in a subsequent written notice of a
1187 change of address.

1188 (3) "Occupant" means a person, or his sublessee, successor, or [~~assign~~] assignee,
1189 entitled to the use of the storage space at a self-service storage facility under a rental
1190 agreement, to the exclusion of others.

1191 (4) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage
1192 facility, his agent, or any other person authorized by him to manage the facility or to receive
1193 rent from an occupant under a rental agreement.

1194 (5) "Personal property" means movable property not affixed to land and includes, but is
1195 not limited to, goods, merchandise, and household items.

1196 (6) "Rental agreement" means any written agreement or lease which establishes or
1197 modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy
1198 at a self-service storage facility and which contains a notice stating that all articles stored under
1199 the terms of the agreement will be sold or otherwise disposed of if no payment has been
1200 received for a continuous 30-day period. The agreement shall contain a provision directing the
1201 occupant to disclose any lienholders with an interest in property that is or will be stored in the
1202 self-service storage facility.

1203 (7) "Self-service storage facility" means any real property designed and used for the
1204 purpose of renting or leasing individual storage space to occupants who are to have access to
1205 the facility for the purpose of storing and removing personal property. No occupant may use a

1206 self-service storage facility for residential purposes. The owner of a self-service storage facility
1207 is not a warehouse as used in Section 70A-7a-102. If an owner issues any warehouse receipt,
1208 bill of lading, or other document of title for the personal property stored, the owner and the
1209 occupant are subject to the provisions of the Uniform Commercial Code, and the provisions of
1210 this chapter do not apply.

1211 Section 18. Section **51-9-405** is amended to read:

1212 **51-9-405. Substance Abuse Prevention Account established -- Funding -- Uses.**

1213 (1) There is created a restricted account within the General Fund known as the
1214 Substance Abuse Prevention Account.

1215 (2) (a) The Division of Finance shall allocate to the Substance Abuse Prevention
1216 Account from the collected surcharge established in Section 51-9-401:

1217 (i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the
1218 Legislature; and

1219 (ii) 2.5% for the State Office of Education, but not to exceed the amount appropriated
1220 by the Legislature.

1221 (b) The juvenile court shall use the allocation to pay for [~~community~~] compensatory
1222 service programs required by Subsection 78A-6-117(2)(m).

1223 (c) The State Office of Education shall use the allocation in public school programs
1224 for:

1225 (i) substance abuse prevention and education;

1226 (ii) substance abuse prevention training for teachers and administrators; and

1227 (iii) district and school programs to supplement, not supplant, existing local prevention
1228 efforts in cooperation with local substance abuse authorities.

1229 Section 19. Section **51-9-504** is amended to read:

1230 **51-9-504. Utah Navajo royalties and related issues.**

1231 (1) (a) Notwithstanding Title 63, Chapter 88, Navajo Trust Fund, repealed July 1,
1232 2008, and except as provided in Subsection (7), the following are subject to this Subsection (1):

1233 (i) the repealed board of trustees;

1234 (ii) the repealed trust administrator;

1235 (iii) an employee or agent of the repealed Navajo Trust Fund; or

1236 (iv) the repealed Dineh Committee.

- 1237 (b) The repealed board of trustees may not:
- 1238 (i) beginning on March 17, 2008, take an action that imposes or may impose a liability
- 1239 or obligation described in Subsection (1)(d) that is:
- 1240 (A) anticipated to be completed on or after January 1, 2010; or
- 1241 (B) equal to or greater than \$100,000;
- 1242 (ii) on or after May 5, 2008, take an action that imposes or may impose a liability or
- 1243 obligation described in Subsection (1)(d).
- 1244 (c) On or after March 17, 2008 a person described in Subsections (1)(a)(ii) through (iv)
- 1245 may not take an action that imposes or may impose a liability or obligation described in
- 1246 Subsection (1)(d).
- 1247 (d) Subsection (1)(b) applies to a liability or obligation on:
- 1248 (i) the repealed Navajo Trust Fund;
- 1249 (ii) the Navajo Revitalization Fund created under Title 9, Chapter 11, Navajo
- 1250 Revitalization Fund Act;
- 1251 (iii) the state; or
- 1252 (iv) any of the following related to an entity described in this Subsection (1)(d):
- 1253 (A) a department;
- 1254 (B) a division;
- 1255 (C) an office;
- 1256 (D) a committee;
- 1257 (E) a board;
- 1258 (F) an officer;
- 1259 (G) an employee; or
- 1260 (H) a similar agency or individual.
- 1261 (2) The Division of Finance shall:
- 1262 (a) establish a fund by no later than July 1, 2008:
- 1263 (i) to hold:
- 1264 (A) the monies in the repealed Navajo Trust Fund as of June 30, 2008;
- 1265 (B) Utah Navajo royalties received by the state on or after July 1, 2008;
- 1266 (C) revenues from investments made by the state treasurer of the monies in the fund
- 1267 established under this Subsection (2)(a); and

1268 (D) monies owed to the repealed Navajo Trust Fund, including monies received by the
1269 repealed trust administrator or repealed Dineh Committee from an agreement executed by:

1270 (I) the repealed board of trustees;

1271 (II) the repealed trust administrator; or

1272 (III) the repealed Dineh Committee; and

1273 (ii) from which monies may not be transferred or expended, except:

1274 (A) as provided in Subsection (7); or

1275 (B) as authorized by congressional action to designate a new recipient of the Utah

1276 Navajo royalties; and

1277 (b) by no later than July 1, 2008, transfer to the fund created under Subsection (2)(a) in
1278 a manner consistent with this section the related assets and liabilities of the repealed Navajo
1279 Trust Fund, including the transfer of monies in the repealed Navajo Trust Fund.

1280 (3) The state treasurer shall invest monies in the fund created in Subsection (2)(a) in
1281 accordance with Title 51, Chapter 7, State Money Management Act.

1282 (4) (a) By no later than May 5, 2008, the repealed board of trustees shall:

1283 (i) adopt a list of all related assets and liabilities of the repealed trust fund that are not
1284 satisfied by May 5, 2008, which may include assets and liabilities that are contingent in nature
1285 or amount;

1286 (ii) adopt a list of all individuals who at the time of adoption meet the requirements of
1287 Subsection (7)(b); and

1288 (iii) provide a copy of the lists described in [~~Subsection~~] Subsections (4)(a)(i) and (ii)
1289 to:

1290 (A) the state auditor; and

1291 (B) the Department of Administrative Services.

1292 (b) The state auditor, in addition to completing its Fiscal Year 2007-2008 audit of the
1293 repealed Navajo Trust Fund, shall:

1294 (i) verify the list of the related assets and liabilities of the repealed Navajo Trust Fund
1295 adopted by the repealed board of trustees under Subsection (4)(a) by no later than June 30,
1296 2008; and

1297 (ii) provide a written copy of the verification to the governor and the Legislature by no
1298 later than July 30, 2008.

1299 (5) The governor shall ensure that the reporting requirements under P.L. 90-306, 82
1300 Stat. 121, are met.

1301 (6) The Department of Administrative Services, in cooperation with the Department of
1302 Human Resources, may assist employees of the repealed Navajo Trust Fund as of June 30,
1303 2008, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

1304 (7) With the fund created under Subsection (2) and the fixed assets of the repealed
1305 Navajo Trust Fund, the Department of Administrative Services shall:

1306 (a) fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of June
1307 30, 2008;

1308 (b) provide monies to an individual enrolled member of the Navajo Nation who:

1309 (i) resides in San Juan County;

1310 (ii) as of June 30, 2010, has received monies under this Subsection (7)(b) for
1311 postsecondary education;

1312 (iii) beginning the later of June 30 or the day on which the individual first receives
1313 monies under this Subsection (7)(b), is enrolled in postsecondary education for the equivalent
1314 of at least two semesters each year; and

1315 (iv) meets the eligibility requirements adopted by the repealed board of trustees as of
1316 March 17, 2008;

1317 (c) through the Division of Facilities Construction and Management, reasonably
1318 maintain the fixed assets of the repealed Navajo Trust Fund, to the extent that a lessee of a
1319 fixed asset is not required by a lease to maintain a fixed asset;

1320 (d) through the Division of Facilities Construction and Management, take those steps
1321 necessary to secure the purchase:

1322 (i) of the following that is owned by the repealed Navajo Trust Fund as of May 5,
1323 2008:

1324 (A) the government service building; or

1325 (B) another fixed asset of the repealed Navajo Trust Fund, if the sale of the fixed asset
1326 is consistent with the obligations of the state with regard to the Utah Navajo royalties; and

1327 (ii) (A) in an arms length manner; and

1328 (B) so that fair market compensation is paid to the repealed Navajo Trust Fund; and

1329 (e) charge the fund established under Subsection (2)(a) for the expenses that are

1330 necessary and reasonable to comply with the requirements of this Subsection (7).

1331 (8) Unless expressly prohibited by this part, the state may take any action with regard
1332 to the assets held by the state under this part that is consistent with the obligations of the state
1333 related to the Utah Navajo royalties.

1334 Section 20. Section **53-3-102** is amended to read:

1335 **53-3-102. Definitions.**

1336 As used in this chapter:

1337 (1) "Cancellation" means the termination by the division of a license issued through
1338 error or fraud or for which consent under Section 53-3-211 has been withdrawn.

1339 (2) "Class D license" means the class of license issued to drive motor vehicles not
1340 defined as commercial motor vehicles or motorcycles under this chapter.

1341 [~~(3) "Class M license" means the class of license issued to drive a motorcycle as~~
1342 ~~defined under this chapter.~~]

1343 [~~(4)~~ (3) "Commercial driver license" or "CDL" means a license issued substantially in
1344 accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle
1345 Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act,
1346 which authorizes the holder to drive a class of commercial motor vehicle.

1347 [~~(5)~~ (4) (a) "Commercial motor vehicle" means a motor vehicle or combination of
1348 motor vehicles designed or used to transport passengers or property if the motor vehicle:

1349 (i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as
1350 determined by federal regulation;

1351 (ii) is designed to transport 16 or more passengers, including the driver; or

1352 (iii) is transporting hazardous materials and is required to be placarded in accordance
1353 with 49 C.F.R. Part 172, Subpart F.

1354 (b) The following vehicles are not considered a commercial motor vehicle for purposes
1355 of Part 4, Uniform Commercial Driver License Act:

1356 (i) equipment owned and operated by the United States Department of Defense when
1357 driven by any active duty military personnel and members of the reserves and national guard on
1358 active duty including personnel on full-time national guard duty, personnel on part-time
1359 training, and national guard military technicians and civilians who are required to wear military
1360 uniforms and are subject to the code of military justice;

1361 (ii) vehicles controlled and driven by a farmer to transport agricultural products, farm
1362 machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation
1363 as a motor carrier for hire;

1364 (iii) firefighting and emergency vehicles; and

1365 (iv) recreational vehicles that are not used in commerce and are driven solely as family
1366 or personal conveyances for recreational purposes.

1367 [~~(6)~~] (5) "Conviction" means any of the following:

1368 (a) an unvacated adjudication of guilt or a determination that a person has violated or
1369 failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

1370 (b) an unvacated forfeiture of bail or collateral deposited to secure a person's
1371 appearance in court;

1372 (c) a plea of guilty or nolo contendere accepted by the court;

1373 (d) the payment of a fine or court costs; or

1374 (e) violation of a condition of release without bail, regardless of whether the penalty is
1375 rebated, suspended, or probated.

1376 [~~(7)~~] (6) "Denial" or "denied" means the withdrawal of a driving privilege by the
1377 division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or
1378 Operator's Security, do not apply.

1379 [~~(8)~~] (7) "Director" means the division director appointed under Section 53-3-103.

1380 [~~(9)~~] (8) "Disqualification" means either:

1381 (a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state
1382 of a person's privileges to drive a commercial motor vehicle;

1383 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386,
1384 that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part
1385 391; or

1386 (c) the loss of qualification that automatically follows conviction of an offense listed in
1387 49 C.F.R. Part 383.51.

1388 [~~(10)~~] (9) "Division" means the Driver License Division of the department created in
1389 Section 53-3-103.

1390 [~~(11)~~] (10) "Drive" means:

1391 (a) to operate or be in physical control of a motor vehicle upon a highway; and

1392 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections
1393 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within
1394 the state.

1395 ~~[(12)]~~ (11) (a) "Driver" means any person who drives, or is in actual physical control of
1396 a motor vehicle in any location open to the general public for purposes of vehicular traffic.

1397 (b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person
1398 who is required to hold a CDL under Part 4 or federal law.

1399 ~~[(13)]~~ (12) "Driving privilege card" means the evidence of the privilege granted and
1400 issued under this chapter to drive a motor vehicle to a person whose privilege was obtained
1401 without using a Social Security number.

1402 ~~[(14)]~~ (13) "Extension" means a renewal completed in a manner specified by the
1403 division.

1404 ~~[(15)]~~ (14) "Farm tractor" means every motor vehicle designed and used primarily as a
1405 farm implement for drawing plows, mowing machines, and other implements of husbandry.

1406 ~~[(16)]~~ (15) "Highway" means the entire width between property lines of every way or
1407 place of any nature when any part of it is open to the use of the public, as a matter of right, for
1408 traffic.

1409 ~~[(17)]~~ (16) "License" means the privilege to drive a motor vehicle.

1410 ~~[(18)]~~ (17) "License certificate" means the evidence of the privilege issued under this
1411 chapter to drive a motor vehicle.

1412 ~~[(19)]~~ (18) "Motorboat" has the same meaning as provided under Section 73-18-2.

1413 ~~[(20)]~~ (19) "Motorcycle" means every motor vehicle, other than a tractor, having a seat
1414 or saddle for the use of the rider and designed to travel with not more than three wheels in
1415 contact with the ground.

1416 ~~[(21)]~~ (20) "Office of Recovery Services" means the Office of Recovery Services,
1417 created in Section 62A-11-102.

1418 ~~[(22)]~~ (21) (a) "Owner" means a person ~~other~~ than a lienholder having an interest in the
1419 property or title to a vehicle.

1420 (b) "Owner" includes a person entitled to the use and possession of a vehicle subject to
1421 a security interest in another person but excludes a lessee under a lease not intended as security.

1422 ~~[(23)]~~ (22) "Renewal" means to validate a license certificate so that it expires at a later

1423 date.

1424 [~~(24)~~] (23) "Reportable violation" means an offense required to be reported to the
1425 division as determined by the division and includes those offenses against which points are
1426 assessed under Section 53-3-221.

1427 [~~(25)~~] (24) (a) "Resident" means an individual who:

1428 (i) has established a domicile in this state, as defined in Section 41-1a-202, or
1429 regardless of domicile, remains in this state for an aggregate period of six months or more
1430 during any calendar year;

1431 (ii) engages in a trade, profession, or occupation in this state, or who accepts
1432 employment in other than seasonal work in this state, and who does not commute into the state;

1433 (iii) declares himself to be a resident of this state by obtaining a valid Utah driver
1434 license certificate or motor vehicle registration; or

1435 (iv) declares himself a resident of this state to obtain privileges not ordinarily extended
1436 to nonresidents, including going to school, or placing children in school without paying
1437 nonresident tuition or fees.

1438 (b) "Resident" does not include any of the following:

1439 (i) a member of the military, temporarily stationed in this state;

1440 (ii) an out-of-state student, as classified by an institution of higher education,
1441 regardless of whether the student engages in any type of employment in this state;

1442 (iii) a person domiciled in another state or country, who is temporarily assigned in this
1443 state, assigned by or representing an employer, religious or private organization, or a
1444 governmental entity; or

1445 (iv) an immediate family member who resides with or a household member of a person
1446 listed in Subsections [~~(25)~~] (24)(b)(i) through (iii).

1447 [~~(26)~~] (25) "Revocation" means the termination by action of the division of a licensee's
1448 privilege to drive a motor vehicle.

1449 [~~(27)~~] (26) (a) "School bus" means a commercial motor vehicle used to transport
1450 pre-primary, primary, or secondary school students to and from home and school, or to and
1451 from school sponsored events.

1452 (b) "School bus" does not include a bus used as a common carrier as defined in Section
1453 59-12-102.

1454 [~~28~~] (27) "Suspension" means the temporary withdrawal by action of the division of a
1455 licensee's privilege to drive a motor vehicle.

1456 [~~29~~] (28) "Taxicab" means any class D motor vehicle transporting any number of
1457 passengers for hire and that is subject to state or federal regulation as a taxi.

1458 Section 21. Section **53-3-204** is amended to read:

1459 **53-3-204. Persons who may not be licensed.**

1460 (1) (a) The division may not license a person who:

1461 (i) is younger than 16 years of age;

1462 (ii) has not completed a course in driver training approved by the commissioner;

1463 (iii) if the person is a minor, has not completed the driving requirement under Section
1464 53-3-211;

1465 (iv) is not a resident of the state, unless the person is issued a temporary CDL under
1466 Subsection 53-3-407(2)(b); or

1467 (v) if the person is 17 years of age or younger, has not held a learner permit issued
1468 under Section 53-3-210.5 for six months.

1469 (b) Subsections (1)(a)(i), (ii), and (iii) do not apply to a person:

1470 (i) who has been licensed before July 1, 1967; or

1471 (ii) who is 16 years of age or older making application for a license who has been
1472 licensed in another state or country.

1473 (2) The division may not issue a license certificate to a person:

1474 (a) whose license has been suspended, denied, cancelled, or disqualified during the
1475 period of suspension, denial, cancellation, or disqualification;

1476 (b) whose privilege has been revoked, except as provided in Section 53-3-225;

1477 (c) who has previously been adjudged mentally incompetent and who has not at the
1478 time of application been restored to competency as provided by law;

1479 (d) who is required by this chapter to take an examination unless the person
1480 successfully passes the examination; or

1481 (e) whose driving privileges have been denied or suspended under:

1482 (i) Section 78A-6-606 by an order of the juvenile court; or

1483 (ii) Section 53-3-231.

1484 (3) (a) Except as provided in Subsection (3)(c), the division may not grant a motorcycle

1485 endorsement to a person who:

1486 (i) has not been granted an original or provisional class D license, a CDL, or an
1487 out-of-state equivalent to an original or provisional class D license or a CDL; and

1488 (ii) if the person is under 19 years of age, has not held a motorcycle learner permit for
1489 two months unless Subsection (3)(b) applies.

1490 (b) The division may waive the two month motorcycle learner permit holding period
1491 requirement under Subsection (3)(a)(ii) if the person proves to the satisfaction of the division
1492 that the person has completed a motorcycle rider education program that meets the
1493 requirements under Section 53-3-903.

1494 (c) The division may grant a motorcycle endorsement to a person under 19 years of age
1495 who has not held a motorcycle learner permit for two months if the person was issued a
1496 motorcycle endorsement [~~or a class M license~~] prior to July 1, 2008.

1497 (4) The division may grant a class D license to a person whose commercial license is
1498 disqualified under Part 4, Uniform Commercial Driver License Act, if the person is not
1499 otherwise sanctioned under this chapter.

1500 Section 22. Section **53-3-205** is amended to read:

1501 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**
1502 **Expiration dates of licenses and endorsements -- Information required -- Previous**
1503 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**
1504 **Fee required -- License agreement.**

1505 (1) An application for any original license, provisional license, or endorsement shall
1506 be:

1507 (a) made upon a form furnished by the division; and

1508 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

1509 (2) An application and fee for an original provisional class D license or an original
1510 class D license entitle the applicant to:

1511 (a) not more than three attempts to pass both the knowledge and the skills tests for a
1512 class D license within six months of the date of the application;

1513 (b) a learner permit if needed pending completion of the application and testing
1514 process; and

1515 (c) an original class D license and license certificate after all tests are passed.

- 1516 (3) An application and fee for a motorcycle or taxicab endorsement entitle the
1517 applicant to:
- 1518 (a) not more than three attempts to pass both the knowledge and skills tests within six
1519 months of the date of the application;
 - 1520 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and
 - 1521 (c) a motorcycle or taxicab endorsement when all tests are passed.
- 1522 (4) An application and fees for a commercial class A, B, or C license entitle the
1523 applicant to:
- 1524 (a) not more than two attempts to pass a knowledge test and not more than two
1525 attempts to pass a skills test within six months of the date of the application;
 - 1526 (b) a commercial driver instruction permit if needed after the knowledge test is passed;
1527 and
 - 1528 (c) an original commercial class A, B, or C license and license certificate when all
1529 applicable tests are passed.
- 1530 (5) An application and fee for a CDL endorsement entitle the applicant to:
- 1531 (a) not more than two attempts to pass a knowledge test and not more than two
1532 attempts to pass a skills test within six months of the date of the application; and
 - 1533 (b) a CDL endorsement when all tests are passed.
- 1534 (6) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement
1535 test within the number of attempts provided in Subsection (4) or (5), each test may be taken
1536 two additional times within the six months for the fee provided in Section 53-3-105.
- 1537 (7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license
1538 expires on the birth date of the applicant in the fifth year following the year the license
1539 certificate was issued.
- 1540 (b) Except as provided under Subsections (7)(f), (g), (h), and (i), a renewal or an
1541 extension to a license expires on the birth date of the licensee in the fifth year following the
1542 expiration date of the license certificate renewed or extended.
 - 1543 (c) Except as provided under Subsections (7)(f), (g), and (i), a duplicate license expires
1544 on the same date as the last license certificate issued.
 - 1545 (d) An endorsement to a license expires on the same date as the license certificate
1546 regardless of the date the endorsement was granted.

1547 (e) A license and any endorsement to the license held by a person ordered to active
1548 duty and stationed outside Utah in any of the armed forces of the United States, which expires
1549 during the time period the person is stationed outside of the state, is valid until 90 days after the
1550 person has been discharged or has left the service, unless:

1551 (i) the license is suspended, disqualified, denied, or has been cancelled or revoked by
1552 the division; or

1553 (ii) the licensee updates the information or photograph on the license certificate.

1554 (f) An original license or a renewal to an original license obtained using proof under
1555 Subsection (8)(a)(i)(E)(III) expires on the date of the expiration of the applicant's foreign visa,
1556 permit, or other document granting legal presence in the United States or on the date provided
1557 under this Subsection (7), whichever is sooner.

1558 (g) (i) An original license or a renewal or a duplicate to an original license expires on
1559 the next birth date of the applicant or licensee beginning on July 1, 2005 if:

1560 (A) the license was obtained without using a Social Security number as required under
1561 Subsection (8); and

1562 (B) the license certificate or driving privilege card is not clearly distinguished as
1563 required under Subsection 53-3-207(6).

1564 (ii) A driving privilege card issued or renewed under Section 53-3-207 expires on the
1565 birth date of the applicant in the first year following the year that the driving privilege card was
1566 issued or renewed.

1567 (iii) The expiration dates provided under Subsections (7)(g)(i) and (ii) do not apply to
1568 an original license or driving privilege card or to the renewal of an original license or driving
1569 privilege card with an expiration date provided under Subsection (7)(f).

1570 (h) An original license or a renewal to an original license expires on the birth date of
1571 the applicant in the first year following the year that the license was issued if the applicant is
1572 required to register as a sex offender under Section 77-27-21.5.

1573 ~~[(i) An original class M license or a renewal, duplicate, or extension to an original class~~
1574 ~~M license expires on June 30, 2008.]~~

1575 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative
1576 Procedures Act, for requests for agency action, each applicant shall:

1577 (i) provide the applicant's:

- 1578 (A) full legal name;
- 1579 (B) birth date;
- 1580 (C) gender;
- 1581 (D) between July 1, 2002 and July 1, 2007, race in accordance with the categories
- 1582 established by the United States Census Bureau;
- 1583 (E) (I) Social Security number;
- 1584 (II) temporary identification number (ITIN) issued by the Internal Revenue Service for
- 1585 a person who does not qualify for a Social Security number; or
- 1586 (III) (Aa) proof that the applicant is a citizen of a country other than the United States;
- 1587 (Bb) proof that the applicant does not qualify for a Social Security number; and
- 1588 (Cc) proof of legal presence in the United States, as authorized under federal law; and
- 1589 (F) Utah residence address as documented by a form acceptable under rules made by
- 1590 the division under Section 53-3-104, unless the application is for a temporary CDL issued
- 1591 under Subsection 53-3-407(2)(b);
- 1592 (ii) provide a description of the applicant;
- 1593 (iii) state whether the applicant has previously been licensed to drive a motor vehicle
- 1594 and, if so, when and by what state or country;
- 1595 (iv) state whether the applicant has ever had any license suspended, cancelled, revoked,
- 1596 disqualified, or denied in the last ten years, or whether the applicant has ever had any license
- 1597 application refused, and if so, the date of and reason for the suspension, cancellation,
- 1598 revocation, disqualification, denial, or refusal;
- 1599 (v) state whether the applicant intends to make an anatomical gift under Title 26,
- 1600 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 1601 (vi) state whether the applicant is required to register as a sex offender under Section
- 1602 77-27-21.5;
- 1603 (vii) state whether the applicant is a military veteran and does or does not authorize
- 1604 sharing the information with the state Department of Veterans' Affairs;
- 1605 (viii) provide all other information the division requires; and
- 1606 (ix) sign the application which signature may include an electronic signature as defined
- 1607 in Section 46-4-102.
- 1608 (b) Each applicant shall have a Utah residence address, unless the application is for a

1609 temporary CDL issued under Subsection 53-3-407(2)(b).

1610 (c) The division shall maintain on its computerized records an applicant's:

1611 (i) (A) Social Security number;

1612 (B) temporary identification number (ITIN); or

1613 (C) other number assigned by the division if Subsection (8)(a)(i)(E)(III) applies; and

1614 (ii) indication whether the applicant is required to register as a sex offender under

1615 Section 77-27-21.5.

1616 (d) An applicant may not be denied a license for refusing to provide race information

1617 required under Subsection (8)(a)(i)(D).

1618 (9) The division shall require proof of every applicant's name, birthdate, and birthplace

1619 by at least one of the following means:

1620 (a) current license certificate;

1621 (b) birth certificate;

1622 (c) Selective Service registration; or

1623 (d) other proof, including church records, family Bible notations, school records, or

1624 other evidence considered acceptable by the division.

1625 (10) When an applicant receives a license in another class, all previous license

1626 certificates shall be surrendered and canceled. However, a disqualified commercial license may

1627 not be canceled unless it expires before the new license certificate is issued.

1628 (11) (a) When an application is received from a person previously licensed in another

1629 state to drive a motor vehicle, the division shall request a copy of the driver's record from the

1630 other state.

1631 (b) When received, the driver's record becomes part of the driver's record in this state

1632 with the same effect as though entered originally on the driver's record in this state.

1633 (12) An application for reinstatement of a license after the suspension, cancellation,

1634 disqualification, denial, or revocation of a previous license shall be accompanied by the

1635 additional fee or fees specified in Section 53-3-105.

1636 (13) A person who has an appointment with the division for testing and fails to keep

1637 the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee

1638 under Section 53-3-105.

1639 (14) A person who applies for an original license or renewal of a license agrees that the

1640 person's license is subject to any suspension or revocation authorized under this title or Title
1641 41, Motor Vehicles.

1642 (15) (a) The indication of intent under Subsection (8)(a)(v) shall be authenticated by
1643 the licensee in accordance with division rule.

1644 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and
1645 Management Act, the division may, upon request, release to an organ procurement
1646 organization, as defined in Section 26-28-102, the names and addresses of all persons who
1647 under Subsection (8)(a)(v) indicate that they intend to make an anatomical gift.

1648 (ii) An organ procurement organization may use released information only to:

1649 (A) obtain additional information for an anatomical gift registry; and

1650 (B) inform licensees of anatomical gift options, procedures, and benefits.

1651 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and
1652 Management Act, the division may release to the Department of Veterans' Affairs the names
1653 and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(vii).

1654 (17) The division and its employees are not liable, as a result of false or inaccurate
1655 information provided under Subsection (8)(a)(v) or (vii), for direct or indirect:

1656 (a) loss;

1657 (b) detriment; or

1658 (c) injury.

1659 (18) A person who knowingly fails to provide the information required under
1660 Subsection (8)(a)(vi) is guilty of a class A misdemeanor.

1661 Section 23. Section **53-10-208** is amended to read:

1662 **53-10-208. Definition -- Offenses included on statewide warrant system --**
1663 **Transportation fee to be included -- Statewide warrant system responsibility -- Quality**
1664 **control -- Training -- Technical support -- Transaction costs.**

1665 (1) "Statewide warrant system" means the portion of the state court computer system
1666 that is accessible by modem from the state mainframe computer and contains:

1667 (a) records of criminal warrant information; and

1668 (b) after notice and hearing, records of protective orders issued pursuant to:

1669 ~~(i)~~ (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act~~[-]; or~~

1670 ~~(ii)~~ (ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act~~[-or]~~.

1671 (2) (a) (i) The division shall include on the statewide warrant system all warrants
1672 issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

1673 (ii) For each offense the division shall indicate whether the magistrate ordered under
1674 Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

1675 (b) Infractions shall not be included on the statewide warrant system, including any
1676 subsequent failure to appear warrants issued on an infraction.

1677 (3) The division is the agency responsible for the statewide warrant system and shall:

1678 (a) ensure quality control of all warrants of arrest or commitment and protective orders
1679 contained in the statewide warrant system by conducting regular validation checks with every
1680 clerk of a court responsible for entering the information on the system;

1681 (b) upon the expiration of the protective orders and in the manner prescribed by the
1682 division, purge information regarding protective orders described in Subsection 53-10-208.1(4)
1683 within 30 days of the time after expiration;

1684 (c) establish system procedures and provide training to all criminal justice agencies
1685 having access to information contained on the state warrant system;

1686 (d) provide technical support, program development, and systems maintenance for the
1687 operation of the system; and

1688 (e) pay data processing and transaction costs for state, county, and city law
1689 enforcement agencies and criminal justice agencies having access to information contained on
1690 the state warrant system.

1691 (4) (a) Any data processing or transaction costs not funded by legislative appropriation
1692 shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

1693 (b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

1694 Section 24. Section **53-10-208.1** is amended to read:

1695 **53-10-208.1. Magistrates and court clerks to supply information.**

1696 Every magistrate or clerk of a court responsible for court records in this state shall,
1697 within 30 days of the disposition and on forms and in the manner provided by the division,
1698 furnish the division with information pertaining to:

1699 (1) all dispositions of criminal matters, including:

1700 (a) guilty pleas;

1701 (b) convictions;

- 1702 (c) dismissals;
- 1703 (d) acquittals;
- 1704 (e) pleas held in abeyance;
- 1705 (f) judgments of not guilty by reason of insanity for a violation of:
- 1706 (i) a felony offense;
- 1707 (ii) Title 76, Chapter 5, Offenses Against the Person; or
- 1708 (iii) Title 76, Chapter 10, Part 5, Weapons;
- 1709 (g) judgments of guilty and mentally ill;
- 1710 (h) finding of mental incompetence to stand trial for a violation of:
- 1711 (i) a felony offense;
- 1712 (ii) Title 76, Chapter 5, Offenses Against the Person; or
- 1713 (iii) Title 76, Chapter 10, Part 5, Weapons; or
- 1714 (i) probations granted; and
- 1715 (2) orders of civil commitment under the terms of Section 62A-15-631;
- 1716 (3) the issuance, recall, cancellation, or modification of all warrants of arrest or
- 1717 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303,
- 1718 within one day of the action and in a manner provided by the division; and
- 1719 (4) protective orders issued after notice and hearing, pursuant to:
- 1720 [~~(b)~~] (a) Title 77, Chapter 36, Cohabitant Abuse Procedures Act[-]; or
- 1721 [~~(a)~~] (b) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act[~~;~~ or].

Section 25. Section **53B-8a-105** is amended to read:

53B-8a-105. Additional powers of board as to the Utah Educational Savings Plan Trust.

The board has all powers necessary to carry out and effectuate the purposes, objectives, and provisions of this chapter pertaining to the Utah Educational Savings Plan Trust, including the power to:

- (1) engage:

- (a) one or more investment advisors, registered under the Investment [~~Advisors~~] Advisers Act of 1940, with at least 5,000 advisory clients and at least \$1,000,000,000 under management, to provide investment advice to the board with respect to the assets held in each account;

- 1733 (b) an administrator to perform recordkeeping functions on behalf of the Utah
1734 Educational Savings Plan Trust; and
- 1735 (c) a custodian for the safekeeping of the assets of the Utah Educational Savings Plan
1736 Trust;
- 1737 (2) carry out studies and projections in order to advise account owners regarding
1738 present and estimated future higher education costs and levels of financial participation in the
1739 Utah Educational Savings Plan Trust required in order to enable account owners to achieve
1740 their educational funding objective;
- 1741 (3) contract for goods and services and engage personnel as necessary, including
1742 consultants, actuaries, managers, counsel, and auditors for the purpose of rendering
1743 professional, managerial, and technical assistance and advice, all of which contract obligations
1744 and services shall be payable from any moneys of the Utah Educational Savings Plan Trust;
- 1745 (4) participate in any other way in any federal, state, or local governmental program for
1746 the benefit of the Utah Educational Savings Plan Trust;
- 1747 (5) promulgate, impose, and collect administrative fees and charges in connection with
1748 transactions of the Utah Educational Savings Plan Trust, and provide for reasonable service
1749 charges, including penalties for cancellations and late payments;
- 1750 (6) procure insurance against any loss in connection with the property, assets, or
1751 activities of the Utah Educational Savings Plan Trust;
- 1752 (7) administer the funds of the Utah Educational Savings Plan Trust;
- 1753 (8) solicit and accept for the benefit of the endowment fund gifts, grants, and other
1754 moneys, including general fund moneys from the state and grants from any federal or other
1755 governmental agency;
- 1756 (9) procure insurance indemnifying any member of the board from personal loss or
1757 accountability arising from liability resulting from a member's action or inaction as a member
1758 of the board; and
- 1759 (10) make rules and regulations for the administration of the Utah Educational Savings
1760 Plan Trust.

1761 Section 26. Section **58-60-114** is amended to read:

1762 **58-60-114. Confidentiality -- Exemptions.**

1763 (1) A mental health therapist under this chapter may not disclose any confidential

1764 communication with a client or patient without the express consent of:

1765 (a) the client or patient;

1766 (b) the parent or legal guardian of a minor client or patient; or

1767 (c) the authorized agent of a client or patient.

1768 (2) A mental health therapist under this chapter is not subject to Subsection (1) if:

1769 (a) he is permitted or required by state or federal law, rule, regulation, or order to report

1770 or disclose any confidential communication, including:

1771 ~~[(i)]~~ (i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation

1772 of Disabled Adult;

1773 ~~[(ii)]~~ (ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect

1774 Reporting Requirements;

1775 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to

1776 Warn; or

1777 (iv) reporting of a communicable disease as required under Section 26-6-6;

1778 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made

1779 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

1780 (c) the disclosure is made under a generally recognized professional or ethical standard
1781 that authorizes or requires the disclosure.

1782 Section 27. Section **58-60-509** is amended to read:

1783 **58-60-509. Confidentiality -- Exemptions.**

1784 (1) A licensee under this part may not disclose any confidential communication with a
1785 client or patient without the express consent of:

1786 (a) the client or patient;

1787 (b) the parent or legal guardian of a minor client or patient; or

1788 (c) the authorized agent of a client or patient.

1789 (2) A licensee under this part is not subject to Subsection (1) if:

1790 (a) he is permitted or required by state or federal law, rule, regulation, or order to report

1791 or disclose any confidential communication, including:

1792 ~~[(i)]~~ (i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation

1793 of Vulnerable Adults;

1794 ~~[(ii)]~~ (ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect

1795 Reporting Requirements;

1796 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to

1797 Warn; [~~and~~] or

1798 (iv) reporting of a communicable disease as required under Section 26-6-6;

1799 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
1800 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

1801 (c) the disclosure is made under a generally recognized professional or ethical standard
1802 that authorizes or requires the disclosure.

1803 Section 28. Section **58-61-602** is amended to read:

1804 **58-61-602. Confidentiality -- Exemptions.**

1805 (1) A psychologist under this chapter may not disclose any confidential communication
1806 with a client or patient without the express consent of:

1807 (a) the client or patient;

1808 (b) the parent or legal guardian of a minor client or patient; or

1809 (c) the authorized agent of a client or patient.

1810 (2) A psychologist under this chapter is not subject to Subsection (1) if:

1811 (a) he is permitted or required by state or federal law, rule, regulation, or order to report
1812 or disclose any confidential communication, including:

1813 [~~(i)~~] (i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation
1814 of Disabled Adult;

1815 [~~(ii)~~] (ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect

1816 Reporting Requirements;

1817 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to

1818 Warn; or

1819 (iv) reporting of a communicable disease as required under Section 26-6-6;

1820 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
1821 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

1822 (c) the disclosure is made under a generally recognized professional or ethical standard
1823 that authorizes or requires the disclosure.

1824 Section 29. Section **59-2-924** is amended to read:

1825 **59-2-924. Report of valuation of property to county auditor and commission --**

1826 **Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified**
1827 **tax rate -- Rulemaking authority -- Adoption of tentative budget.**

1828 (1) Before June 1 of each year, the county assessor of each county shall deliver to the
1829 county auditor and the commission the following statements:

1830 (a) a statement containing the aggregate valuation of all taxable real property assessed
1831 by a county assessor in accordance with Part 3, County Assessment, for each taxing entity; and

1832 (b) a statement containing the taxable value of all personal property assessed by a
1833 county assessor in accordance with Part 3, County Assessment, from the prior year end values.

1834 (2) The county auditor shall, on or before June 8, transmit to the governing body of
1835 each taxing entity:

1836 (a) the statements described in Subsections (1)(a) and (b);

1837 (b) an estimate of the revenue from personal property;

1838 (c) the certified tax rate; and

1839 (d) all forms necessary to submit a tax levy request.

1840 (3) (a) The "certified tax rate" means a tax rate that will provide the same ad valorem
1841 property tax revenues for a taxing entity as were budgeted by that taxing entity for the prior
1842 year.

1843 (b) For purposes of this Subsection (3):

1844 (i) "Ad valorem property tax revenues" do not include:

1845 (A) collections from redemptions;

1846 (B) interest;

1847 (C) penalties; and

1848 (D) revenue received by a taxing entity from personal property that is:

1849 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

1850 (II) semiconductor manufacturing equipment.

1851 (ii) "Aggregate taxable value of all property taxed" means:

1852 (A) the aggregate taxable value of all real property assessed by a county assessor in
1853 accordance with Part 3, County Assessment, for the current year;

1854 (B) the aggregate taxable year end value of all personal property assessed by a county
1855 assessor in accordance with Part 3, County Assessment, for the prior year; and

1856 (C) the aggregate taxable value of all real and personal property assessed by the

1857 commission in accordance with Part 2, Assessment of Property, for the current year.

1858 (c) (i) Except as otherwise provided in this section, the certified tax rate shall be
1859 calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the
1860 taxing entity by the amount calculated under Subsection (3)(c)(ii).

1861 (ii) For purposes of Subsection (3)(c)(i), the legislative body of a taxing entity shall
1862 calculate an amount as follows:

1863 (A) calculate for the taxing entity the difference between:

1864 (I) the aggregate taxable value of all property taxed; and

1865 (II) any redevelopment adjustments for the current calendar year;

1866 (B) after making the calculation required by Subsection (3)(c)(ii)(A), calculate an
1867 amount determined by increasing or decreasing the amount calculated under Subsection
1868 (3)(c)(ii)(A) by the average of the percentage net change in the value of taxable property for the
1869 equalization period for the three calendar years immediately preceding the current calendar
1870 year;

1871 (C) after making the calculation required by Subsection (3)(c)(ii)(B), calculate the
1872 product of:

1873 (I) the amount calculated under Subsection (3)(c)(ii)(B); and

1874 (II) the percentage of property taxes collected for the five calendar years immediately
1875 preceding the current calendar year; and

1876 (D) after making the calculation required by Subsection (3)(c)(ii)(C), calculate an
1877 amount determined by subtracting from the amount calculated under Subsection (3)(c)(ii)(C)
1878 any new growth as defined in this section:

1879 (I) within the taxing entity; and

1880 (II) for the following calendar year:

1881 (Aa) for new growth from real property assessed by a county assessor in accordance
1882 with Part 3, County Assessment and all property assessed by the commission in accordance
1883 with Section 59-2-201, the current calendar year; and

1884 (Bb) for new growth from personal property assessed by a county assessor in
1885 accordance with Part 3, County Assessment, the prior calendar year.

1886 (iii) For purposes of Subsection (3)(c)(ii)(A), the aggregate taxable value of all
1887 property taxed:

1888 (A) except as provided in Subsection (3)(c)(iii)(B) or (3)(c)(ii)(C), is as defined in
1889 Subsection (3)(b)(ii);

1890 (B) does not include the total taxable value of personal property contained on the tax
1891 rolls of the taxing entity that is:

1892 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

1893 (II) semiconductor manufacturing equipment; and

1894 (C) for personal property assessed by a county assessor in accordance with Part 3,
1895 County Assessment, the taxable value of personal property is the year end value of the personal
1896 property contained on the prior year's tax rolls of the entity.

1897 (iv) For purposes of Subsection (3)(c)(ii)(B), for calendar years beginning on or after
1898 January 1, 2007, the value of taxable property does not include the value of personal property
1899 that is:

1900 (A) within the taxing entity assessed by a county assessor in accordance with Part 3,
1901 County Assessment; and

1902 (B) semiconductor manufacturing equipment.

1903 (v) For purposes of Subsection (3)(c)(ii)(C)(II), for calendar years beginning on or after
1904 January 1, 2007, the percentage of property taxes collected does not include property taxes
1905 collected from personal property that is:

1906 (A) within the taxing entity assessed by a county assessor in accordance with Part 3,
1907 County Assessment; and

1908 (B) semiconductor manufacturing equipment.

1909 (vi) For purposes of Subsection (3)(c)(ii)(B), for calendar years beginning on or after
1910 January 1, 2009, the value of taxable property does not include the value of personal property
1911 that is within the taxing entity assessed by a county assessor in accordance with Part 3, County
1912 Assessment.

1913 (vii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1914 the commission may prescribe rules for calculating redevelopment adjustments for a calendar
1915 year.

1916 (d) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1917 the commission shall make rules determining the calculation of ad valorem property tax
1918 revenues budgeted by a taxing entity.

1919 (ii) For purposes of Subsection (3)(d)(i), ad valorem property tax revenues budgeted by
1920 a taxing entity shall be calculated in the same manner as budgeted property tax revenues are
1921 calculated for purposes of Section 59-2-913.

1922 (e) The certified tax rates for the taxing entities described in this Subsection (3)(e) shall
1923 be calculated as follows:

1924 (i) except as provided in Subsection (3)(e)(ii), for new taxing entities the certified tax
1925 rate is zero;

1926 (ii) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

1927 (A) in a county of the first, second, or third class, the levy imposed for municipal-type
1928 services under Sections 17-34-1 and 17-36-9; and

1929 (B) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
1930 purposes and such other levies imposed solely for the municipal-type services identified in
1931 Section 17-34-1 and Subsection 17-36-3(22); and

1932 (iii) for debt service voted on by the public, the certified tax rate shall be the actual
1933 levy imposed by that section, except that the certified tax rates for the following levies shall be
1934 calculated in accordance with Section 59-2-913 and this section:

1935 (A) school leeways provided for under Sections 11-2-7, 53A-16-110, [~~53A-17a-125,~~
1936 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, and 53A-17a-145~~], and~~
1937 ~~53A-21-103~~]; and

1938 (B) levies to pay for the costs of state legislative mandates or judicial or administrative
1939 orders under Section 59-2-1604.

1940 (f) (i) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be
1941 established at that rate which is sufficient to generate only the revenue required to satisfy one
1942 or more eligible judgments, as defined in Section 59-2-102.

1943 (ii) The ad valorem property tax revenue generated by the judgment levy shall not be
1944 considered in establishing the taxing entity's aggregate certified tax rate.

1945 (g) The ad valorem property tax revenue generated by the capital outlay levy described
1946 in Section 53A-16-107 within a taxing entity in a county of the first class:

1947 (i) may not be considered in establishing the school district's aggregate certified tax
1948 rate; and

1949 (ii) shall be included by the commission in establishing a certified tax rate for that

1950 capital outlay levy determined in accordance with the calculation described in Subsection
1951 59-2-913(3).

1952 (4) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

1953 (i) the taxable value of real property assessed by a county assessor contained on the
1954 assessment roll;

1955 (ii) the taxable value of real and personal property assessed by the commission; and

1956 (iii) the taxable year end value of personal property assessed by a county assessor
1957 contained on the prior year's assessment roll.

1958 (b) For purposes of Subsection (4)(a)(i), the taxable value of real property on the
1959 assessment roll does not include new growth as defined in Subsection (4)(c).

1960 (c) "New growth" means:

1961 (i) the difference between the increase in taxable value of the following property of the
1962 taxing entity from the previous calendar year to the current year:

1963 (A) real property assessed by a county assessor in accordance with Part 3, County
1964 Assessment; and

1965 (B) property assessed by the commission under Section 59-2-201; plus

1966 (ii) the difference between the increase in taxable year end value of personal property
1967 of the taxing entity from the year prior to the previous calendar year to the previous calendar
1968 year; minus

1969 (iii) the amount of an increase in taxable value described in Subsection (4)(e).

1970 (d) For purposes of Subsection (4)(c)(ii), the taxable value of personal property of the
1971 taxing entity does not include the taxable value of personal property that is:

1972 (i) contained on the tax rolls of the taxing entity if that property is assessed by a county
1973 assessor in accordance with Part 3, County Assessment; and

1974 (ii) semiconductor manufacturing equipment.

1975 (e) Subsection (4)(c)(iii) applies to the following increases in taxable value:

1976 (i) the amount of increase to locally assessed real property taxable values resulting
1977 from factoring, reappraisal, or any other adjustments; or

1978 (ii) the amount of an increase in the taxable value of property assessed by the
1979 commission under Section 59-2-201 resulting from a change in the method of apportioning the
1980 taxable value prescribed by:

- 1981 (A) the Legislature;
- 1982 (B) a court;
- 1983 (C) the commission in an administrative rule; or
- 1984 (D) the commission in an administrative order.
- 1985 (f) For purposes of Subsection (4)(a)(ii), the taxable year end value of personal
- 1986 property on the prior year's assessment roll does not include:
- 1987 (i) new growth as defined in Subsection (4)(c); or
- 1988 (ii) the total taxable year end value of personal property contained on the prior year's
- 1989 tax rolls of the taxing entity that is:
- 1990 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and
- 1991 (B) semiconductor manufacturing equipment.
- 1992 (5) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.
- 1993 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county
- 1994 auditor of:
- 1995 (i) its intent to exceed the certified tax rate; and
- 1996 (ii) the amount by which it proposes to exceed the certified tax rate.
- 1997 (c) The county auditor shall notify all property owners of any intent to exceed the
- 1998 certified tax rate in accordance with Subsection 59-2-919(3).
- 1999 Section 30. Section **61-1-2** is amended to read:
- 2000 **61-1-2. Investment adviser -- Unlawful acts.**
- 2001 (1) It is unlawful for any person who receives any consideration from another person
- 2002 primarily for advising the other person as to the value of securities or their purchase or sale,
- 2003 whether through the issuance of analyses or reports or otherwise to:
- 2004 (a) employ any device, scheme, or artifice to defraud the other person;
- 2005 (b) engage in any act, practice, or course of business which operates or would operate
- 2006 as a fraud or deceit upon the other person; or
- 2007 (c) divide or otherwise split any consideration with any person not licensed under this
- 2008 chapter as an investment [~~adviser~~] adviser or investment adviser representative.
- 2009 (2) (a) Except as may be permitted by rule of the division, it is unlawful for any
- 2010 investment adviser to enter into, extend, or renew any investment advisory contract unless it
- 2011 provides in writing that:

2012 (i) the investment adviser shall not be compensated on the basis of a share of capital
2013 gains upon or capital appreciation of the funds or any portion of the funds of the client;

2014 (ii) no assignment of the contract may be made by the investment adviser without the
2015 consent of the other party to the contract; and

2016 (iii) the investment adviser, if a partnership, shall notify the other party to the contract
2017 of any change in the membership of the partnership within a reasonable time after the change.

2018 (b) Subsection 61-1-2(2)(a)(i) does not prohibit an investment advisory contract which
2019 provides for compensation based upon the total value of a fund averaged over a definite period,
2020 or as of definite dates or taken as of a definite date.

2021 (c) "Assignment," as used in Subsection 61-1-2(2)(a)(ii), includes any direct or indirect
2022 transfer or hypothecation of an investment advisory contract by the assignor or of a controlling
2023 block of the assignor's outstanding voting securities by a security holder of the assignor.

2024 (d) If the investment adviser is a partnership, no assignment of an investment advisory
2025 contract is considered to result from the death or withdrawal of a minority of the members of
2026 the investment adviser having only a minority interest in the business of the investment adviser,
2027 or from the admission to the investment adviser of one or more members who, after admission,
2028 will be only a minority of the members and will have only a minority interest in the business.

2029 (3) It is unlawful for any investment adviser to take or have custody of any securities or
2030 funds of any client if:

2031 (a) the division by rule prohibits custody; or

2032 (b) in the absence of a rule, the investment adviser fails to notify the division that he
2033 has or may have custody.

2034 (4) The division may by rule adopt exemptions from Subsections 61-1-2(2)(a)(i), (ii),
2035 and (iii) where such exemptions are consistent with the public interest and within the purposes
2036 fairly intended by the policy and provisions of this chapter.

2037 Section 31. Section **61-2-3** is amended to read:

2038 **61-2-3. Exempt persons and transactions.**

2039 (1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not
2040 required for:

2041 (i) a person who as owner or lessor performs the acts described in Subsection 61-2-2

2042 (12) with reference to property owned or leased by that person;

2043 (ii) a regular salaried employee of the owner or lessor of real estate who, with reference
2044 to nonresidential real estate owned or leased by the employer, performs the acts enumerated in
2045 Subsections 61-2-2(12)(a) and (b);

2046 (iii) a regular salaried employee of the owner of real estate who performs property
2047 management services with reference to real estate owned by the employer, except that the
2048 employee may only manage property for one employer;

2049 (iv) a person who performs property management services for the apartments at which
2050 that person resides in exchange for free or reduced rent on that person's apartment;

2051 (v) a regular salaried employee of a condominium homeowners' association who
2052 manages real property subject to the declaration of condominium that established the
2053 homeowners' association, except that the employee may only manage property for one
2054 condominium homeowners' association; and

2055 (vi) a regular salaried employee of a licensed property management company who
2056 performs support services, as prescribed by rule, for the property management company.

2057 (b) Subsection (1)(a) does not exempt from licensing:

2058 (i) an employee engaged in the sale of properties regulated under:

2059 (A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; and

2060 (B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

2061 (ii) an employee engaged in the sale of cooperative interests regulated under Title 57,
2062 Chapter 23, Real Estate Cooperative Marketing Act; or

2063 (iii) a person whose interest as an owner or lessor is obtained by that person or
2064 transferred to that person for the purpose of evading the application of this chapter, and not for
2065 any other legitimate business reason.

2066 (2) A license under this chapter is not required for:

2067 (a) an isolated transaction by a person holding a duly executed power of attorney from
2068 the owner;

2069 (b) services rendered by an attorney in performing the attorney's duties as an attorney;

2070 (c) a receiver, trustee in bankruptcy, administrator, executor, or a person acting under
2071 order of any court;

2072 (d) a trustee or employee of a trustee under a deed of trust or a will;

2073 (e) a public utility, officer of a public utility, or regular salaried employee of a public

2074 utility, unless performance of any of the acts set out in Subsection 61-2-2(12) is in connection
2075 with the sale, purchase, lease, or other disposition of real estate or investment in real estate
2076 unrelated to the principal business activity of that public utility;

2077 (f) a regular salaried employee or authorized agent working under the oversight of the
2078 Department of Transportation when performing an act on behalf of the Department of
2079 Transportation in connection with one or more of the following:

2080 (i) the acquisition of real property pursuant to Section 72-5-103;

2081 (ii) the disposal of real property pursuant to Section 72-5-111;

2082 (iii) services that constitute property management; or

2083 (iv) the leasing of real property;

2084 (g) a regular salaried employee of a county, city, or town when performing an act on
2085 behalf of the county, city, or town:

2086 (i) in accordance with:

2087 (A) if a regular salaried employee of a city or town:

2088 (I) Title 10, Utah Municipal Code; or

2089 (II) Title 11, Cities, Counties, and Local Taxing Units; and

2090 (B) if a regular salaried employee of a county:

2091 (I) Title 11, Cities, Counties, and Local Taxing Units; and

2092 (II) Title 17, Counties; and

2093 (ii) in connection with one or more of the following:

2094 (A) the acquisition of real property, including by eminent domain;

2095 (B) the disposal of real property;

2096 (C) services that constitute property management; or

2097 (D) the leasing of real property.

2098 (3) A license under this chapter is not required for a person registered to act as a
2099 broker-dealer, agent, or investment ~~[advisor]~~ adviser under the Utah and federal securities laws
2100 in the sale or the offer for sale of real estate if:

2101 (a) (i) the real estate is a necessary element of a "security" as that term is defined by the
2102 Securities Act of 1933 and the Securities Exchange Act of 1934; and

2103 (ii) the security is registered for sale:

2104 (A) pursuant to the Securities Act of 1933; or

- 2105 (B) by Title 61, Chapter 1, Utah Uniform Securities Act; or
- 2106 (b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec.
- 2107 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation
- 2108 D, Rule 506, 17 C.F.R. Sec. 230.506; and
- 2109 (ii) the selling agent and the purchaser are not residents of this state.
- 2110 Section 32. Section **63D-2-102** is amended to read:
- 2111 **63D-2-102. Definitions.**
- 2112 As used in this chapter:
- 2113 (1) (a) "Collect" means the gathering of personally identifiable information:
- 2114 (i) from a user of a governmental website; or
- 2115 (ii) about a user of the governmental website.
- 2116 (b) "Collect" includes use of any identifying code linked to a user of a governmental
- 2117 website.
- 2118 (2) "Court website" means a website on the Internet that is operated by or on behalf of
- 2119 any court created in Title 78A, Chapter 1, Judiciary.
- 2120 (3) "Governmental entity" means:
- 2121 (a) an executive branch agency as defined in Section [~~63D-1a-102~~] 63F-1-102;
- 2122 (b) the legislative branch;
- 2123 (c) the judicial branch;
- 2124 (d) the State Board of Education;
- 2125 (e) the Board of Regents;
- 2126 (f) an institution of higher education; and
- 2127 (g) a political subdivision of the state:
- 2128 (i) as defined in Section 17B-1-102; and
- 2129 (ii) including a school district.
- 2130 (4) (a) "Governmental website" means a website on the Internet that is operated by or
- 2131 on behalf of a governmental entity.
- 2132 (b) "Governmental website" includes a court website.
- 2133 (5) "Governmental website operator" means a governmental entity or person acting on
- 2134 behalf of the governmental entity that:
- 2135 (a) operates a governmental website; and

2136 (b) collects or maintains personally identifiable information from or about a user of
2137 that website.

2138 (6) "Personally identifiable information" means information that identifies:

2139 (a) a user by:

2140 (i) name;

2141 (ii) account number;

2142 (iii) physical address;

2143 (iv) email address;

2144 (v) telephone number;

2145 (vi) Social Security number;

2146 (vii) credit card information; or

2147 (viii) bank account information;

2148 (b) a user as having requested or obtained specific materials or services from a
2149 governmental website;

2150 (c) Internet sites visited by a user; or

2151 (d) any of the contents of a user's data-storage device.

2152 (7) "User" means a person who accesses a governmental website.

2153 Section 33. Section **63I-1-263** is amended to read:

2154 **63I-1-263. Repeal dates, Titles 63 to 63M.**

2155 [~~(10)~~] (1) Section 63A-4-204, authorizing the Risk Management Fund to provide
2156 coverage to any public school district which chooses to participate, is repealed July 1, 2016.

2157 [~~(11)~~] (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1,
2158 2016.

2159 [~~(12)~~] (3) Section 63C-8-106, Rural residency training program, is repealed July 1,
2160 2015.

2161 [~~(3)~~] (4) The Resource Development Coordinating Committee, created in Section
2162 63J-4-501, is repealed July 1, 2015.

2163 [~~(4)~~] (5) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

2164 [~~(5)~~] (6) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is
2165 repealed July 1, 2010.

2166 (b) Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in

2167 recycling market development zones, are repealed for taxable years beginning on or after
2168 January 1, 2011.

2169 (c) Notwithstanding Subsection [~~(5)~~] (6)(b), a person may not claim a tax credit under
2170 Section 59-7-610 or 59-10-1007:

2171 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
2172 59-10-1007, if the machinery or equipment is purchased on or after July 1, 2010; or

2173 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
2174 the expenditure is made on or after July 1, 2010.

2175 (d) Notwithstanding Subsections [~~(5)~~] (6)(b) and (c), a person may carry forward a tax
2176 credit in accordance with Section 59-7-610 or 59-10-1007 if:

2177 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

2178 (ii) (A) for the purchase price of machinery or equipment described in Section
2179 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before June 30, 2010;
2180 or

2181 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
2182 expenditure is made on or before June 30, 2010.

2183 [~~(1)~~] (7) Title 63M, Chapter 7, Part 4, Sentencing Commission, is repealed January 1,
2184 2012.

2185 [~~(2)~~] (8) The Crime Victim Reparations Board, created in Section 63M-7-504, is
2186 repealed July 1, 2017.

2187 [~~(6)~~] (9) Title 63M, Chapter 8, Utah Commission for Women and Families Act, is
2188 repealed July 1, 2011.

2189 [~~(7)~~] (10) Title 63M, Chapter 9, Families, Agencies, and Communities Together for
2190 Children and Youth At Risk Act, is repealed July 1, 2016.

2191 [~~(8)~~ Title 63, Chapter 88, Navajo Trust Fund, is repealed July 1, 2008.]

2192 [~~(9)~~] (11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2009.
2193 Section 34. Section **63L-3-202** is amended to read:

2194 **63L-3-202. Agency actions.**

2195 (1) Using the guidelines prepared under Section 63L-3-201, each state agency shall:

2196 (a) determine whether an action has constitutional taking implications; and

2197 (b) prepare an assessment of constitutional taking implications that includes an analysis

2198 of the following:

2199 (i) the likelihood that the action may result in a constitutional taking, including a
2200 description of how the taking affects the use or value of private property;

2201 (ii) alternatives to the proposed action that may:

2202 (A) fulfill the government's legal obligations of the state agency;

2203 (B) reduce the impact on the private property owner; and

2204 (C) reduce the risk of a constitutional taking; and

2205 (iii) an estimate of financial cost to the state for compensation and the source of
2206 payment within the agency's budget if a constitutional taking is determined.

2207 (2) In addition to the guidelines prepared under Section 63L-3-201, each state agency
2208 shall adhere, to the extent permitted by law, to the following criteria if implementing or
2209 enforcing actions that have constitutional taking implications:

2210 (a) If an agency requires a person to obtain a permit for a specific use of private
2211 property, any conditions imposed on issuing the permit shall directly relate to the purpose for
2212 which the permit is issued and shall substantially advance that purpose.

2213 (b) Any restriction imposed on the use of private property shall be proportionate to the
2214 extent the use contributes to the overall problem that the restriction is to redress.

2215 (c) If an action involves a permitting process or any other decision-making process that
2216 will interfere with, or otherwise prohibit, the use of private property pending the completion of
2217 the process, the duration of the process shall be kept to the minimum necessary.

2218 (d) Before taking an action restricting private property use for the protection of public
2219 health or safety, the state agency, in internal deliberative documents, shall:

2220 (i) clearly identify, with as much specificity as possible, the public health or safety risk
2221 created by the private property use;

2222 (ii) establish that the action substantially advances the purpose of protecting public
2223 health and safety against the specifically identified risk;

2224 (iii) establish, to the extent possible, that the restrictions imposed on the private
2225 property are proportionate to the extent the use contributes to the overall risk; and

2226 (iv) estimate, to the extent possible, the potential cost to the government if a court
2227 determines that the action constitutes a constitutional taking.

2228 (3) If there is an immediate threat to health and safety that constitutes an emergency

2229 and requires an immediate response, the analysis required by ~~[Paragraph]~~ Subsection (2)(b) ~~[of~~
2230 ~~this section]~~ may be made when the response is completed.

2231 (4) Before the state agency implements an action that has constitutional taking
2232 implications, the state agency shall submit a copy of the assessment of constitutional taking
2233 implications to the governor and the Legislative Management Committee.

2234 Section 35. Section **72-9-107** is amended to read:

2235 **72-9-107. Medical exemptions for farm vehicle operators.**

2236 Except as provided in Section 53-3-206, an operator of a farm vehicle or combination
2237 of farm vehicles that are under 26,001 pounds gross vehicle weight rating and not operated as a
2238 commercial motor vehicle, in accordance with Subsection 53-3-102~~(5)~~(4)(b)(ii), is exempt
2239 from additional requirements for physical qualifications, medical examinations, and medical
2240 certification.

2241 Section 36. Section **76-3-201.1** is amended to read:

2242 **76-3-201.1. Collection of criminal judgment accounts receivable.**

2243 (1) As used in this section:

2244 (a) "Criminal judgment accounts receivable" means any amount due the state arising
2245 from a criminal judgment for which payment has not been received by the state agency that is
2246 servicing the debt.

2247 (b) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
2248 surcharges, costs, interest, penalties, restitution to victims, third party claims, claims,
2249 reimbursement of a reward, and damages.

2250 (2) (a) A criminal judgment account receivable ordered by the court as a result of
2251 prosecution for a criminal offense may be collected by any means authorized by law for the
2252 collection of a civil judgment.

2253 (b) (i) The court may permit a defendant to pay a criminal judgment account receivable
2254 in installments.

2255 (ii) In the district court, if the criminal judgment account receivable is paid in
2256 installments, the total amount due shall include all fines, surcharges, postjudgment interest, and
2257 fees.

2258 (c) Upon default in the payment of a criminal judgment account receivable or upon
2259 default in the payment of any installment of that receivable, the criminal judgment account

2260 receivable may be collected as provided in this section or Subsection 77-18-1(9) or (10), and by
2261 any means authorized by law for the collection of a civil judgment.

2262 (3) When a defendant defaults in the payment of a criminal judgment account
2263 receivable or any installment of that receivable, the court, on motion of the prosecution, victim,
2264 or upon its own motion may:

2265 (a) order the defendant to appear and show cause why the default should not be treated
2266 as contempt of court; or

2267 (b) issue a warrant of arrest.

2268 (4) (a) Unless the defendant shows that the default was not attributable to an
2269 intentional refusal to obey the order of the court or to a failure to make a good faith effort to
2270 make the payment, the court may find that the default constitutes contempt.

2271 (b) Upon a finding of contempt, the court may order the defendant committed until the
2272 criminal judgment account receivable, or a specified part of it, is paid.

2273 (5) If it appears to the satisfaction of the court that the default is not contempt, the
2274 court may enter an order for any of the following or any combination of the following:

2275 (a) require the defendant to pay the criminal judgment account receivable or a specified
2276 part of it by a date certain;

2277 (b) restructure the payment schedule;

2278 (c) restructure the installment amount;

2279 (d) except as provided in Section 77-18-8, execute the original sentence of
2280 imprisonment;

2281 (e) start the period of probation anew;

2282 (f) except as limited by Subsection (6), convert the criminal judgment account
2283 receivable or any part of it to [~~community~~] compensatory service;

2284 (g) except as limited by Subsection (6), reduce or revoke the unpaid amount of the
2285 criminal judgment account receivable; or

2286 (h) in the district court, record the unpaid balance of the criminal judgment account
2287 receivable as a civil judgment and transfer the responsibility for collecting the judgment to the
2288 Office of State Debt Collection.

2289 (6) In issuing an order under this section, the court may not modify the amount of the
2290 judgment of complete restitution.

2291 (7) Whether or not a default constitutes contempt, the court may add to the amount
2292 owed the fees established under Subsection 63A-8-201(4)(g) and postjudgment interest.

2293 (8) (a) (i) If a criminal judgment account receivable is past due in a case supervised by
2294 the Department of Corrections, the judge shall determine whether or not to record the unpaid
2295 balance of the account receivable as a civil judgment.

2296 (ii) If the judge records the unpaid balance of the account receivable as a civil
2297 judgment, the judge shall transfer the responsibility for collecting the judgment to the Office of
2298 State Debt Collection.

2299 (b) If a criminal judgment account receivable in a case not supervised by the
2300 Department of Corrections is past due, the district court may, without a motion or hearing,
2301 record the unpaid balance of the criminal judgment account receivable as a civil judgment and
2302 transfer the responsibility for collecting the account receivable to the Office of State Debt
2303 Collection.

2304 (c) If a criminal judgment account receivable in a case not supervised by the
2305 Department of Corrections is more than 90 days past due, the district court shall, without a
2306 motion or hearing, record the unpaid balance of the criminal judgment account receivable as a
2307 civil judgment and transfer the responsibility for collecting the criminal judgment account
2308 receivable to the Office of State Debt Collection.

2309 (9) (a) When a fine, forfeiture, surcharge, cost permitted by statute, fee, or an order of
2310 restitution is imposed on a corporation or unincorporated association, the person authorized to
2311 make disbursement from the assets of the corporation or association shall pay the obligation
2312 from those assets.

2313 (b) Failure to pay the obligation may be held to be contempt under Subsection (3).

2314 (10) The prosecuting attorney may collect restitution in behalf of a victim.

2315 Section 37. Section **76-9-802** is amended to read:

2316 **76-9-802. Definitions.**

2317 As used in this part:

2318 (1) "Criminal street gang" means an organization, association in fact, or group of three
2319 or more persons, whether operated formally or informally:

2320 (a) that is currently in operation;

2321 (b) that has as one of its primary activities the commission of one or more predicate

2322 gang crimes;

2323 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

2324 (d) whose members, acting individually or in concert with other members, engage in or
2325 have engaged in a pattern of criminal gang activity.

2326 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
2327 harm for the purpose of causing an individual to act or refrain from acting.

2328 (3) "Minor" means a person younger than 18 years of age.

2329 (4) "Pattern of criminal gang activity" means:

2330 (a) committing, attempting to commit, conspiring to commit, or soliciting the
2331 commission of two or more predicate gang crimes within five years;

2332 (b) the predicate gang crimes are:

2333 (i) committed by two or more persons; or

2334 (ii) committed by an individual at the direction of, or in association with a criminal
2335 street gang; and

2336 (c) the criminal activity was committed with the specific intent to promote, further, or
2337 assist in any criminal conduct by members of the criminal street gang.

2338 (5) (a) "Predicate gang crime" means any of the following offenses:

2339 [~~(xxiii)~~] (i) Title 41, Chapter 1a, Motor Vehicle Act:

2340 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
2341 identification number;

2342 (B) Section 41-1a-1315, regarding false evidence of title and registration;

2343 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

2344 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
2345 identification number; [~~and~~] or

2346 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification
2347 number[-];

2348 [(†)] (ii) any criminal violation of the following provisions:

2349 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

2350 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

2351 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

2352 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

- 2353 [~~(ii)~~] (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 2354 [~~(iii)~~] (iv) Title 76, Chapter 5, Part 2, Criminal Homicide;
- 2355 [~~(iv)~~] (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related
- 2356 offenses;
- 2357 [~~(v)~~] (vi) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 2358 [~~(vi)~~] (vii) Title 76, Chapter 6, Part 1, Property Destruction;
- 2359 [~~(vii)~~] (viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- 2360 [~~(viii)~~] (ix) Title 76, Chapter 6, Part 3, Robbery;
- 2361 [~~(ix)~~] (x) any felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections
- 2362 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6,
- 2363 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;
- 2364 [~~(x)~~] (xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505,
- 2365 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,
- 2366 76-6-517, 76-6-518, and 76-6-520;
- 2367 [~~(xi)~~] (xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 2368 [~~(xii)~~] (xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except
- 2369 Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;
- 2370 [~~(xiii)~~] (xiv) Section 76-8-508, which includes tampering with a witness;
- 2371 [~~(xiv)~~] (xv) Section 76-8-508.3, which includes retaliation against a witness or victim;
- 2372 [~~(xv)~~] (xvi) Section 76-8-509, which includes extortion or bribery to dismiss a criminal
- 2373 proceeding;
- 2374 [~~(xvi)~~] (xvii) Title 76, Chapter 10, Part 3, which addresses explosives;
- 2375 [~~(xvii)~~] (xviii) Title 76, Chapter 10, Part 5, Weapons;
- 2376 [~~(xviii)~~] (xix) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;
- 2377 [~~(xix)~~] (xx) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;
- 2378 [~~(xx)~~] (xxi) Section 76-10-1801, which addresses communications fraud;
- 2379 [~~(xxi)~~] (xxii) Title 76, Chapter 10, Part 19, Money Laundering and Currency
- 2380 Transaction Reporting Act; or
- 2381 [~~(xxii)~~] (xxiii) Section 76-10-2002, which addresses burglary of a research facility[;].
- 2382 (b) "Predicate gang crime" also includes:
- 2383 (i) any state or federal criminal offense that by its nature involves a substantial risk that

2384 physical force may be used against another in the course of committing the offense; and
2385 (ii) any felony violation of a criminal statute of any other state, the United States, or
2386 any district, possession, or territory of the United States which would constitute a violation of
2387 any offense in Subsection (4)(a) if committed in this state.

2388 Section 38. Section **78A-6-203** is amended to read:

2389 **78A-6-203. Board of Juvenile Court Judges -- Composition -- Purpose.**

2390 (1) (a) The Judicial Council shall by rule establish a Board of Juvenile Court Judges.

2391 (b) The board shall establish general policies for the operation of the juvenile courts
2392 and uniform rules and forms governing practice, consistent with the provisions of this chapter,
2393 the rules of the Judicial Council, and rules of the Supreme Court.

2394 (c) The board may receive and expend any funds that may become available from the
2395 federal government or private sources to carry out any of the purposes of this chapter.

2396 (i) The board may meet any federal requirements that are conditions precedent to
2397 receiving the funds.

2398 (ii) The board may cooperate with the federal government in a program for training
2399 personnel employed or preparing for employment by the juvenile court and may receive and
2400 expend funds from federal or state sources or from private donations for these purposes.

2401 (iii) Funds donated or paid to the juvenile court by private sources for the purpose of
2402 [community] compensatory service programs shall be nonlapsing.

2403 (iv) The board may:

2404 (A) contract with public or nonprofit institutions of higher learning for the training of
2405 personnel;

2406 (B) conduct short-term training courses of its own and hire experts on a temporary
2407 basis for this purpose; and

2408 (C) cooperate with the Division of Child and Family Services and other state
2409 departments or agencies in personnel training programs.

2410 (d) The board may contract, on behalf of the juvenile court, with the United States
2411 Forest Service or other agencies or departments of the federal government or with agencies or
2412 departments of other states for the care and placement of minors adjudicated under this chapter.

2413 (e) The powers to contract and expend funds are subject to budgetary control and
2414 procedures as provided by law.

2415 (2) Under the direction of the presiding officer of the council, the chair shall supervise
2416 the juvenile courts to ensure uniform adherence to law and to the rules and forms adopted by
2417 the Supreme Court and Judicial Council, and to promote the proper and efficient functioning of
2418 the juvenile courts.

2419 (3) The judges of districts having more than one judge shall elect a presiding judge. In
2420 districts comprised of five or more judges and court commissioners, the presiding judge shall
2421 receive an additional \$1,000 per annum as compensation.

2422 (4) Consistent with policies of the Judicial Council, the presiding judge shall:

2423 (a) implement policies of the Judicial Council;

2424 (b) exercise powers and perform administrative duties as authorized by the Judicial
2425 Council;

2426 (c) manage the judicial business of the district; and

2427 (d) call and preside over meetings of judges of the district.

2428 Section 39. Section **78A-6-1205** is amended to read:

2429 **78A-6-1205. Dispositions.**

2430 (1) Youth Court dispositional options include:

2431 (a) [~~community~~] compensatory service;

2432 (b) participation in law-related educational classes, appropriate counseling, treatment,
2433 or other educational programs;

2434 (c) providing periodic reports to the Youth Court;

2435 (d) participating in mentoring programs;

2436 (e) participation by the youth as a member of a Youth Court;

2437 (f) letters of apology;

2438 (g) essays; and

2439 (h) any other disposition considered appropriate by the Youth Court and adult
2440 coordinator.

2441 (2) Youth Courts may not impose a term of imprisonment or detention and may not
2442 impose fines.

2443 (3) Youth Court dispositions shall be completed within 180 days from the date of
2444 referral.

2445 (4) Youth Court dispositions shall be reduced to writing and signed by the youth and a

2446 parent, guardian, or legal custodian indicating their acceptance of the disposition terms.

2447 (5) Youth Court shall notify the referring source if a participant fails to successfully
2448 complete the Youth Court disposition. The referring source may then take any action it
2449 considers appropriate.

2450 Section 40. Section **78A-6-1206** is amended to read:

2451 **78A-6-1206. Liability.**

2452 (1) A person or entity associated with the referral, evaluation, adjudication, disposition,
2453 or supervision of matters under this part may not be held civilly liable for any injury occurring
2454 to any person performing [~~community~~] compensatory service or any other activity associated
2455 with a certified Youth Court unless the person causing the injury acted in a willful or wanton
2456 manner.

2457 (2) Persons participating in a certified Youth Court shall be considered to be volunteers
2458 for purposes of Workers' Compensation and other risk-related issues.

2459 Section 41. Section **78B-6-115** is amended to read:

2460 **78B-6-115. Who may adopt -- Adoption of adult.**

2461 (1) For purposes of this section, "vulnerable adult" means:

- 2462 (a) a person 65 years of age or older; or
- 2463 (b) an adult, 18 years of age or older, who has a mental or physical impairment which
2464 substantially affects that person's ability to:
 - 2465 (i) provide personal protection;
 - 2466 (ii) provide necessities such as food, shelter, clothing, or medical or other health care;
 - 2467 (iii) obtain services necessary for health, safety, or welfare;
 - 2468 (iv) carry out the activities of daily living;
 - 2469 (v) manage the adult's own resources; or
 - 2470 (vi) comprehend the nature and consequences of remaining in a situation of abuse,
2471 neglect, or exploitation.

2472 (2) Subject to this section and Section 78B-6-117, any adult may be adopted by another
2473 adult.

2474 (3) The following provisions of this part apply to the adoption of an adult just as
2475 though the person being adopted were a minor:

2476 (a) (i) Section 78B-6-108;

- 2477 (ii) Section 78B-6-114;
- 2478 (iii) Section 78B-6-116;
- 2479 (iv) Section 78B-6-118;
- 2480 (v) Section 78B-6-124;
- 2481 (vi) Section 78B-6-136;
- 2482 (vii) Section 78B-6-137;
- 2483 (viii) Section 78B-6-138;
- 2484 (ix) Section 78B-6-139;
- 2485 (x) Section 78B-6-141; and
- 2486 (xi) Section 78B-6-142;
- 2487 (b) Subsections [~~78B-6-106~~] 78B-6-105(1), (2), and (7), except that the juvenile court
- 2488 does not have jurisdiction over a proceeding for adoption of an adult, unless the adoption arises
- 2489 from a case where the juvenile court has continuing jurisdiction over the adult adoptee; and
- 2490 (c) if the adult adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131,
- 2491 regardless of whether the adult adoptee resides, or will reside, with the adoptors, unless the
- 2492 court, based on a finding of good cause, waives the requirements of those sections.
- 2493 (4) Before a court enters a final decree of adoption of an adult, the adoptee and the
- 2494 adoptive parent or parents shall appear before the court presiding over the adoption
- 2495 proceedings and execute consent to the adoption.
- 2496 (5) No provision of this part, other than those listed or described in this section or
- 2497 Section 78B-6-117, apply to the adoption of an adult.
- 2498 Section 42. **Repealer.**
- 2499 This bill repeals:
- 2500 Section **9-3-102, Definitions.**

Legislative Review Note
as of 1-14-09 11:21 AM

Office of Legislative Research and General Counsel

H.B. 250 - Revisor's Statute

Fiscal Note

2009 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.
