

**BUDGETARY PROCEDURES ACT**

**RECODIFICATION**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ron Bigelow**

Senate Sponsor: Lyle W. Hillyard

---

---

**LONG TITLE**

**General Description:**

This bill recodifies and makes technical amendments to the Budgetary Procedures Act.

**Highlighted Provisions:**

This bill:

- ▶ organizes and groups existing sections of the Budgetary Procedures Act into consistent categories;
- ▶ simplifies structure and language in the act;
- ▶ modifies provisions to list requirements and procedures in chronological order;
- ▶ consolidates, modifies, and provides definitions in the act;
- ▶ removes references to the currently unused term "allotment";
- ▶ updates and coordinates cross references; and
- ▶ makes technical and grammatical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

AMENDS:



28        **3-1-6**, as last amended by Laws of Utah 2008, Chapter 382  
29        **3-1-36**, as last amended by Laws of Utah 2008, Chapter 382  
30        **4-2-2**, as last amended by Laws of Utah 2008, Chapter 382  
31        **4-3-14**, as last amended by Laws of Utah 2008, Chapter 382  
32        **4-14-3**, as last amended by Laws of Utah 2008, Chapter 382  
33        **4-14-13**, as last amended by Laws of Utah 2008, Chapter 382  
34        **4-37-201**, as last amended by Laws of Utah 2008, Chapter 382  
35        **4-37-301**, as last amended by Laws of Utah 2008, Chapter 382  
36        **4-39-203**, as last amended by Laws of Utah 2008, Chapter 382  
37        **12-1-10**, as last amended by Laws of Utah 2008, Chapter 382  
38        **13-1-2**, as last amended by Laws of Utah 2008, Chapter 382  
39        **13-1a-9**, as last amended by Laws of Utah 2008, Chapter 382  
40        **13-14-105**, as last amended by Laws of Utah 2008, Chapter 382  
41        **13-15-4**, as last amended by Laws of Utah 2008, Chapter 382  
42        **13-15-4.5**, as last amended by Laws of Utah 2008, Chapter 382  
43        **13-21-3**, as last amended by Laws of Utah 2008, Chapter 382  
44        **13-22-6**, as last amended by Laws of Utah 2008, Chapters 177 and 382  
45        **13-22-8**, as last amended by Laws of Utah 2008, Chapter 382  
46        **13-22-9**, as last amended by Laws of Utah 2008, Chapter 382  
47        **13-23-5**, as last amended by Laws of Utah 2008, Chapter 382  
48        **13-26-3**, as last amended by Laws of Utah 2008, Chapter 382  
49        **13-32a-111**, as last amended by Laws of Utah 2008, Chapter 382  
50        **13-34-107**, as last amended by Laws of Utah 2008, Chapter 382  
51        **13-35-105**, as last amended by Laws of Utah 2008, Chapter 382  
52        **13-39-201**, as last amended by Laws of Utah 2008, Chapter 382  
53        **13-42-105**, as last amended by Laws of Utah 2008, Chapter 382  
54        **13-42-109**, as last amended by Laws of Utah 2008, Chapter 382  
55        **13-42-111**, as last amended by Laws of Utah 2008, Chapter 382  
56        **13-42-132**, as last amended by Laws of Utah 2008, Chapter 382  
57        **15-9-109**, as last amended by Laws of Utah 2008, Chapter 382  
58        **16-6a-107**, as last amended by Laws of Utah 2008, Chapter 382

59           **16-7-11**, as last amended by Laws of Utah 2008, Chapter 382  
60           **16-10a-122**, as last amended by Laws of Utah 2008, Chapter 382  
61           **16-12-3**, as last amended by Laws of Utah 2008, Chapter 382  
62           **16-13-12**, as last amended by Laws of Utah 2008, Chapter 382  
63           **16-15-105**, as last amended by Laws of Utah 2008, Chapter 382  
64           **16-15-107**, as last amended by Laws of Utah 2008, Chapter 382  
65           **16-15-108**, as last amended by Laws of Utah 2008, Chapter 382  
66           **16-16-208**, as enacted by Laws of Utah 2008, Chapter 363  
67           **16-17-201**, as enacted by Laws of Utah 2008, Chapter 364  
68           **19-1-201**, as last amended by Laws of Utah 2008, Chapter 382  
69           **19-1-403**, as last amended by Laws of Utah 2008, Chapter 382  
70           **19-2-105.3**, as last amended by Laws of Utah 2008, Chapter 382  
71           **19-2-109.1**, as last amended by Laws of Utah 2008, Chapter 382  
72           **19-2-109.5**, as last amended by Laws of Utah 2008, Chapter 382  
73           **19-3-104**, as last amended by Laws of Utah 2008, Chapter 382  
74           **19-3-106.4**, as last amended by Laws of Utah 2008, Chapter 382  
75           **19-3-308**, as last amended by Laws of Utah 2008, Chapter 382  
76           **19-3-315**, as last amended by Laws of Utah 2008, Chapter 382  
77           **19-5-120**, as last amended by Laws of Utah 2008, Chapter 382  
78           **19-5-121**, as last amended by Laws of Utah 2008, Chapter 382  
79           **19-5-122**, as last amended by Laws of Utah 2008, Chapter 382  
80           **19-6-408**, as last amended by Laws of Utah 2008, Chapter 382  
81           **19-6-806**, as last amended by Laws of Utah 2008, Chapter 382  
82           **19-6-1003**, as last amended by Laws of Utah 2008, Chapter 382  
83           **19-8-117**, as last amended by Laws of Utah 2008, Chapter 382  
84           **23-14-18**, as last amended by Laws of Utah 2008, Chapter 382  
85           **23-16-4**, as last amended by Laws of Utah 2008, Chapter 382  
86           **26-1-6**, as last amended by Laws of Utah 2008, Chapter 382  
87           **26-2-22**, as last amended by Laws of Utah 2008, Chapters 3, 137, and 382  
88           **26-21a-205**, as last amended by Laws of Utah 2008, Chapter 382  
89           **31A-3-103**, as last amended by Laws of Utah 2008, Chapter 382

90           **31A-3-304 (Superseded 07/01/10)**, as last amended by Laws of Utah 2008, Chapter  
91 382  
92           **31A-3-304 (Effective 07/01/10)**, as last amended by Laws of Utah 2008, Chapters 302  
93 and 382  
94           **31A-34-104**, as last amended by Laws of Utah 2008, Chapter 382  
95           **31A-35-301**, as last amended by Laws of Utah 2008, Chapter 382  
96           **31A-35-401**, as last amended by Laws of Utah 2008, Chapter 382  
97           **31A-35-406**, as last amended by Laws of Utah 2008, Chapter 382  
98           **31A-37-202**, as last amended by Laws of Utah 2008, Chapters 302 and 382  
99           **34A-1-106**, as last amended by Laws of Utah 2008, Chapter 382  
100           **34A-7-104**, as last amended by Laws of Utah 2008, Chapter 382  
101           **34A-7-203**, as last amended by Laws of Utah 2008, Chapter 382  
102           **35A-1-106**, as last amended by Laws of Utah 2008, Chapter 382  
103           **36-12-13**, as last amended by Laws of Utah 2008, Chapter 382  
104           **38-1-27**, as last amended by Laws of Utah 2008, Chapter 382  
105           **38-11-201**, as last amended by Laws of Utah 2008, Chapter 382  
106           **38-11-202**, as last amended by Laws of Utah 2008, Chapter 382  
107           **38-11-204**, as last amended by Laws of Utah 2008, Chapter 382  
108           **38-11-206**, as last amended by Laws of Utah 2008, Chapter 382  
109           **38-11-301**, as last amended by Laws of Utah 2008, Chapter 382  
110           **38-11-302**, as last amended by Laws of Utah 2008, Chapter 382  
111           **40-2-401**, as last amended by Laws of Utah 2008, Chapter 382 and renumbered and  
112 amended by Laws of Utah 2008, Chapter 113  
113           **40-2-402**, as last amended by Laws of Utah 2008, Chapter 382 and renumbered and  
114 amended by Laws of Utah 2008, Chapter 113  
115           **40-6-14.5**, as last amended by Laws of Utah 2008, Chapter 382  
116           **41-1a-115**, as last amended by Laws of Utah 2008, Chapter 382  
117           **41-1a-116**, as last amended by Laws of Utah 2008, Chapter 382  
118           **41-1a-301**, as last amended by Laws of Utah 2008, Chapter 382  
119           **41-1a-418**, as last amended by Laws of Utah 2008, Chapters 48, 143, 153, 181, 201,  
120 and 382

121        **41-1a-419**, as last amended by Laws of Utah 2008, Chapter 382  
122        **41-1a-422**, as last amended by Laws of Utah 2008, Chapters 48, 201, and 382  
123        **41-1a-1007**, as last amended by Laws of Utah 2008, Chapter 382  
124        **41-1a-1010**, as last amended by Laws of Utah 2008, Chapter 382  
125        **41-1a-1211**, as last amended by Laws of Utah 2008, Chapters 143 and 382  
126        **41-1a-1212**, as last amended by Laws of Utah 2008, Chapter 382  
127        **41-1a-1221**, as last amended by Laws of Utah 2008, Chapter 382  
128        **41-3-601**, as last amended by Laws of Utah 2008, Chapter 382  
129        **41-3-604**, as last amended by Laws of Utah 2008, Chapter 382  
130        **41-6a-404**, as last amended by Laws of Utah 2008, Chapter 382  
131        **41-6a-518**, as last amended by Laws of Utah 2008, Chapter 382  
132        **41-12a-202**, as last amended by Laws of Utah 2008, Chapter 382  
133        **41-12a-805**, as last amended by Laws of Utah 2008, Chapters 166 and 382  
134        **41-22-33**, as last amended by Laws of Utah 2008, Chapter 94  
135        **41-22-36**, as last amended by Laws of Utah 2008, Chapter 382  
136        **42-2-10**, as last amended by Laws of Utah 2008, Chapter 382  
137        **42-3-2**, as last amended by Laws of Utah 2008, Chapter 382  
138        **42-3-4**, as last amended by Laws of Utah 2008, Chapter 382  
139        **46-1-3**, as last amended by Laws of Utah 2008, Chapter 382  
140        **48-1-42**, as last amended by Laws of Utah 2008, Chapters 364 and 382  
141        **48-2a-206**, as last amended by Laws of Utah 2008, Chapter 382  
142        **48-2a-1107**, as last amended by Laws of Utah 2008, Chapter 382  
143        **48-2c-214**, as last amended by Laws of Utah 2008, Chapter 382  
144        **51-9-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
145        **53-1-106**, as last amended by Laws of Utah 2008, Chapters 339 and 382  
146        **53-1-110**, as last amended by Laws of Utah 2008, Chapter 382  
147        **53-2-403**, as last amended by Laws of Utah 2008, Chapters 216, 250, and 382  
148        **53-2-404**, as last amended by Laws of Utah 2008, Chapter 382  
149        **53-3-106**, as last amended by Laws of Utah 2008, Chapters 304 and 382  
150        **53-3-109**, as last amended by Laws of Utah 2008, Chapters 376 and 382  
151        **53-3-303.5**, as last amended by Laws of Utah 2008, Chapter 382

152        **53-3-506**, as last amended by Laws of Utah 2008, Chapter 382  
153        **53-7-204.2**, as last amended by Laws of Utah 2008, Chapter 382  
154        **53-7-216**, as last amended by Laws of Utah 2008, Chapter 382  
155        **53-7-225.5**, as last amended by Laws of Utah 2008, Chapter 382  
156        **53-7-225.6**, as last amended by Laws of Utah 2008, Chapter 382  
157        **53-7-314**, as last amended by Laws of Utah 2008, Chapter 382  
158        **53-8-204**, as last amended by Laws of Utah 2008, Chapter 382  
159        **53-10-108**, as last amended by Laws of Utah 2008, Chapters 3 and 382  
160        **53A-6-105**, as last amended by Laws of Utah 2008, Chapter 382  
161        **53A-17a-105**, as last amended by Laws of Utah 2008, Chapter 382  
162        **53A-26a-302**, as last amended by Laws of Utah 2008, Chapter 382  
163        **54-5-1.5**, as last amended by Laws of Utah 2008, Chapter 382  
164        **58-1-308**, as last amended by Laws of Utah 2008, Chapter 382  
165        **58-3a-103**, as last amended by Laws of Utah 2008, Chapter 382  
166        **58-3a-302**, as last amended by Laws of Utah 2008, Chapter 382  
167        **58-5a-302**, as last amended by Laws of Utah 2008, Chapter 382  
168        **58-9-302**, as last amended by Laws of Utah 2008, Chapter 382  
169        **58-11a-302**, as last amended by Laws of Utah 2008, Chapter 382  
170        **58-15-4**, as last amended by Laws of Utah 2008, Chapter 382  
171        **58-16a-302**, as last amended by Laws of Utah 2008, Chapter 382  
172        **58-17b-303**, as last amended by Laws of Utah 2008, Chapter 382  
173        **58-17b-304**, as last amended by Laws of Utah 2008, Chapter 382  
174        **58-17b-305**, as last amended by Laws of Utah 2008, Chapter 382  
175        **58-17b-306**, as last amended by Laws of Utah 2008, Chapter 382  
176        **58-20a-302**, as last amended by Laws of Utah 2008, Chapter 382  
177        **58-22-103**, as last amended by Laws of Utah 2008, Chapter 382  
178        **58-22-302**, as last amended by Laws of Utah 2008, Chapters 277 and 382  
179        **58-26a-302**, as last amended by Laws of Utah 2008, Chapters 265 and 382  
180        **58-26a-306**, as last amended by Laws of Utah 2008, Chapter 382  
181        **58-26a-307**, as last amended by Laws of Utah 2008, Chapter 382  
182        **58-28-302**, as last amended by Laws of Utah 2008, Chapter 382

183       **58-31b-302**, as last amended by Laws of Utah 2008, Chapter 382  
184       **58-31b-304**, as last amended by Laws of Utah 2008, Chapter 382  
185       **58-31b-305**, as last amended by Laws of Utah 2008, Chapter 382  
186       **58-37-6**, as last amended by Laws of Utah 2008, Chapters 3 and 382  
187       **58-39a-5**, as last amended by Laws of Utah 2008, Chapter 382  
188       **58-40a-302**, as last amended by Laws of Utah 2008, Chapter 382  
189       **58-41-5**, as last amended by Laws of Utah 2008, Chapter 382  
190       **58-41-13**, as last amended by Laws of Utah 2008, Chapter 382  
191       **58-42a-302**, as last amended by Laws of Utah 2008, Chapter 382  
192       **58-44a-302**, as last amended by Laws of Utah 2008, Chapter 382  
193       **58-46a-302**, as last amended by Laws of Utah 2008, Chapter 382  
194       **58-47b-302**, as last amended by Laws of Utah 2008, Chapter 382  
195       **58-53-103**, as last amended by Laws of Utah 2008, Chapter 382  
196       **58-53-302**, as last amended by Laws of Utah 2008, Chapter 382  
197       **58-54-5**, as last amended by Laws of Utah 2008, Chapter 382  
198       **58-55-103**, as last amended by Laws of Utah 2008, Chapter 382  
199       **58-55-302**, as last amended by Laws of Utah 2008, Chapters 215 and 382  
200       **58-56-16**, as last amended by Laws of Utah 2008, Chapter 382  
201       **58-57-4**, as last amended by Laws of Utah 2008, Chapter 382  
202       **58-60-115**, as last amended by Laws of Utah 2008, Chapter 382  
203       **58-60-117**, as last amended by Laws of Utah 2008, Chapter 382  
204       **58-60-205**, as last amended by Laws of Utah 2008, Chapter 382  
205       **58-60-305**, as last amended by Laws of Utah 2008, Chapter 382  
206       **58-60-305.5**, as enacted by Laws of Utah 2000, Chapter 159  
207       **58-60-308**, as enacted by Laws of Utah 2001, Chapter 281  
208       **58-60-405**, as last amended by Laws of Utah 2008, Chapter 382  
209       **58-60-407**, as enacted by Laws of Utah 2001, Chapter 281  
210       **58-60-506**, as last amended by Laws of Utah 2008, Chapter 382  
211       **58-61-304**, as last amended by Laws of Utah 2008, Chapter 382  
212       **58-63-302**, as last amended by Laws of Utah 2008, Chapters 246 and 382  
213       **58-64-302**, as last amended by Laws of Utah 2008, Chapters 211 and 382

214       **58-67-302**, as last amended by Laws of Utah 2008, Chapter 382  
215       **58-68-302**, as last amended by Laws of Utah 2008, Chapter 382  
216       **58-69-302**, as last amended by Laws of Utah 2008, Chapters 269 and 382  
217       **58-70a-302**, as last amended by Laws of Utah 2008, Chapter 382  
218       **58-71-302**, as last amended by Laws of Utah 2008, Chapters 238 and 382  
219       **58-72-302**, as last amended by Laws of Utah 2008, Chapter 382  
220       **58-73-302**, as last amended by Laws of Utah 2008, Chapter 382  
221       **58-74-302**, as last amended by Laws of Utah 2008, Chapter 382  
222       **58-75-302**, as last amended by Laws of Utah 2008, Chapter 382  
223       **58-76-103**, as last amended by Laws of Utah 2008, Chapter 382  
224       **58-76-302**, as last amended by Laws of Utah 2008, Chapter 382  
225       **58-77-302**, as last amended by Laws of Utah 2008, Chapter 382  
226       **59-1-305**, as last amended by Laws of Utah 2008, Chapter 382  
227       **59-19-105**, as last amended by Laws of Utah 2008, Chapter 382  
228       **61-1-18.4**, as last amended by Laws of Utah 2008, Chapter 382  
229       **61-2-7.1**, as last amended by Laws of Utah 2008, Chapter 382  
230       **61-2-9**, as last amended by Laws of Utah 2008, Chapter 382  
231       **61-2b-6**, as last amended by Laws of Utah 2008, Chapters 382 and 387  
232       **61-2b-18**, as last amended by Laws of Utah 2008, Chapters 382 and 387  
233       **61-2b-37**, as last amended by Laws of Utah 2008, Chapter 382  
234       **61-2c-103**, as last amended by Laws of Utah 2008, Chapters 158 and 382  
235       **61-2c-201**, as last amended by Laws of Utah 2008, Chapter 382  
236       **61-2c-202**, as last amended by Laws of Utah 2008, Chapters 382 and 387  
237       **61-2c-205**, as last amended by Laws of Utah 2008, Chapter 382  
238       **61-2c-206**, as last amended by Laws of Utah 2008, Chapters 382 and 387  
239       **61-2c-208**, as last amended by Laws of Utah 2008, Chapter 382  
240       **62A-2-105**, as last amended by Laws of Utah 2008, Chapter 382  
241       **62A-14-106**, as last amended by Laws of Utah 2008, Chapter 382  
242       **63A-1-114**, as last amended by Laws of Utah 2008, Chapter 382  
243       **63A-2-103**, as last amended by Laws of Utah 2008, Chapter 382  
244       **63A-4-102**, as last amended by Laws of Utah 2008, Chapter 382

245       **63A-5-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 3  
246       **63A-5-204**, as last amended by Laws of Utah 2008, Chapter 382  
247       **63A-8-201**, as last amended by Laws of Utah 2008, Chapters 3 and 382  
248       **63A-9-401**, as last amended by Laws of Utah 2008, Chapter 382  
249       **63C-11-308**, as last amended by Laws of Utah 2008, Chapter 382  
250       **63C-11-315**, as last amended by Laws of Utah 2008, Chapter 382  
251       **63C-11-318**, as last amended by Laws of Utah 2008, Chapter 382  
252       **63F-1-103**, as last amended by Laws of Utah 2008, Chapter 382  
253       **63F-1-301**, as last amended by Laws of Utah 2008, Chapter 382  
254       **63F-1-302**, as last amended by Laws of Utah 2008, Chapter 382  
255       **63G-2-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
256       **63G-9-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
257       **63J-1-201**, as last amended by Laws of Utah 2008, Chapter 213 and renumbered and  
258 amended by Laws of Utah 2008, Chapter 382  
259       **63J-2-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
260       **63J-3-103**, as last amended by Laws of Utah 2008, Chapters 191, 250 and renumbered  
261 and amended by Laws of Utah 2008, Chapter 382  
262       **63J-4-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
263       **63M-1-905**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
264       **63M-1-1104**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
265       **63M-1-2408**, as enacted by Laws of Utah 2008, Chapter 372  
266       **63M-1-2612**, as enacted by Laws of Utah 2008, Chapter 352  
267       **67-1a-2.5**, as last amended by Laws of Utah 2008, Chapter 382  
268       **67-19-5**, as last amended by Laws of Utah 2008, Chapter 382  
269       **67-19-11**, as last amended by Laws of Utah 2008, Chapter 382  
270       **70-3a-203**, as last amended by Laws of Utah 2008, Chapters 258 and 382  
271       **72-6-205**, as last amended by Laws of Utah 2008, Chapter 382  
272       **72-7-507**, as last amended by Laws of Utah 2008, Chapter 382  
273       **72-9-602**, as last amended by Laws of Utah 2008, Chapter 382  
274       **72-10-116**, as last amended by Laws of Utah 2008, Chapters 206 and 382  
275       **72-11-208**, as last amended by Laws of Utah 2008, Chapter 382

276           **73-2-14**, as last amended by Laws of Utah 2008, Chapters 380, 382, and 399

277           **73-3b-201**, as last amended by Laws of Utah 2008, Chapter 382

278           **73-3b-204**, as last amended by Laws of Utah 2008, Chapter 382

279           **73-3b-302**, as last amended by Laws of Utah 2008, Chapter 382

280           **73-10c-10**, as last amended by Laws of Utah 2008, Chapter 382

281           **73-18-4**, as last amended by Laws of Utah 2008, Chapters 94 and 382

282           **73-18-7**, as last amended by Laws of Utah 2008, Chapter 382

283           **73-18-15.2**, as last amended by Laws of Utah 2008, Chapter 94

284           **73-18-25**, as last amended by Laws of Utah 2008, Chapter 382

285           **73-28-404**, as last amended by Laws of Utah 2008, Chapter 382

286           **76-10-526**, as last amended by Laws of Utah 2008, Chapters 322 and 382

287           **76-10-1209**, as last amended by Laws of Utah 2008, Chapter 382

288           **77-18-11**, as last amended by Laws of Utah 2008, Chapters 303 and 382

289   ENACTS:

290           **63J-1-102**, Utah Code Annotated 1953

291           **63J-1-216**, Utah Code Annotated 1953

292   RENUMBERS AND AMENDS:

293           **63J-1-104**, (Renumbered from 63J-1-404, as renumbered and amended by Laws of  
294   Utah 2008, Chapter 382)

295           **63J-1-206**, (Renumbered from 63J-1-301, as renumbered and amended by Laws of  
296   Utah 2008, Chapter 382)

297           **63J-1-207**, (Renumbered from 63J-1-408, as renumbered and amended by Laws of  
298   Utah 2008, Chapter 382)

299           **63J-1-208**, (Renumbered from 63J-1-409, as renumbered and amended by Laws of  
300   Utah 2008, Chapter 382)

301           **63J-1-209**, (Renumbered from 63J-1-406, as renumbered and amended by Laws of  
302   Utah 2008, Chapter 382)

303           **63J-1-210**, (Renumbered from 63J-1-302, as renumbered and amended by Laws of  
304   Utah 2008, Chapter 382)

305           **63J-1-211**, (Renumbered from 63J-1-307, as renumbered and amended by Laws of  
306   Utah 2008, Chapter 382)

307           **63J-1-212**, (Renumbered from 63J-1-308, as renumbered and amended by Laws of  
308 Utah 2008, Chapter 382)

309           **63J-1-213**, (Renumbered from 63J-1-309, as renumbered and amended by Laws of  
310 Utah 2008, Chapter 382)

311           **63J-1-214**, (Renumbered from 63J-1-310, as renumbered and amended by Laws of  
312 Utah 2008, Chapter 382)

313           **63J-1-215**, (Renumbered from 63J-1-311, as renumbered and amended by Laws of  
314 Utah 2008, Chapter 382)

315           **63J-1-217**, (Renumbered from 63J-1-405, as renumbered and amended by Laws of  
316 Utah 2008, Chapter 382)

317           **63J-1-218**, (Renumbered from 63J-1-407, as renumbered and amended by Laws of  
318 Utah 2008, Chapter 382)

319           **63J-1-312**, (Renumbered from 63J-1-202, as last amended by Laws of Utah 2008,  
320 Second Special Session, Chapter 8)

321           **63J-1-313**, (Renumbered from 63J-1-203, as last amended by Laws of Utah 2008,  
322 Second Special Session, Chapter 8)

323           **63J-1-314**, (Renumbered from 63J-1-204, as last amended by Laws of Utah 2008,  
324 Chapter 138 and renumbered and amended by Laws of Utah 2008, Chapter 382)

325           **63J-1-410**, (Renumbered from 63J-1-306, as renumbered and amended by Laws of  
326 Utah 2008, Chapter 382)

327           **63J-1-411**, (Renumbered from 63J-1-403, as renumbered and amended by Laws of  
328 Utah 2008, Chapter 382)

329           **63J-1-504**, (Renumbered from 63J-1-303, as renumbered and amended by Laws of  
330 Utah 2008, Chapter 382)

331           **63J-1-505**, (Renumbered from 63J-1-304, as renumbered and amended by Laws of  
332 Utah 2008, Chapter 382)

333           **63J-1-506**, (Renumbered from 63J-1-305, as renumbered and amended by Laws of  
334 Utah 2008, Chapter 382)

335           **63J-1-601**, (Renumbered from 63J-1-401, as renumbered and amended by Laws of  
336 Utah 2008, Chapter 382)

337           **63J-1-603**, (Renumbered from 63J-1-402, as renumbered and amended by Laws of

Utah 2008, Chapter 382)

**63J-1-701**, (Renumbered from 63J-1-501, as renumbered and amended by Laws of Utah 2008, Chapter 382)

**63J-1-702**, (Renumbered from 63J-1-502, as renumbered and amended by Laws of Utah 2008, Chapter 382)

**63J-1-703**, (Renumbered from 63J-1-503, as renumbered and amended by Laws of Utah 2008, Chapter 382)

---

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

Section 1. Section **3-1-6** is amended to read:

**3-1-6. Filing articles of incorporation -- Certificate of incorporation -- Fees -- Constructive notice.**

(1) The articles of incorporation shall be filed with the Division of Corporations and Commercial Code, which shall thereupon issue a certificate of incorporation. This certificate or a certified copy of the same shall be prima facie evidence of the due incorporation of the association. Upon the issuance of such certificate of incorporation, the corporate existence begins.

(2) The Division of Corporations and Commercial Code shall establish a fee pursuant to Section [~~63J-1-303~~] 63J-1-504 for filing articles of incorporation with the division, for securing a certified copy of the articles, for the issuance of a certificate of incorporation, and for filing amendments to the articles, whether incorporated with or without stock.

(3) No person dealing with the association may be charged with constructive notice of the contents of the articles or amendments thereto by reason of such filing or recording.

Section 2. Section **3-1-36** is amended to read:

**3-1-36. Articles of merger or consolidation -- Execution, contents, and filing of articles -- Issuance of certificate of merger or consolidation -- Fees.**

(1) Upon approval, articles of merger or consolidation shall be signed in duplicate by each party to the merger or consolidation by its president or a vice president and by its secretary or an assistant secretary and verified by one of the officers of each association and corporation signing the articles.

(2) The articles shall set forth:

- 369 (a) the plan of merger or consolidation;  
370 (b) a statement:  
371 (i) of the date of the meeting at which the plan of merger or consolidation was  
372 considered and voted upon;  
373 (ii) that a quorum was present at the meeting; and  
374 (iii) that notice of the meeting was given to all members and shareholders entitled to  
375 notice;  
376 (c) the number of members entitled to vote and the number of shares outstanding  
377 entitled to vote; and  
378 (d) the number of members who voted for and against the plan, respectively, and the  
379 number of shares voted for and against the plan, respectively.
- 380 (3) (a) Duplicate originals of the articles of merger or consolidation shall be delivered  
381 to the Division of Corporations and Commercial Code and the fee established under Section  
382 ~~[63J-1-303]~~ 63J-1-504 shall be paid.
- 383 (b) If the Division of Corporations and Commercial Code finds that the articles  
384 conform to law, it shall, after the fees have been paid:  
385 (i) endorse on each of the duplicate originals the word "filed" and the month, day, and  
386 year of the filing;  
387 (ii) file one of the duplicate originals in its office; and  
388 (iii) issue a certificate of merger or consolidation, attach the other duplicate original,  
389 and return the certificate to the surviving or new corporation, or its representative.
- 390 Section 3. Section **4-2-2** is amended to read:  
391 **4-2-2. Functions, powers, and duties of department -- Fees for services --**  
392 **Marketing orders -- Procedure.**  
393 (1) The department shall:  
394 (a) inquire into and promote the interests and products of agriculture and its allied  
395 industries;  
396 (b) promote methods for increasing the production and facilitating the distribution of  
397 the agricultural products of the state;  
398 (c) (i) inquire into the cause of contagious, infectious, and communicable diseases  
399 among livestock and the means for their prevention and cure; and

400 (ii) initiate, implement, and administer plans and programs to prevent the spread of  
401 diseases among livestock;

402 (d) encourage experiments designed to determine the best means and methods for the  
403 control of diseases among domestic and wild animals;

404 (e) issue marketing orders for any designated agricultural product to:

405 (i) promote orderly market conditions for any product;

406 (ii) give the producer a fair return on the producer's investment at the marketplace; and

407 (iii) only promote and not restrict or restrain the marketing of Utah agricultural  
408 commodities;

409 (f) administer and enforce all laws assigned to the department by the Legislature;

410 (g) establish standards and grades for agricultural products and fix and collect  
411 reasonable fees for services performed by the department in conjunction with the grading of  
412 agricultural products;

413 (h) establish operational standards for any establishment that manufactures, processes,  
414 produces, distributes, stores, sells, or offers for sale any agricultural product;

415 (i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
416 rules necessary for the effective administration of the agricultural laws of the state;

417 (j) when necessary, make investigations, subpoena witnesses and records, conduct  
418 hearings, issue orders, and make recommendations concerning all matters related to  
419 agriculture;

420 (k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any  
421 private or public place that may become infested or infected with harmful insects, plant  
422 diseases, noxious or poisonous weeds, or other agricultural pests;

423 (ii) establish and enforce quarantines;

424 (iii) issue and enforce orders and rules for the control and eradication of pests,  
425 wherever they may exist within the state; and

426 (iv) perform other duties relating to plants and plant products considered advisable and  
427 not contrary to law;

428 (l) inspect apiaries for diseases inimical to bees and beekeeping;

429 (m) take charge of any agricultural exhibit within the state, if considered necessary by  
430 the department, and award premiums at that exhibit;

(n) assist the Conservation Commission in the administration of Title 4, Chapter 18, Conservation Commission Act, and administer and disburse any funds available to assist conservation districts in the state in the conservation of the state's soil and water resources; and

(o) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section ~~[63J-1-303]~~ 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) The board of control shall:

(A) ensure that all proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be deposited in the General Fund as nonlapsing dedicated credits for the grain grading program.

Section 4. Section ~~4-3-14~~ is amended to read:

**4-3-14. Sale of raw milk -- Suspension of producer's permit -- Severability not permitted.**

(1) As used in this section:

(a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

(b) "Self-owned retail store" means a retail store:

(i) of which the producer owns at least 51% of the value of the real property and tangible personal property used in the operations of the retail store; or

(ii) for which the producer has the power to vote at least 51% of any class of voting

shares or ownership interest in the business entity that operates the retail store.

(2) Raw milk may be sold if:

(a) the producer obtains a permit from the department to produce milk under Subsection 4-3-8(5);

(b) the sale and delivery of the milk is made upon the premises where the milk is produced, except as provided by Subsection (3);

(c) it is sold to consumers for household use and not for resale;

(d) it is bottled or packaged under sanitary conditions and in sanitary containers on the premises where the milk is produced;

(e) it is labeled "raw milk" and meets the labeling requirements under 21 C.F.R. Parts 101 and 131 and rules established by the department;

(f) it is:

(i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being drawn from the animal;

(ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the animal; and

(iii) maintained at 41 degrees Fahrenheit or a lower temperature until it is delivered to the consumer;

(g) the bacterial count of the milk does not exceed 20,000 colony forming units per milliliter;

(h) the bacterial plate count and the coliform count of the milk meet the bacterial and coliform enforcement standards for grade A pasteurized milk;

(i) the production of the milk conforms to departmental rules for the production of grade A milk;

(j) all dairy animals on the premises are:

(i) permanently and individually identifiable; and

(ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

(k) any person on the premises performing any work in connection with the production, bottling, handling, or sale of the milk is free from communicable disease.

(3) A producer may sell raw whole milk at a self-owned retail store, which is properly staffed, if, in addition to the requirements of Subsection (2), the producer:

(a) transports the milk from the premises where the milk is produced to the self-owned retail store in a refrigerated truck where the milk is maintained at 41 degrees Fahrenheit or a lower temperature;

(b) retains ownership of the milk until it is sold to the final consumer, including transporting the milk from the premises where the milk is produced to the self-owned retail store without any:

(i) intervening storage;

(ii) change of ownership; or

(iii) loss of physical control;

(c) stores the milk at 41 degrees Fahrenheit or a lower temperature in a display case equipped with a properly calibrated thermometer at the self-owned retail store;

(d) places a sign above the display case at the self-owned retail store that reads, "Raw Unpasteurized Milk";

(e) labels the milk with:

(i) a date, no more than nine days after the milk is produced, by which the milk should be sold;

(ii) the statement "Raw milk, no matter how carefully produced, may be unsafe.";

(iii) handling instructions to preserve quality and avoid contamination or spoilage; and

(iv) any other information required by rule;

(f) refrains from offering the milk for sale until:

(i) each batch of milk is tested for standard plate count and coliform count from an official sample taken at the self-owned retail store and tested by a third party certified by the department; and

(ii) the test results meet the minimum standards established for those tests;

(g) (i) maintains a database of the milk sales; and

(ii) makes the database available to the Department of Health during the self-owned retail store's business hours for purposes of epidemiological investigation;

(h) refrains from offering any pasteurized milk at the self-owned retail store;

(i) ensures that the plant and retail store complies with Title 4, Chapter 5, Utah Wholesome Food Act, and the rules governing food establishments enacted under Section 4-5-9;

(j) participates in a hazard analysis critical control point system as established by the United States Food and Drug Administration;

(k) conducts monthly tests on a sample taken from a batch of milk for:

(i) *Listeria monocytogenes*;

(ii) *Salmonella typhimurium*;

(iii) *Salmonella dublin*;

(iv) *Campylobacter jejuni*; and

(v) *E. Coli* 0157:H7; and

(l) complies with all applicable rules adopted as authorized by this chapter.

(4) The person conducting the tests required by Subsection (3) shall send a copy of the test results to the department as soon as the test results are available.

(5) (a) The department shall adopt rules, as authorized by Section 4-3-2, governing the sale of raw whole milk at a self-owned retail store.

(b) The rules adopted by the department shall include rules regarding:

(i) permits;

(ii) building and premises requirements;

(iii) sanitation and operating requirements, including bulk milk tanks requirements;

(iv) additional tests, including a test for pathogens;

(v) frequency of inspections, including random cooler checks;

(vi) recordkeeping; and

(vii) packaging and labeling.

(c) (i) The department shall establish a fee for the tests and inspections required by this section and by rule by following the procedures and requirements of Section ~~[63J-1-303]~~ 63J-1-504.

(ii) Notwithstanding Section ~~[63J-1-303]~~ 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this section.

(6) (a) The department shall suspend a permit issued under Section 4-3-8 if a producer violates any provision of this section or any rules adopted as authorized by this section.

(b) The department may reissue a permit that has been suspended under Subsection (6)(a) if the producer has complied with all of the requirements of this section and rules adopted as authorized by this section.

(7) For 2008 and 2009, the Department of Health and the Department of Agriculture and Food shall report on or before November 30th to the Natural Resources, Agriculture, and Environment Interim Committee and the Health and Human Services Interim Committee on any health problems resulting from the sale of raw whole milk at self-owned retail stores.

(8) (a) If any subsection of this section or the application of any subsection to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of the section may not be given effect without the invalid subsection or application.

(b) The provisions of this section may not be severed.

Section 5. Section **4-14-3** is amended to read:

**4-14-3. Registration required for distribution -- Application -- Fees -- Renewal -- Local needs registration -- Distributor or applicator license -- Fees -- Renewal.**

(1) (a) No person may distribute a pesticide in this state that is not registered with the department.

(b) Application for registration shall be made to the department upon forms prescribed and furnished by it accompanied with an annual registration fee determined by the department pursuant to Subsection 4-2-2(2) for each pesticide registered.

(c) Upon receipt by the department of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing distribution of the registered pesticide in this state through June 30 of each year, subject to suspension or revocation for cause.

(d) (i) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

(ii) Each renewal fee shall be paid on or before June 30 of each year.

(2) The application shall include the following information:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name;

(b) the name of the pesticide;

(c) a complete copy of the label which will appear on the pesticide; and

(d) any information prescribed by rule of the department considered necessary for the

safe and effective use of the pesticide.

(3) (a) Forms for the renewal of registration shall be mailed to registrants at least 30 days before their registration expires.

(b) A registration in effect on June 30 for which a renewal application has been filed and the registration fee tendered shall continue in effect until the applicant is notified either that the registration is renewed or that it is suspended or revoked pursuant to Section 4-14-8.

(4) The department may, before approval of any registration, require the applicant to submit the complete formula of any pesticide including active and inert ingredients and may also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on which restrictions are being considered, require a complete description of all tests and test results that support the claims made by the applicant or the manufacturer of the pesticide.

(5) A registrant who desires to register a pesticide to meet special local needs according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and (2), satisfy the department that:

(a) a special local need exists;

(b) the pesticide warrants the claims made for it;

(c) the pesticide, if used in accordance with commonly accepted practices, will not cause unreasonable adverse effects on the environment; and

(d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

(6) No registration is required for a pesticide distributed in this state pursuant to an experimental use permit issued by the EPA or under Section 4-14-5.

(7) No pesticide dealer may distribute a restricted use pesticide in this state without a license.

(8) A person must receive a license before applying:

(a) a restricted use pesticide; or

(b) a general use pesticide for hire or in exchange for compensation.

(9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained by:

(i) submitting an application on a form provided by the department;

(ii) paying the license fee determined by the department according to Subsection 4-2-2(2); and

(iii) complying with the rules adopted as authorized by this chapter.

(b) A person may apply for a license that expires on December 31:

(i) of the calendar year in which the license is issued; or

(ii) of the second calendar year after the calendar year in which the license is issued.

(c) (i) Notwithstanding Section ~~[63J-1-303]~~ 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this chapter.

(ii) The Legislature may annually designate the revenue generated from the fee as nonlapsing in an appropriations act.

Section 6. Section **4-14-13** is amended to read:

**4-14-13. Registration required for a pesticide business.**

(1) A pesticide applicator business shall register with the department by:

(a) submitting an application on a form provided by the department;

(b) paying the registration fee; and

(c) certifying that the business is in compliance with this chapter and departmental rules authorized by this chapter.

(2) (a) By following the procedures and requirements of Section ~~[63J-1-303]~~ 63J-1-504, the department shall establish a registration fee based on the number of pesticide applicators employed by the pesticide applicator business.

(b) (i) Notwithstanding Section ~~[63J-1-303]~~ 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this chapter.

(ii) The Legislature may annually designate the revenue generated from the fee as nonlapsing in an appropriations act.

(3) (a) The department shall issue a pesticide applicator business a registration certificate if the pesticide applicator business:

(i) has complied with the requirements of this section; and

(ii) meets the qualifications established by rule.

(b) The department shall notify the pesticide applicator business in writing that the registration is denied if the pesticide applicator business does not meet the registration qualifications.

(4) A registration certificate expires on December 31 of the second calendar year after the calendar year in which the registration certificate is issued.

(5) (a) The department may suspend a registration certificate if the pesticide applicator business violates this chapter or any rules authorized by it.

(b) A pesticide applicator business whose registration certificate has been suspended may apply to the department for reinstatement of the registration certificate by demonstrating compliance with this chapter and rules authorized by it.

(6) A pesticide applicator business shall:

(a) only employ a pesticide applicator who has received a license from the department, as required by Section 4-14-3; and

(b) ensure that all employees comply with this chapter and the rules authorized by it.

Section 7. Section **4-37-201** is amended to read:

**4-37-201. Certificate of registration required to operate an aquaculture facility.**

(1) A person may not operate an aquaculture facility without first obtaining a certificate of registration from the department.

(2) (a) Each application for a certificate of registration to operate an aquaculture facility shall be accompanied by a fee.

(b) The fee shall be established by the department in accordance with Section ~~[63J-1-303]~~ 63J-1-504.

(3) The department shall coordinate with the Division of Wildlife Resources:

(a) on the suitability of the proposed site relative to potential impacts on adjacent aquatic wildlife populations; and

(b) in determining which species the holder of the certificate of registration may propagate, possess, transport, or sell.

(4) The department shall list on the certificate of registration the species which the holder may propagate, possess, transport, or sell.

Section 8. Section **4-37-301** is amended to read:

**4-37-301. Certificate of registration required to operate a fee fishing facility.**

(1) A person may not operate a fee fishing facility without first obtaining a certificate of registration from the department.

(2) (a) Each application for a certificate of registration to operate a fee fishing facility shall be accompanied by a fee.

(b) The fee shall be established by the department in accordance with Section

[63J-1-303] 63J-1-504.

(3) The department shall coordinate with the Division of Wildlife Resources:

(a) on the suitability of the proposed site relative to potential impacts on adjacent aquatic wildlife populations; and

(b) in determining which species the holder of the certificate of registration may possess or transport to or stock into the facility.

(4) The department shall list on the certificate of registration the species which the holder may possess or transport to or stock into the facility.

(5) A person holding a certificate of registration for an aquaculture facility may also operate a fee fishing facility without obtaining an additional certificate of registration, if the fee fishing facility:

(a) is in a body of water meeting the criteria of Section 4-37-111 which is connected with the aquaculture facility;

(b) contains only those aquatic animals specified on the certificate of registration for the aquaculture facility; and

(c) is designated on the certificate of registration for the aquaculture facility.

Section 9. Section **4-39-203** is amended to read:

**4-39-203. License required to operate a domesticated elk facility.**

(1) A person may not operate a domesticated elk facility without first obtaining a license from the department.

(2) (a) Each application for a license to operate a domesticated elk facility shall be accompanied by a fee.

(b) The fee shall be established by the department in accordance with Section [63J-1-303] 63J-1-504.

(3) Each applicant for a domesticated elk facility license shall submit an application providing all information in the form and manner as required by the department.

(4) (a) No license shall be issued until the department has inspected and approved the facility.

(b) The department shall:

(i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled inspection so that a Division of Wildlife Resources representative may be present at the

inspection; and

(ii) provide the Division of Wildlife Resources with copies of all licensing and inspection reports.

(5) Each separate location of the domesticated elk operation shall be licensed separately.

(6) (a) If a domesticated elk facility is operated under more than one business name from a single location, the name of each operation shall be listed with the department in the form and manner required by the department.

(b) The department shall require that a separate fee be paid for each business name listed.

(c) If a domesticated elk facility operates under more than one business name from a single location, the facility shall maintain separate records.

(7) Each person or business entity with an equity interest in the domesticated elk shall be listed on the application for license.

(8) Each domesticated elk facility license shall expire on July 1 in the year following the year of issuance.

(9) Each licensee shall report to the department, in the form and manner required by the department, any change in the information provided in the licensee's application or in the reports previously submitted, within 15 days of each change.

(10) Licenses issued pursuant to this section are not transferable.

Section 10. Section **12-1-10** is amended to read:

**12-1-10. Applications -- Fees.**

(1) Each application for registration under this chapter shall be made on a form provided by the Division of Corporations and Commercial Code.

(2) Each applicant shall pay to the Division of Corporations and Commercial Code an application fee determined under Section ~~[63J-1-303]~~ 63J-1-504.

Section 11. Section **13-1-2** is amended to read:

**13-1-2. Creation and functions of department -- Divisions created -- Fees.**

(1) (a) There is created the Department of Commerce.

(b) The department shall execute and administer state laws regulating business activities and occupations affecting the public interest.

(2) Within the department the following divisions are created:

(a) the Division of Occupational and Professional Licensing;

(b) the Division of Real Estate;

(c) the Division of Securities;

(d) the Division of Public Utilities;

(e) the Division of Consumer Protection; and

(f) the Division of Corporations and Commercial Code.

(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section ~~[63J-1-303]~~ 63J-1-504.

(b) The department shall submit each fee established in this manner to the Legislature for its approval as part of the department's annual appropriations request.

(c) (i) All fees collected by each division and by the department shall be deposited in a restricted account within the General Fund known as the Commerce Service Fund.

(ii) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any fee collections that are greater than the legislative appropriations from the Commerce Service Fund for that year.

(d) The department may not charge or collect any fee nor expend monies from this fund without approval by the Legislature.

Section 12. Section **13-1a-9** is amended to read:

**13-1a-9. Fees of Division of Corporations and Commercial Code.**

In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the Division of Corporations and Commercial Code shall receive and determine fees pursuant to Section ~~[63J-1-303]~~ 63J-1-504 for filing articles of incorporation or amendments of insurance corporations, of canal or irrigation corporations organized for furnishing water to lands owned by the members thereof exclusively, or of water users' associations organized in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish water only to their stockholders. No license fee may be imposed on insurance corporations, canal or irrigation corporations organized for furnishing water to lands owned by the members thereof exclusively, or water users' associations

organized in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish water only to the stockholders at the time any such corporation files its articles of incorporation, articles of amendment increasing the number of authorized shares, or articles of merger or consolidation, any provision of Title 16, Chapter 10a, Utah Revised Business Corporation Act, to the contrary notwithstanding.

Section 13. Section **13-14-105** is amended to read:

**13-14-105. Registration -- Fees.**

(1) A franchisee or franchisor doing business in this state shall:

(a) annually register or renew its registration with the department in a manner established by the department; and

(b) pay an annual registration fee in an amount determined by the department in accordance with Sections 13-1-2 and ~~[63J-1-303]~~ 63J-1-504.

(2) The department shall register or renew the registration of a franchisee or franchisor if the franchisee or franchisor complies with this chapter and rules made by the department under this chapter.

(3) A franchisee or franchisor registered under this section shall comply with this chapter and any rules made by the department under this chapter including any amendments to this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.

(4) The fee imposed under Subsection (1)(b) shall be collected by the department and deposited into the Commerce Service Fund.

(5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of a franchisor does not need to be registered under this section if the franchisor is registered under this section.

Section 14. Section **13-15-4** is amended to read:

**13-15-4. Information to be filed by seller -- Representations.**

(1) Any seller of an assisted marketing plan shall file the following information with the division:

(a) the name, address, and principal place of business of the seller, and the name, address, and principal place of business of the parent or holding company of the seller, if any, who is responsible for statements made by the seller;

(b) all trademarks, trade names, service marks, or advertising or other commercial

symbols that identify the products, equipment, supplies, or services to be offered, sold, or distributed by the prospective purchaser;

(c) an individual detailed statement covering the past five years of the business experience of each of the seller's current directors and executive officers and an individual statement covering the same period for the seller and the seller's parent company, if any, including the length of time each:

(i) has conducted a business of the type advertised or solicited for operation by a prospective purchaser;

(ii) has offered or sold the assisted marketing plan; and

(iii) has offered for sale or sold assisted marketing plans in other lines of business, together with a description of the other lines of business;

(d) a statement of the total amount that must be paid by the purchaser to obtain or commence the business opportunity such as initial fees, deposits, down payments, prepaid rent, and equipment and inventory purchases; provided, that if all or part of these fees or deposits are returnable, the conditions under which they are returnable shall also be disclosed;

(e) a complete statement of the actual services the seller will perform for the purchaser;

(f) a complete statement of all oral, written, or visual representations that will be made to prospective purchasers about specific levels of potential sales, income, gross and net profits, or any other representations that suggest a specific level;

(g) a complete description of the type and length of any training promised to prospective purchasers;

(h) a complete description of any services promised to be performed by the seller in connection with the placement of the equipment, products, or supplies at any location from which they will be sold or used; and a complete description of those services together with any agreements that will be made by the seller with the owner or manager of the location where the purchaser's equipment, products, or supplies will be placed;

(i) a statement that discloses any person identified in Subsection (1)(a) who:

(i) has been convicted of a felony or misdemeanor or pleaded nolo contendere to a felony or misdemeanor charge if the felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(ii) has been held liable or consented to the entry of a stipulated judgment in any civil

834 action based upon fraud, embezzlement, fraudulent conversion, misappropriation of property,  
835 or the use of untrue or misleading representations in the sale or attempted sale of any real or  
836 personal property, or upon the use of any unfair, unlawful or deceptive business practice; or

837 (iii) is subject to an injunction or restrictive order relating to business activity as the  
838 result of an action brought by a public agency;

839 (j) a financial statement of the seller signed by one of the seller's officers, directors,  
840 trustees, or general or limited partners, under a declaration that certifies that to the signatory's  
841 knowledge and belief the information in the financial statement is true and accurate; a financial  
842 statement that is more than 13 months old is unacceptable;

843 (k) a copy of the entire marketing plan contract;

844 (l) the number of marketing plans sold to date, and the number of plans under  
845 negotiation;

846 (m) geographical information including all states in which the seller's assisted  
847 marketing plans have been sold, and the number of plans in each such state;

848 (n) the total number of marketing plans that were cancelled by the seller in the past 12  
849 months; and

850 (o) the number of marketing plans that were voluntarily terminated by purchasers  
851 within the past 12 months and the total number of such voluntary terminations to date.

852 (2) The seller of an assisted marketing plan filing information under Subsection (1)  
853 shall pay a fee as determined by the department in accordance with Section [~~63J-1-303~~]  
854 63J-1-504.

855 (3) Before commencing business in this state, the seller of an assisted marketing plan  
856 shall file the information required under Subsection (1) and receive from the division proof of  
857 receipt of the filing.

858 (4) A seller of an assisted marketing plan claiming an exemption from filing under this  
859 chapter shall file a notice of claim of exemption from filing with the division. A seller  
860 claiming an exemption from filing bears the burden of proving the exemption. The division  
861 shall collect a fee for filing a notice of claim of exemption, as determined by the department in  
862 accordance with Section [~~63J-1-303~~] 63J-1-504.

863 (5) A representation described in Subsection (1)(f) shall be relevant to the geographic  
864 market in which the business opportunity is to be located. When the statements or

representations are made, a warning after the representation in not less than 12 point upper and lower case boldface type shall appear as follows:

CAUTION

No guarantee of earnings or ranges of earnings can be made. The number of purchasers who have earned through this business an amount in excess of the amount of their initial payment is at least \_\_\_\_\_ which represents \_\_\_\_\_% of the total number of purchasers of this business opportunity.

Section 15. Section **13-15-4.5** is amended to read:

**13-15-4.5. Notice of exemption filing.**

(1) (a) Any franchise exempt from this chapter pursuant to Subsection 13-15-2(1)(b)(iii) shall, prior to offering for sale or selling a franchise to be located in this state or to a resident of this state, file with the division a notice that the franchisor is in substantial compliance with the requirements of the Federal Trade Commission rule found at Title 16, Chapter I, Subchapter d, Trade Regulation Rules, Part 436, Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, together with a filing fee determined by the department pursuant to Section [~~63J-1-303~~] 63J-1-504, not to exceed \$100.

(b) The notice shall state:

(i) the name of the applicant;

(ii) the name of the franchise;

(iii) the name under which the applicant intends to or does transact business, if different than the name of the franchise;

(iv) the applicant's principal business address; and

(v) the applicant's federal employer identification number.

(2) (a) The initial exemption granted under this section is for a period of one year from the date of filing the notice.

(b) The exemption may be renewed each year for an additional one-year period upon filing a notice for renewal and paying a renewal fee determined pursuant to Section [~~63J-1-303~~] 63J-1-504, not to exceed \$100.

(3) The division may make rules to implement this section.

Section 16. Section **13-21-3** is amended to read:

**13-21-3. Credit services organizations -- Prohibitions.**

(1) A credit services organization, its salespersons, agents, and representatives, and independent contractors who sell or attempt to sell the services of a credit services organization may not do any of the following:

(a) conduct any business regulated by this chapter without first:

(i) securing a certificate of registration from the division; and

(ii) unless exempted under Section 13-21-4, posting a bond, letter of credit, or certificate of deposit with the division in the amount of \$100,000;

(b) make a false statement, or fail to state a material fact, in connection with an application for registration with the division;

(c) charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for the buyer;

(d) dispute or challenge, or assist a person in disputing or challenging an entry in a credit report prepared by a consumer reporting agency without a factual basis for believing and obtaining a written statement for each entry from the person stating that that person believes that the entry contains a material error or omission, outdated information, inaccurate information, or unverifiable information;

(e) charge or receive any money or other valuable consideration solely for referral of the buyer to a retail seller who will or may extend credit to the buyer, if the credit that is or will be extended to the buyer is upon substantially the same terms as those available to the general public;

(f) make, or counsel or advise any buyer to make, any statement that is untrue or misleading and that is known, or that by the exercise of reasonable care should be known, to be untrue or misleading, to a credit reporting agency or to any person who has extended credit to a buyer or to whom a buyer is applying for an extension of credit, with respect to a buyer's creditworthiness, credit standing, or credit capacity;

(g) make or use any untrue or misleading representations in the offer or sale of the services of a credit services organization or engage, directly or indirectly, in any act, practice, or course of business that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a credit services organization; and

(h) transact any business as a credit services organization, as defined in Section 13-21-2, without first having registered with the division by paying an annual fee set pursuant to Section ~~[63J-1-303]~~ 63J-1-504 and filing proof that it has obtained a bond or letter of credit as required by Subsection ~~[(1)]~~ (2).

(2) (a) A bond, letter of credit from a Utah depository, or certificate of deposit posted with the division shall be used to cover the losses of any person arising from a violation of this chapter by the posting credit services organization. A bond, letter of credit, or certificate of deposit may also be used to satisfy administrative fines and civil damages arising from any enforcement action against the posting credit service organization.

(b) A bond, letter of credit, or certificate of deposit shall remain in force:

(i) until replaced by a bond, letter of credit, or certificate of deposit of identical or superior coverage; or

(ii) for one year after the credit servicing organization notifies the division in writing that it has ceased all activities regulated by this chapter.

Section 17. Section **13-22-6** is amended to read:

**13-22-6. Application for registration.**

(1) An applicant for registration or renewal of registration as a charitable organization shall:

(a) pay an application fee as determined under Section ~~[63J-1-303]~~ 63J-1-504; and

(b) submit an application on a form approved by the division which shall include:

(i) the organization's name, address, telephone number, facsimile number, if any, and the names and addresses of any organizations or persons controlled by, controlling, or affiliated with the applicant;

(ii) the specific legal nature of the organization, that is, whether it is an individual, joint venture, partnership, limited liability company, corporation, association, or other entity;

(iii) the names and residence addresses of the officers and directors of the organization;

(iv) the name and address of the registered agent for service of process and a consent to service of process;

(v) the purpose of the solicitation and use of the contributions to be solicited;

(vi) the method by which the solicitation will be conducted and the projected length of time it is to be conducted;

(vii) the anticipated expenses of the solicitation, including all commissions, costs of collection, salaries, and any other items;

(viii) a statement of what percentage of the contributions collected as a result of the solicitation are projected to remain available for application to the charitable purposes declared in the application, including a satisfactory statement of the factual basis for the projected percentage;

(ix) a statement of total contributions collected or received by the organization within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use made of the contributions;

(x) a copy of any written agreements with any professional fund raiser involved with the solicitation;

(xi) disclosure of any injunction, judgment, or administrative order or conviction of any crime involving moral turpitude with respect to any officer, director, manager, operator, or principal of the organization;

(xii) a copy of all agreements to which the applicant is, or proposes to be, a party regarding the use of proceeds for the solicitation or fundraising;

(xiii) a statement of whether or not the charity, or its parent foundation, will be using the services of a professional fund raiser or of a professional fund raising counsel or consultant;

(xiv) if either the charity or its parent foundation will be using the services of a professional fund raiser or a professional fund raising counsel or consultant:

(A) a copy of all agreements related to the services; and

(B) an acknowledgment that fund raising in the state will not commence until both the charitable organization, its parent foundation, if any, and the professional fund raiser or professional fund raising counsel or consultant are registered and in compliance with this chapter; and

(xv) any additional information the division may require by rule.

(2) If any information contained in the application for registration becomes incorrect or incomplete, the applicant or registrant shall, within 30 days after the information becomes incorrect or incomplete, correct the application or file the complete information required by the division.

(3) In addition to the registration fee, an organization failing to file a registration

application or renewal by the due date or filing an incomplete registration application or renewal shall pay an additional fee of \$25 for each month or part of a month after the date on which the registration application or renewal were due to be filed.

(4) Notwithstanding Subsection (1), the registration fee for a certified local museum under Section 9-6-603 is 65% of the registration fee established under Subsection (1).

Section 18. Section **13-22-8** is amended to read:

**13-22-8. Exemptions.**

(1) Section 13-22-5 does not apply to:

(a) a solicitation that an organization conducts among its own established and bona fide membership exclusively through the voluntarily donated efforts of other members or officers of the organization;

(b) a bona fide religious, ecclesiastical, or denominational organization if:

(i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and

(ii) the organization is either:

(A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on;

(B) a bona fide religious group:

(I) that does not maintain specific places of worship;

(II) that is not subject to federal income tax; and

(III) not required to file an IRS Form 990 under any circumstance; or

(C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported by funds solicited outside its own membership or congregation;

(c) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;

(d) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any person sustaining a life-threatening illness or injury specified by name at the time of solicitation if the entire amount collected without any deduction is turned over to the named person;

(e) a political party authorized to transact its affairs within this state and any candidate and campaign worker of the party if the content and manner of any solicitation make clear that the solicitation is for the benefit of the political party or candidate;

(f) a political action committee or group soliciting funds relating to issues or candidates on the ballot if the committee or group is required to file financial information with a federal or state election commission;

(g) any school accredited by the state, any accredited institution of higher learning, or club or parent, teacher, or student organization within and authorized by the school in support of the operations or extracurricular activities of the school;

(h) a public or higher education foundation established under Title 53A or 53B;

(i) a television station, radio station, or newspaper of general circulation that donates air time or print space for no consideration as part of a cooperative solicitation effort on behalf of a charitable organization, whether or not that organization is required to register under this chapter;

(j) a volunteer fire department, rescue squad, or local civil defense organization whose financial oversight is under the control of a local governmental entity;

(k) any governmental unit of any state or the United States; and

(l) any corporation:

(i) established by an act of the United States Congress; and

(ii) that is required by federal law to submit an annual report:

(A) on the activities of the corporation, including an itemized report of all receipts and expenditures of the corporation; and

(B) to the United States Secretary of Defense to be:

(I) audited; and

(II) submitted to the United States Congress.

(2) Any organization claiming an exemption under this section bears the burden of proving its eligibility for, or the applicability of, the exemption claimed.

(3) Each organization exempt from registration pursuant to this section that makes a material change in its legal status, officers, address, or similar changes shall file a report informing the division of its current legal status, business address, business phone, officers, and primary contact person within 30 days of the change.

1051 (4) The division may by rule:

1052 (a) require organizations exempt from registration pursuant to this section to file a  
1053 notice of claim of exemption;

1054 (b) prescribe the contents of the notice of claim; and

1055 (c) require a filing fee for the notice, as determined under Section [~~63J-1-303~~]  
1056 63J-1-504.

1057 Section 19. Section **13-22-9** is amended to read:

1058 **13-22-9. Professional fund raiser's or fund raising counsel's or consultant's**  
1059 **permit.**

1060 (1) It is unlawful for any person or entity to act as a professional fund raiser or  
1061 professional fund raising counsel or consultant, whether or not representing an organization  
1062 exempt from registration under Section 13-22-8, without first obtaining a permit from the  
1063 division by complying with all of the following application requirements:

1064 (a) pay an application fee as determined under Section [~~63J-1-303~~] 63J-1-504; and

1065 (b) submit a written application, verified under oath, on a form approved by the  
1066 division that includes:

1067 (i) the applicant's name, address, telephone number, facsimile number, if any;

1068 (ii) the name and address of any organization or person controlled by, controlling, or  
1069 affiliated with the applicant;

1070 (iii) the applicant's business, occupation, or employment for the three-year period  
1071 immediately preceding the date of the application;

1072 (iv) whether it is an individual, joint venture, partnership, limited liability company,  
1073 corporation, association, or other entity;

1074 (v) the names and residence addresses of any officer or director of the applicant;

1075 (vi) the name and address of the registered agent for service of process and a consent to  
1076 service of process;

1077 (vii) if a professional fund raiser:

1078 (A) the purpose of the solicitation and use of the contributions to be solicited;

1079 (B) the method by which the solicitation will be conducted and the projected length of  
1080 time it is to be conducted;

1081 (C) the anticipated expenses of the solicitation, including all commissions, costs of

collection, salaries, and any other items;

(D) a statement of what percentage of the contributions collected as a result of the solicitation are projected to remain available to the charitable organization declared in the application, including a satisfactory statement of the factual basis for the projected percentage and projected anticipated revenues provided to the charitable organization, and if a flat fee is charged, documentation to support the reasonableness of the flat fee; and

(E) a statement of total contributions collected or received by the professional fund raiser within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use made of the contributions;

(viii) if a professional fund raising counsel or consultant:

(A) the purpose of the plan, management, advise, counsel or preparation of materials for, or respect to the solicitation and use of the contributions solicited;

(B) the method by which the plan, management, advise, counsel, or preparation of materials for, or respect to the solicitation will be organized or coordinated and the projected length of time of the solicitation;

(C) the anticipated expenses of the plan, management, advise, counsel, or preparation of materials for, or respect to the solicitation, including all commissions, costs of collection, salaries, and any other items;

(D) a statement of total fees to be earned or received from the charitable organization declared in the application, and what percentage of the contributions collected as a result of the plan, management, advise, counsel, or preparation of materials for, or respect to the solicitation are projected after deducting the total fees to be earned or received remain available to the charitable organization declared in the application, including a satisfactory statement of the factual basis for the projected percentage and projected anticipated revenues provided to the charitable organization, and if a flat fee is charged, documentation to support the reasonableness of such flat fee; and

(E) a statement of total net fees earned or received within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use of the net earned or received fees in the planning, management, advising, counseling, or preparation of materials for, or respect to the solicitation and use of the contributions solicited for the charitable organization;

(ix) disclosure of any injunction, judgment, or administrative order against the applicant or the applicant's conviction of any crime involving moral turpitude;

(x) a copy of any written agreements with any charitable organization;

(xi) the disclosure of any injunction, judgment, or administrative order or conviction of any crime involving moral turpitude with respect to any officer, director, manager, operator, or principal of the applicant;

(xii) a copy of all agreements to which the applicant is, or proposes to be, a party regarding the use of proceeds;

(xiii) an acknowledgment that fund raising in the state will not commence until both the professional fund raiser or professional fund raising counsel or consultant and the charity, its parent foundation, if any, are registered and in compliance with this chapter; and

(xiv) any additional information the division may require by rule.

(2) If any information contained in the application for a permit becomes incorrect or incomplete, the applicant or registrant shall, within 30 days after the information becomes incorrect or incomplete, correct the application or file the complete information required by the division.

(3) In addition to the permit fee, an applicant failing to file a permit application or renewal by the due date or filing an incomplete permit application or renewal shall pay an additional fee of \$25 for each month or part of a month after the date on which the permit application or renewal were due to be filed.

Section 20. Section **13-23-5** is amended to read:

**13-23-5. Registration -- Bond, letter of credit, or certificate of deposit required -- Penalties.**

(1) (a) (i) It is unlawful for any health spa facility to operate in this state unless the facility is registered with the division.

(ii) Registration is effective for one year. If the health spa facility renews its registration, the registration shall be renewed at least 30 days prior to its expiration.

(iii) The division shall provide by rule for the form, content, application process, and renewal process of the registration.

(b) Each health spa registering in this state shall designate a registered agent for receiving service of process. The registered agent shall be reasonably available from 8 a.m.

1144 until 5 p.m. during normal working days.

1145 (c) The division shall charge and collect a fee for registration under guidelines  
1146 provided in Section [~~63J-1-303~~] 63J-1-504.

1147 (d) If an applicant fails to file a registration application or renewal by the due date, or  
1148 files an incomplete registration application or renewal, the applicant shall pay a fee of \$25 for  
1149 each month or part of a month after the date on which the registration application or renewal  
1150 were due to be filed, in addition to the registration fee described in Subsection (1)(c).

1151 (2) (a) Each health spa shall obtain and maintain:

1152 (i) a performance bond issued by a surety authorized to transact surety business in this  
1153 state;

1154 (ii) an irrevocable letter of credit issued by a financial institution authorized to do  
1155 business in this state; or

1156 (iii) a certificate of deposit.

1157 (b) The bond, letter of credit, or certificate of deposit shall be payable to the division  
1158 for the benefit of any consumer who incurs damages as the result of:

1159 (i) the health spa's violation of this chapter; or

1160 (ii) the health spa's going out of business or relocating and failing to offer an alternate  
1161 location within five miles.

1162 (c) (i) The division may recover from the bond, letter of credit, or certificate of deposit  
1163 the costs of collecting and distributing funds under this section, up to 10% of the face value of  
1164 the bond, letter of credit, or certificate of deposit but only if the consumers have fully recovered  
1165 their damages first.

1166 (ii) The total liability of the issuer of the bond, letter of credit, or certificate of deposit  
1167 may not exceed the amount of the bond, letter of credit, or certificate of deposit.

1168 (iii) The health spa shall maintain a bond, letter of credit, or certificate of deposit in  
1169 force for one year after it notifies the division in writing that it has ceased all activities  
1170 regulated by this chapter.

1171 (d) A health spa providing services at more than one location shall comply with the  
1172 requirements of Subsection (2)(a) for each separate location.

1173 (e) The division may impose a fine against a health spa that fails to comply with the  
1174 requirements of Subsection (2)(a) of up to \$100 per day that the health spa remains out of

1175 compliance. All penalties received shall be deposited into the Consumer Protection Education  
1176 and Training Fund created in Section 13-2-8.

1177 (3) (a) The minimum principal amount of the bond, letter of credit, or certificate of  
1178 credit required under Subsection (2) shall be based on the number of unexpired contracts for  
1179 health spa services to which the health spa is a party, in accordance with the following  
1180 schedule:

1181 Principal Amount of	Number of Contracts
1182 Bond, Letter of Credit,	
1183 or Certificate of Deposit	
1184 \$15,000	500 or fewer
1185 35,000	501 to 1,500
1186 50,000	1,500 to 3,000
1187 75,000	3,001 or more

1188 (b) A health spa that is not exempt under Section 13-23-6 shall comply with  
1189 Subsection (3)(a) with respect to all of the health spa's unexpired contracts for health spa  
1190 services, regardless of whether a portion of those contracts satisfy the criteria in Section  
1191 13-23-6.

1192 (4) Each health spa shall obtain the bond, letter of credit, or certificate of deposit and  
1193 furnish a certified copy of the bond, letter of credit, or certificate of deposit to the division prior  
1194 to selling, offering or attempting to sell, soliciting the sale of, or becoming a party to any  
1195 contract to provide health spa services. A health spa is considered to be in compliance with  
1196 this section only if the proof provided to the division shows that the bond, letter of credit, or  
1197 certificate of credit is current.

1198 (5) Each health spa shall:

1199 (a) maintain accurate records of the bond, letter of credit, or certificate of credit and of  
1200 any payments made, due, or to become due to the issuer; and

1201 (b) open the records to inspection by the division at any time during normal business  
1202 hours.

1203 (6) If a health spa changes ownership, ceases operation, discontinues facilities, or  
1204 relocates and fails to offer an alternate location within five miles within 30 days after its  
1205 closing, the health spa is subject to the requirements of this section as if it were a new health

1206 spa coming into being at the time the health spa changed ownership. The former owner may  
1207 not release, cancel, or terminate the owner's liability under any bond, letter of credit, or  
1208 certificate of deposit previously filed with the division, unless:

1209 (a) the new owner has filed a new bond, letter of credit, or certificate of deposit for the  
1210 benefit of consumers covered under the previous owner's bond, letter of credit, or certificate of  
1211 deposit; or

1212 (b) the former owner has refunded all unearned payments to consumers.

1213 (7) If a health spa ceases operation or relocates and fails to offer an alternative location  
1214 within five miles, the health spa shall provide the division with 45 days prior notice.

1215 Section 21. Section **13-26-3** is amended to read:

1216 **13-26-3. Registration and bond required.**

1217 (1) (a) Unless exempt under Section 13-26-4, each telephone soliciting business shall  
1218 register annually with the division before engaging in telephone solicitations if:

1219 (i) the telephone soliciting business engages in telephone solicitations that:

1220 (A) originate in Utah; or

1221 (B) are received in Utah; or

1222 (ii) the telephone soliciting business conducts any business operations in Utah.

1223 (b) The registration form shall designate an agent residing in this state who is  
1224 authorized by the telephone soliciting business to receive service of process in any action  
1225 brought by this state or a resident of this state.

1226 (c) If a telephone soliciting business fails to designate an agent to receive service or  
1227 fails to appoint a successor to the agent:

1228 (i) the business' application for an initial or renewal registration shall be denied; and

1229 (ii) any current registration shall be suspended until an agent is designated.

1230 (2) The division may impose an annual registration fee set pursuant to Section  
1231 ~~[63J-1-303]~~ 63J-1-504.

1232 (3) (a) Each telephone soliciting business engaging in telephone solicitation or sales in  
1233 this state shall obtain and maintain the following security:

1234 (i) a performance bond issued by a surety authorized to transact surety business in this  
1235 state;

1236 (ii) an irrevocable letter of credit issued by a financial institution authorized to do

business in this state; or

(iii) a certificate of deposit held in this state in a depository institution regulated by the Department of Financial Institutions.

(b) The bond, letter of credit, or certificate of deposit shall be payable to the division for the benefit of any consumer who incurs damages as the result of any telephone solicitation or sales violation of this chapter.

(c) The division may recover from the bond, letter of credit, or certificate of deposit investigative costs, [~~attorneys~~] attorney fees, and other costs of collecting and distributing funds under this section and the costs of promoting consumer education, but only if the consumer has first recovered full damages.

(d) A telephone soliciting business shall keep a bond, certificate of deposit, or letter of credit in force for one year after it notifies the division in writing that it has ceased all activities regulated by this chapter.

(e) The amount to be posted in the form of a bond, irrevocable letter of credit, or certificate of deposit shall be:

(i) \$25,000 if:

(A) neither the telephone soliciting business nor any affiliated person has violated this chapter within three years preceding the date of the application; and

(B) the telephone soliciting business has fewer than ten employees;

(ii) \$50,000 if:

(A) neither the telephone soliciting business nor any affiliated person has violated this chapter within three years preceding the date of the application; and

(B) the telephone soliciting business has ten or more employees; or

(iii) \$75,000 if the telephone soliciting business or any affiliated person has violated this chapter within three years preceding the date of the application.

(f) For purposes of Subsection (3)(e) an "affiliated person" means a contractor, director, employee, officer, owner, or partner of the telephone soliciting business.

(4) The division may establish by rule the registration requirements for telephone soliciting businesses under the terms of Title 63G, Chapter 3, Utah Administrative Rulemaking Act. An administrative proceeding conducted by the division under this chapter shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(5) The division director may revoke a registration under this section for any violation of this chapter.

Section 22. Section **13-32a-111** is amended to read:

**13-32a-111. Fees to fund training and central database.**

(1) On and after January 1, 2005, each pawnshop or secondhand merchandise dealer in operation shall annually pay \$250 to the division, to be deposited in the account.

(2) On and after January 1, 2005, each law enforcement agency that participates in the use of the database shall annually pay to the division a fee of \$2 per sworn law enforcement officer who is employed by the agency as of January 1 of that year. The fee shall be deposited in the account.

(3) The fees under Subsections (1) and (2) shall be paid to the account annually on or before January 30.

(4) (a) If a law enforcement agency outside Utah requests access to the central database, the requesting agency shall pay a yearly fee of \$750 for the fiscal year beginning July 1, 2006, which shall be deposited in the account.

(b) The board may establish the fee amount for fiscal years beginning on and after July 1, 2007 under Section [~~63J-1-303~~] 63J-1-504.

Section 23. Section **13-34-107** is amended to read:

**13-34-107. Advertising, recruiting, or operating a proprietary school -- Required registration statement or exemption -- Certificate of registration -- Registration does not constitute endorsement.**

(1) (a) Unless an institution complies with Subsection (1)(b), the institution may not do any of the following in this state:

- (i) advertise a proprietary school;
- (ii) recruit students for a proprietary school; or
- (iii) operate a proprietary school.

(b) An institution may not engage in an activity described in Subsection (1)(a) unless the institution:

(i) (A) files with the division a registration statement relating to the proprietary school that is in compliance with:

- (I) applicable rules made by the division; and

1299 (II) the requirements set forth in this chapter; and  
1300 (B) obtains a certificate of registration; or  
1301 (ii) establishes an exemption with the division.  
1302 (2) (a) The registration statement or exemption described in Subsection (1) shall be:  
1303 (i) verified by the oath or affirmation of the owner or a responsible officer of the  
1304 proprietary school filing the registration statement or exemption; and  
1305 (ii) include a certification as to whether any of the following has violated laws, federal  
1306 regulations, or state rules as determined in a criminal, civil, or administrative proceeding:  
1307 (A) the proprietary school; or  
1308 (B) any of the following with respect to the proprietary school:  
1309 (I) an owner;  
1310 (II) an officer;  
1311 (III) a director;  
1312 (IV) an administrator;  
1313 (V) a faculty member;  
1314 (VI) a staff member; or  
1315 (VII) an agent.  
1316 (b) The proprietary school shall:  
1317 (i) make available, upon request, a copy of the registration statement, showing the date  
1318 upon which it was filed; and  
1319 (ii) display the certificate of registration obtained from the division in a conspicuous  
1320 place on the proprietary school's premises.  
1321 (3) (a) A registration statement and the accompanying certificate of registration are not  
1322 transferable.  
1323 (b) In the event of a change in ownership or in the governing body of the proprietary  
1324 school, the new owner or governing body, within 30 days after the change, shall file a new  
1325 registration statement.  
1326 (4) Except as provided in Subsection (3)(b), a registration statement or a renewal  
1327 statement and the accompanying certificate of registration are effective for a period of two  
1328 years after the date of filing and issuance.  
1329 (5) (a) The division shall establish a graduated fee structure for the filing of registration

1330 statements by various classifications of institutions pursuant to Section [63J-1-303] 63J-1-504.

1331 (b) Fees are not refundable.

1332 (c) Fees shall be deposited in the Commerce Service Fund pursuant to Section 13-1-2.

1333 (6) (a) Each proprietary school shall:

1334 (i) demonstrate fiscal responsibility at the time the proprietary school files its

1335 registration statement as prescribed by rules of the division; and

1336 (ii) provide evidence to the division that the proprietary school:

1337 (A) is financially sound; and

1338 (B) can reasonably fulfill commitments to and obligations the proprietary school has  
1339 incurred with students and creditors.

1340 (b) A proprietary school applying for an initial certificate of registration to operate  
1341 shall prepare and submit financial statements and supporting documentation as requested by  
1342 the division.

1343 (c) A proprietary school applying for renewal of a certificate of registration to operate  
1344 or renewal under new ownership must provide audited financial statements.

1345 (d) The division may require evidence of financial status at other times when it is in the  
1346 best interest of students to require such information.

1347 (7) (a) A proprietary school applying for an initial certificate of registration or seeking  
1348 renewal shall provide in a form approved by the division:

1349 (i) a surety bond;

1350 (ii) a certificate of deposit; or

1351 (iii) an irrevocable letter of credit.

1352 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1353 division may make rules providing for:

1354 (i) the amount of the bond, certificate, or letter of credit required under Subsection  
1355 (7)(a), not to exceed in amount the anticipated tuition and fees to be received by the proprietary  
1356 school during a school year;

1357 (ii) the execution of the bond, certificate, or letter of credit;

1358 (iii) cancellation of the bond, certificate, or letter of credit during or at the end of the  
1359 registration term; and

1360 (iv) any other matters related to providing the bond, certificate, or letter of credit

1361 required under Subsection (7)(a).

1362 (c) The bond, certificate, or letter of credit shall be used as a protection against loss of  
1363 advanced tuition, book fees, supply fees, or equipment fees:

1364 (i) collected by the proprietary school from a student or a student's parent, guardian, or  
1365 sponsor prior to the completion of the program or courses for which it was collected; or

1366 (ii) for which the student is liable.

1367 (8) (a) Except as provided in Section 13-34-113, the division may not refuse  
1368 acceptance of a registration statement that is:

1369 (i) tendered for filing and, based on a preliminary review, appears to be in compliance  
1370 with Subsections (1), (2), and (6); and

1371 (ii) accompanied by:

1372 (A) the required fee; and

1373 (B) one of the following required by Subsection (7):

1374 (I) surety bond;

1375 (II) certificate of deposit; or

1376 (III) irrevocable letter of credit.

1377 (b) A certificate of registration is effective upon the date of issuance.

1378 (c) The responsibility of compliance is upon the proprietary school and not upon the  
1379 division.

1380 (d) (i) If it appears to the division that a registration statement on file may not be in  
1381 compliance with this chapter, the division may advise the proprietary school as to the apparent  
1382 deficiencies.

1383 (ii) After a proprietary school has been notified of a deficiency under Subsection  
1384 (8)(d)(i), a new or amended statement may be presented for filing by the proprietary school,  
1385 accompanied by:

1386 (A) the required fee; and

1387 (B) one of the following required by Subsection (7):

1388 (I) surety bond;

1389 (II) certificate of deposit; or

1390 (III) irrevocable letter of credit.

1391 (9) The following does not constitute and may not be represented by any person to

constitute, an endorsement or approval of the proprietary school by either the division or the state:

(a) an acceptance of:

(i) a registration statement;

(ii) a renewal statement; or

(iii) an amended registration statement; and

(b) issuance of a certificate of registration.

Section 24. Section **13-35-105** is amended to read:

**13-35-105. Registration -- Fees.**

(1) A franchisee or franchisor doing business in this state shall:

(a) annually register or renew its registration with the department in a manner established by the department; and

(b) pay an annual registration fee in an amount determined by the department in accordance with Sections 13-1-2 and ~~[63J-1-303]~~ 63J-1-504.

(2) The department shall register or renew the registration of a franchisee or franchisor if the franchisee or franchisor complies with this chapter and rules made by the department under this chapter.

(3) A franchisee or franchisor registered under this section shall comply with this chapter and any rules made by the department under this chapter including any amendments to this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.

(4) The fee imposed under Subsection (1)(b) shall be collected by the department and deposited into the Commerce Service Fund.

(5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of a franchisor does not need to be registered under this section if the franchisor is registered under this section.

Section 25. Section **13-39-201** is amended to read:

**13-39-201. Establishment of child protection registry.**

(1) The division shall:

(a) establish and operate a child protection registry to compile and secure a list of contact points the division has received pursuant to this section; or

(b) contract with a third party to establish and secure the registry described in

1423 Subsection (1)(a).

1424 (2) (a) The division shall implement the registry described in this section with respect  
1425 to email addresses beginning on July 1, 2005.

1426 (b) The division shall implement the registry described in this section with respect to  
1427 instant message identities.

1428 (c) The division shall implement the registry described in this section with respect to  
1429 mobile or other telephone numbers.

1430 (3) (a) A person may register a contact point with the division pursuant to rules  
1431 established by the division under Subsection 13-39-203(1) if:

1432 (i) the contact point belongs to a minor;

1433 (ii) a minor has access to the contact point; or

1434 (iii) the contact point is used in a household in which a minor is present.

1435 (b) A school or other institution that primarily serves minors may register its domain  
1436 name with the division pursuant to rules made by the division under Subsection 13-39-203(1).

1437 (c) The division shall provide a disclosure in a confirmation message sent to a person  
1438 who registers a contact point under this section that reads: "No solution is completely secure.  
1439 The most effective way to protect children on the Internet is to supervise use and review all  
1440 email messages and other correspondence. Under law, theft of a contact point from the Child  
1441 Protection Registry is a second degree felony. While every attempt will be made to secure the  
1442 Child Protection Registry, registrants and their guardians should be aware that their contact  
1443 points may be at a greater risk of being misappropriated by marketers who choose to disobey  
1444 the law."

1445 (4) A person desiring to send a communication described in Subsection 13-39-202(1)  
1446 to a contact point or domain shall:

1447 (a) use a mechanism established by rule made by the division under Subsection  
1448 13-39-203(2); and

1449 (b) pay a fee for use of the mechanism described in Subsection (4)(a) determined by  
1450 the division in accordance with Section ~~[63J-1-303]~~ 63J-1-504.

1451 (5) The division may implement a program to offer discounted compliance fees to  
1452 senders who meet enhanced security conditions established and verified by the division, the  
1453 third party registry provider, or a designee.

(6) The contents of the registry, and any complaint filed about a sender who violates this chapter, are not subject to public disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(7) The state shall promote the registry on the state's official Internet website.

Section 26. Section **13-42-105** is amended to read:

**13-42-105. Application for registration -- Form, fee, and accompanying documents.**

(1) An application for registration as a provider must be in a form prescribed by the administrator.

(2) Subject to adjustment of dollar amounts pursuant to Subsection 13-42-132(6), an application for registration as a provider must be accompanied by:

(a) the fee established by the administrator in accordance with Section [~~63J-1-303~~]  
63J-1-504;

(b) the bond required by Section 13-42-113;

(c) identification of all trust accounts required by Section 13-42-122 and an irrevocable consent authorizing the administrator to review and examine the trust accounts;

(d) evidence of insurance in the amount of \$250,000:

(i) against the risks of dishonesty, fraud, theft, and other misconduct on the part of the applicant or a director, employee, or agent of the applicant;

(ii) issued by an insurance company authorized to do business in this state and rated at least A by a nationally recognized rating organization;

(iii) with no deductible;

(iv) payable to the applicant, the individuals who have agreements with the applicant, and this state, as their interests may appear; and

(v) not subject to cancellation by the applicant without the approval of the administrator;

(e) a record consenting to the jurisdiction of this state containing:

(i) the name, business address, and other contact information of its registered agent in this state for purposes of service of process; or

(ii) the appointment of the administrator as agent of the provider for purposes of service of process; and

(f) if the applicant is organized as a not-for-profit entity or is exempt from taxation, evidence of not-for-profit and tax-exempt status applicable to the applicant under the Internal Revenue Code, 26 U.S.C. Section 501.

Section 27. Section **13-42-109** is amended to read:

**13-42-109. Certification of registration -- Issuance or denial.**

(1) Except as otherwise provided in Subsections (2) and (3), the administrator shall issue a certificate of registration as a provider to a person that complies with Sections 13-42-105 and 13-42-106.

(2) The administrator may deny registration if:

(a) the application contains information that is materially erroneous or incomplete;  
(b) an officer, director, or owner of the applicant has been convicted of a crime, or suffered a civil judgment, involving dishonesty or the violation of state or federal securities laws;

(c) the applicant or any of its officers, directors, or owners has defaulted in the payment of money collected for others; or

(d) the administrator finds that the financial responsibility, experience, character, or general fitness of the applicant or its owners, directors, employees, or agents does not warrant belief that the business will be operated in compliance with this chapter.

(3) The administrator shall deny registration if:

(a) the application is not accompanied by the fee established by the administrator in accordance with Section ~~[63J-1-303]~~ 63J-1-504; or

(b) with respect to an applicant that is organized as a not-for-profit entity or has obtained tax-exempt status under the Internal Revenue Code, 26 U.S.C. Section 501, the applicant's board of directors is not independent of the applicant's employees and agents.

(4) Subject to adjustment of the dollar amount pursuant to Subsection 13-42-132(6), a board of directors is not independent for purposes of Subsection (3) if more than one-fourth of its members:

(a) are affiliates of the applicant, as defined in Subsection 13-42-102(2)(a) or 13-42-102(2)(b)(i), (ii), (iv), (v), (vi), or (vii); or

(b) after the date ten years before first becoming a director of the applicant, were employed by or directors of a person that received from the applicant more than \$25,000 in

1516 either the current year or the preceding year.

1517 Section 28. Section **13-42-111** is amended to read:

1518 **13-42-111. Renewal of registration.**

1519 (1) A provider must obtain a renewal of its registration annually.

1520 (2) An application for renewal of registration as a provider must be in a form  
1521 prescribed by the administrator, signed under penalty of perjury, and:

1522 (a) be filed no fewer than 30 and no more than 60 days before the registration expires;

1523 (b) be accompanied by the fee established by the administrator in accordance with  
1524 Section ~~[63J-1-303]~~ 63J-1-504 and the bond required by Section 13-42-113;

1525 (c) contain the matter required for initial registration as a provider by Subsections  
1526 13-42-106(8) and (9) and a financial statement, audited by an accountant licensed to conduct  
1527 audits, for the applicant's fiscal year immediately preceding the application;

1528 (d) disclose any changes in the information contained in the applicant's application for  
1529 registration or its immediately previous application for renewal, as applicable;

1530 (e) supply evidence of insurance in an amount equal to the larger of \$250,000 or the  
1531 highest daily balance in the trust account required by Section 13-42-122 during the six-month  
1532 period immediately preceding the application:

1533 (i) against risks of dishonesty, fraud, theft, and other misconduct on the part of the  
1534 applicant or a director, employee, or agent of the applicant;

1535 (ii) issued by an insurance company authorized to do business in this state and rated at  
1536 least A by a nationally recognized rating organization;

1537 (iii) with no deductible;

1538 (iv) payable to the applicant, the individuals who have agreements with the applicant,  
1539 and this state, as their interests may appear; and

1540 (v) not subject to cancellation by the applicant without the approval of the  
1541 administrator;

1542 (f) disclose the total amount of money received by the applicant pursuant to plans  
1543 during the preceding 12 months from or on behalf of individuals who reside in this state and  
1544 the total amount of money distributed to creditors of those individuals during that period;

1545 (g) disclose, to the best of the applicant's knowledge, the gross amount of money  
1546 accumulated during the preceding 12 months pursuant to plans by or on behalf of individuals

who reside in this state and with whom the applicant has agreements; and

(h) provide any other information that the administrator reasonably requires to perform the administrator's duties under this section.

(3) Except for the information required by Subsections 13-42-106(7), (14), and (17) and the addresses required by Subsection 13-42-106(4), the administrator shall make the information in an application for renewal of registration as a provider available to the public.

(4) If a registered provider files a timely and complete application for renewal of registration, the registration remains effective until the administrator, in a record, notifies the applicant of a denial and states the reasons for the denial.

(5) If the administrator denies an application for renewal of registration as a provider, the applicant, within 30 days after receiving notice of the denial, may appeal and request a hearing pursuant to Title 63G, Chapter 4, Administrative Procedures Act. Subject to Section 13-42-134, while the appeal is pending the applicant shall continue to provide debt-management services to individuals with whom it has agreements. If the denial is affirmed, subject to the administrator's order and Section 13-42-134, the applicant shall continue to provide debt-management services to individuals with whom it has agreements until, with the approval of the administrator, it transfers the agreements to another registered provider or returns to the individuals all unexpended money that is under the applicant's control.

Section 29. Section **13-42-132** is amended to read:

**13-42-132. Powers of administrator.**

(1) The administrator may act on its own initiative or in response to complaints and may receive complaints, take action to obtain voluntary compliance with this chapter, refer cases to the attorney general, and seek or provide remedies as provided in this chapter.

(2) The administrator may investigate and examine, in this state or elsewhere, by subpoena or otherwise, the activities, books, accounts, and records of a person that provides or offers to provide debt-management services, or a person to which a provider has delegated its obligations under an agreement or this chapter, to determine compliance with this chapter. Information that identifies individuals who have agreements with the provider shall not be disclosed to the public. In connection with the investigation, the administrator may:

(a) charge the person the reasonable expenses necessarily incurred to conduct the

examination;

(b) require or permit a person to file a statement under oath as to all the facts and circumstances of a matter to be investigated; and

(c) seek a court order authorizing seizure from a bank at which the person maintains a trust account required by Section 13-42-122, any or all money, books, records, accounts, and other property of the provider that is in the control of the bank and relates to individuals who reside in this state.

(3) The administrator may adopt rules to implement the provisions of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The administrator may enter into cooperative arrangements with any other federal or state agency having authority over providers and may exchange with any of those agencies information about a provider, including information obtained during an examination of the provider.

(5) The administrator shall establish fees in accordance with Section [~~63J-1-303~~] 63J-1-504 to be paid by providers for the expense of administering this chapter.

(6) The administrator, by rule, shall adopt dollar amounts instead of those specified in Sections 13-42-102, 13-42-105, 13-42-109, 13-42-113, 13-42-123, 13-42-133, and 13-42-135 to reflect inflation, as measured by the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers or, if that index is not available, another index adopted by rule by the administrator. The administrator shall adopt a base year and adjust the dollar amounts, effective on July 1 of each year, if the change in the index from the base year, as of December 31 of the preceding year, is at least 10%. The dollar amount must be rounded to the nearest \$100, except that the amounts in Section 13-42-123 must be rounded to the nearest dollar.

(7) The administrator shall notify registered providers of any change in dollar amounts made pursuant to Subsection (6) and make that information available to the public.

Section 30. Section **15-9-109** is amended to read:

**15-9-109. Registration and renewal fees.**

(1) An application for registration or renewal of registration must be accompanied by a fee in an amount determined by the division in accordance with Section [~~63J-1-303~~] 63J-1-504.

(2) The division shall establish fees for:

- 1609 (a) an initial application for registration;  
1610 (b) an application for registration based upon a certificate of registration or licensure  
1611 issued by another state;  
1612 (c) an application for renewal of registration; and  
1613 (d) an application for renewal of registration based upon an application for renewal of  
1614 registration or licensure submitted in another state.

1615 Section 31. Section **16-6a-107** is amended to read:

1616 **16-6a-107. Fees.**

1617 (1) Unless otherwise provided by statute, the division shall charge and collect a fee for  
1618 services established by the division in accordance with Section [~~63J-1-303~~] 63J-1-504  
1619 including fees:

1620 (a) for furnishing a certified copy of any document, instrument, or paper relating to a  
1621 domestic or foreign nonprofit corporation; and

1622 (b) for the certificate and affixing the seal to a certified copy described in Subsection  
1623 (1)(a).

1624 (2) (a) The division shall provide expedited, 24-hour processing of any item under this  
1625 section upon request.

1626 (b) The division shall charge and collect additional fees established by the division in  
1627 accordance with Section [~~63J-1-303~~] 63J-1-504 for expedited service provided under  
1628 Subsection (2)(a).

1629 (3) (a) The division shall charge and collect a fee determined by the division in  
1630 accordance with Section [~~63J-1-303~~] 63J-1-504 at the time of any service of process on the  
1631 director of the division as resident agent of a domestic or foreign nonprofit corporation.

1632 (b) The fee paid under Subsection (3)(a) may be recovered as taxable costs by the party  
1633 to the suit or action causing the service to be made if the party prevails in the suit or action.

1634 Section 32. Section **16-7-11** is amended to read:

1635 **16-7-11. Fees for filing documents and issuing certificates.**

1636 The division shall charge and collect a fee determined by it pursuant to Section  
1637 [~~63J-1-303~~] 63J-1-504 for:

1638 (1) filing articles of incorporation of a corporation sole and issuing a certificate of  
1639 incorporation;

- 1640 (2) filing articles of amendment and issuing a certificate of amendment;  
1641 (3) issuing each additional certificate of incorporation or amendment;  
1642 (4) filing a certificate of authorized agent and issuing the agent's certificate;  
1643 (5) filing a revocation of authority;  
1644 (6) furnishing a certified copy of any document, instrument, or paper relating to a  
1645 corporation sole and affixing its seal;  
1646 (7) issuing a certificate of dissolution; and  
1647 (8) issuing a certificate of merger or consolidation.

1648 Section 33. Section **16-10a-122** is amended to read:

1649 **16-10a-122. Fees.**

1650 Unless otherwise provided by statute, the division shall charge and collect fees for  
1651 services as provided in Section [~~63J-1-303~~] 63J-1-504.

1652 Section 34. Section **16-12-3** is amended to read:

1653 **16-12-3. Declaration of trust -- Filing fee.**

1654 An original and one copy of the declaration of trust of a real estate investment trust  
1655 shall be delivered to the Division of Corporations and Commercial Code, and the division shall  
1656 endorse on the original and one copy the word "filed." The Division of Corporations and  
1657 Commercial Code shall file the original in the division's office, and shall return the copy to the  
1658 trustees or their representatives. The Division of Corporations and Commercial Code may  
1659 charge a fee pursuant to Section [~~63J-1-303~~] 63J-1-504 for the filing.

1660 Section 35. Section **16-13-12** is amended to read:

1661 **16-13-12. Licensing, supervision, and examination by commissioner of financial**  
1662 **institutions -- Fees.**

1663 A development corporation shall be licensed, supervised, and examined by the  
1664 commissioner of financial institutions and shall make such report of its condition from time to  
1665 time as the commissioner shall require. A development corporation shall pay a fee determined  
1666 by the commissioner pursuant to Section [~~63J-1-303~~] 63J-1-504 for a license and for each  
1667 examination.

1668 Section 36. Section **16-15-105** is amended to read:

1669 **16-15-105. Filing of certificate -- Fees.**

- 1670 (1) A business trust is registered when two copies of the certificate of registration are

filed with the division. The documents to be filed shall be true copies made by photographic, xerographic, electronic, or other process that provides similar copy accuracy of a document that has been properly executed.

(2) The division shall endorse the original and one copy of a certificate of registration and:

(a) file the original in the division office; and

(b) return the copy to the trustee or the trustee's representative.

(3) The division may charge a fee in accordance with Section ~~[63J-1-303]~~ 63J-1-504 for the filing.

Section 37. Section **16-15-107** is amended to read:

**16-15-107. Expiration of filing -- Notice.**

(1) A filing under this chapter shall be effective for a period of three years from the date of filing plus the notice period provided in Subsection (2).

(2) (a) If no new filing is made by or on behalf of the trust who made the original filing within three years of the date of filing, the division shall send a notice by regular mail, postage prepaid, to the address shown for the registered office in the filing indicating that it will expire 30 days after the division mailed the notice.

(b) If no new filing is made within 30 days after the date of the division mailing the notice, the business trust's registration expires.

(3) If the registration of a business trust has expired or has been canceled for failure to maintain a registered agent, the business trust may not conduct business in this state until it has newly registered with the division under this chapter.

(4) The division may charge a fee in accordance with Section ~~[63J-1-303]~~ 63J-1-504 for the renewal of a registration.

Section 38. Section **16-15-108** is amended to read:

**16-15-108. When amendments are required.**

(1) An amended certificate shall be filed with the division not later than 30 days after any change in:

(a) any person acting as a trustee of the trust, or the address of any trustee;

(b) the registered agent of the trust;

(c) the registered office of the business trust; or

(d) in any information required to be filed with the division under this chapter.

(2) The amended certificate shall be signed by each trustee of the business trust and filed in the same manner as a certificate of registration under Section 16-15-105.

(3) The division may charge a fee in accordance with Section ~~[63J-1-303]~~ 63J-1-504 for amending a certificate of registration.

Section 39. Section **16-16-208** is amended to read:

**16-16-208. Filing fees.**

The filing fee for records filed under this part by the division shall be established by the division in accordance with Section ~~[63J-1-303]~~ 63J-1-504.

Section 40. Section **16-17-201** is amended to read:

**16-17-201. Fees.**

Unless otherwise provided by statute, the division shall charge and collect fees for services as provided in Section ~~[63J-1-303]~~ 63J-1-504.

Section 41. Section **19-1-201** is amended to read:

**19-1-201. Powers of department.**

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups; and

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

1733 (iii) provides for the delegation of authority and pass through of funding to local health  
1734 departments for environmental programs, to the extent allowed by applicable law, identified in  
1735 the plan, and requested by the local health department; and

1736 (iv) is reviewed and updated annually.

1737 (2) The department may:

1738 (a) investigate matters affecting the environment;

1739 (b) investigate and control matters affecting the public health when caused by  
1740 environmental hazards;

1741 (c) prepare, publish, and disseminate information to inform the public concerning  
1742 issues involving environmental quality;

1743 (d) establish and operate programs, as authorized by this title, necessary for protection  
1744 of the environment and public health from environmental hazards;

1745 (e) use local health departments in the delivery of environmental health programs to  
1746 the extent provided by law;

1747 (f) enter into contracts with local health departments or others to meet responsibilities  
1748 established under this title;

1749 (g) acquire real and personal property by purchase, gift, devise, and other lawful  
1750 means;

1751 (h) prepare and submit to the governor a proposed budget to be included in the budget  
1752 submitted by the governor to the Legislature;

1753 (i) (i) establish a schedule of fees that may be assessed for actions and services of the  
1754 department according to the procedures and requirements of Section [~~63J-1-303~~] 63J-1-504;  
1755 and

1756 (ii) in accordance with Section [~~63J-1-303~~] 63J-1-504, all fees shall be reasonable, fair,  
1757 and reflect the cost of services provided;

1758 (j) prescribe by rule reasonable requirements not inconsistent with law relating to  
1759 environmental quality for local health departments;

1760 (k) perform the administrative functions of the boards established by Section 19-1-106,  
1761 including the acceptance and administration of grants from the federal government and from  
1762 other sources, public or private, to carry out the board's functions; and

1763 (l) upon the request of any board or the executive secretary, provide professional,

1764 technical, and clerical staff and field and laboratory services, the extent of which are limited by  
1765 the funds available to the department for the staff and services.

1766 Section 42. Section **19-1-403** is amended to read:

1767 **19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or**  
1768 **grants made with fund monies.**

1769 (1) (a) There is created a revolving fund known as the Clean Fuels and Vehicle  
1770 Technology Fund.

1771 (b) The fund consists of:

1772 (i) appropriations to the fund;

1773 (ii) other public and private contributions made under Subsection (1)(d);

1774 (iii) interest earnings on cash balances; and

1775 (iv) all monies collected for loan repayments and interest on loans.

1776 (c) All money appropriated to the fund is nonlapsing.

1777 (d) The department may accept contributions from other public and private sources for  
1778 deposit into the fund.

1779 (2) (a) Except as provided in Subsection (3), the department may make a loan or a  
1780 grant with monies available in the fund for:

1781 (i) the conversion of a private sector business vehicle or a government vehicle to use a  
1782 clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a);

1783 (ii) the purchase of:

1784 (A) an OEM vehicle for use as a private sector business vehicle or government vehicle;  
1785 or

1786 (B) a vehicle, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for  
1787 use as a private sector business vehicle or government vehicle;

1788 (iii) the retrofit, certified by the Air Quality Board under Subsection 19-1-405(1)(d), of  
1789 a private sector business vehicle or government vehicle;

1790 (iv) a fuel system, certified by the Air Quality Board under Subsection 19-1-405(1)(d),  
1791 for a private sector business vehicle or government vehicle; or

1792 (v) a state match of a federal or nonfederal grant for any item under this Subsection  
1793 (2)(a).

1794 (b) The amount of a loan for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A) may

1795 not exceed:

1796 (i) the actual cost of the vehicle conversion;

1797 (ii) the incremental cost of purchasing the OEM vehicle; or

1798 (iii) the cost of purchasing the OEM vehicle if there is no documented incremental

1799 cost.

1800 (c) The amount of a grant for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A)

1801 may not exceed:

1802 (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit

1803 claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested;

1804 or

1805 (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of

1806 any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant

1807 is requested.

1808 (d) (i) Except as provided in Subsection (3) and subject to the availability of monies in

1809 the fund, the department may make a loan for the purchase of vehicle refueling equipment for a

1810 private sector business vehicle or a government vehicle.

1811 (ii) The maximum amount loaned per installation of refueling equipment may not

1812 exceed the actual cost of the refueling equipment.

1813 (iii) Except as provided in Subsection (3) and subject to the availability of monies in

1814 the fund, the department may make a grant for a state match of a federal or nonfederal grant for

1815 the purchase of vehicle refueling equipment for a private sector business vehicle or a

1816 government vehicle.

1817 (3) The department may not make a loan or grant under this part for an electric-hybrid

1818 vehicle.

1819 (4) The department may:

1820 (a) reimburse itself for the costs incurred in administering the fund from:

1821 (i) the fund; or

1822 (ii) application fees; and

1823 (b) establish an application fee for a loan or grant from the fund by following the

1824 procedures and requirements of Section [~~63J-1-303~~] 63J-1-504.

1825 (5) (a) The fund balance may not exceed \$10,000,000.

1826 (b) Interest on cash balances and repayment of loans in excess of the amount necessary  
1827 to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

1828 (6) (a) Loans made from monies in the fund shall be supported by loan documents  
1829 evidencing the intent of the borrower to repay the loan.

1830 (b) The original loan documents shall be filed with the Division of Finance and a copy  
1831 shall be filed with the department.

1832 Section 43. Section **19-2-105.3** is amended to read:

1833 **19-2-105.3. Clean fuel requirements for fleets.**

1834 (1) As used in this section:

1835 (a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

1836 (b) "Clean fuel" means:

1837 (i) propane, compressed natural gas, or electricity;

1838 (ii) other fuel the Air Quality Board created in Title 19, Chapter 2, Air Conservation  
1839 Act, determines annually on or before July 1 is at least as effective as fuels under Subsection  
1840 (1)(b)(i) in reducing air pollution; and

1841 (iii) other fuel that meets the clean fuel vehicle standards in the 1990 Clean Air Act.

1842 (c) "Fleet" means ten or more vehicles:

1843 (i) owned or operated by a single entity as defined by board rule; and

1844 (ii) capable of being fueled or that are fueled at a central location.

1845 (d) "Fleet" does not include motor vehicles that are:

1846 (i) held for lease or rental to the general public;

1847 (ii) held for sale or used as demonstration vehicles by motor vehicle dealers;

1848 (iii) used by motor vehicle manufacturers for product evaluations or tests;

1849 (iv) authorized emergency vehicles as defined in Section 41-6a-102;

1850 (v) registered under Title 41, Chapter 1a, Part 2, Registration, as farm vehicles;

1851 (vi) special mobile equipment as defined in Section 41-1a-102;

1852 (vii) heavy duty trucks with a gross vehicle weight rating of more than 26,000 pounds;

1853 (viii) regularly used by employees to drive to and from work, parked at the employees'  
1854 personal residences when they are not at their employment, and not practicably fueled at a  
1855 central location;

1856 (ix) owned, operated, or leased by public transit districts; or

1857 (x) exempted by board rule.

1858 (2) (a) After evaluation of reasonably available pollution control strategies, and as part  
1859 of the state implementation plan demonstrating attainment of the national ambient air quality  
1860 standards, the board may by rule, subject to Subsection (2)(c), require fleets in specified  
1861 geographical areas to use clean fuels if the board determines fleet use of clean fuels is:

1862 (i) necessary to demonstrate attainment of the national ambient air quality standards in  
1863 any area where they are required; and

1864 (ii) reasonably cost effective when compared to other similarly beneficial control  
1865 strategies for demonstrating attainment of the national ambient air quality standards.

1866 (b) State implementation plans developed prior to July 1, 1995, may require fleets to  
1867 use clean fuels no earlier than July 1, 1995, unless the board determines fleet use of clean fuels  
1868 is necessary prior to July 1, 1995, to demonstrate attainment of the national ambient air quality  
1869 standards in any area by an attainment date established by federal law.

1870 (c) The board may not require more than 50% of those trucks in a fleet that are heavy  
1871 duty trucks having a gross vehicle weight rating of more than 8,500 pounds and not more than  
1872 26,000 pounds to convert to clean fuels under Subsection (2)(b).

1873 (3) (a) After evaluation of reasonably available pollution control strategies, and as part  
1874 of a state implementation plan demonstrating only maintenance of the national ambient air  
1875 quality standards, the board may by rule, subject to Subsection (3)(b), require fleets in specified  
1876 geographical areas to use clean fuels if the board determines fleet use of clean fuels is:

1877 (i) necessary to demonstrate maintenance of the national ambient air quality standards  
1878 in any area where they are required; and

1879 (ii) reasonably cost effective as compared with other similarly beneficial control  
1880 strategies for demonstrating maintenance of the national ambient air quality standards.

1881 (b) Under Subsection (3)(a) the board may require no more than:

1882 (i) 30% of a fleet to use clean fuels before January 1, 1998;

1883 (ii) 50% of a fleet to use clean fuels before January 1, 1999; and

1884 (iii) 70% of a fleet to use clean fuels before January 1, 2000.

1885 (c) The board may not require more than 50% of those trucks in a fleet that are heavy  
1886 duty trucks having a gross vehicle weight rating of more than 8,500 pounds and not more than  
1887 26,000 pounds to convert to clean fuels under Subsection (3)(b).

- 1888 (4) Rules the board makes under this section may include:
- 1889 (a) dates by which fleets are required to convert to clean fuels under the provisions of
- 1890 this section;
- 1891 (b) definitions of fleet owners or operators;
- 1892 (c) definitions of vehicles exempted from this section by rule;
- 1893 (d) certification requirements for persons who install clean fuel conversion equipment,
- 1894 including testing and certification standards regarding installers; and
- 1895 (e) certification fees for installers, established under Section [~~63J-1-303~~] 63J-1-504.

1896 (5) Implementation of this section and rules made under this section are subject to the

1897 reasonable availability of clean fuel in the local market as determined by the board.

1898 Section 44. Section **19-2-109.1** is amended to read:

1899 **19-2-109.1. Operating permit required -- Emissions fee -- Implementation.**

1900 (1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:

- 1901 (a) "EPA" means the federal Environmental Protection Agency.
- 1902 (b) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.
- 1903 (c) "Operating permit" means a permit issued by the executive secretary to sources of
- 1904 air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.
- 1905 (d) "Program" means the air pollution operating permit program established under this
- 1906 section to comply with Title V of the 1990 Clean Air Act.
- 1907 (e) "Regulated pollutant" has the same meaning as defined in Title V of the 1990 Clean
- 1908 Air Act and implementing federal regulations.

1909 (2) (a) A person may not operate any source of air pollution required to have a permit

1910 under Title V of the 1990 Clean Air Act without having obtained an operating permit from the

1911 executive secretary under procedures the board establishes by rule.

1912 (b) A person is not required to submit an operating permit application until the

1913 governor has submitted an operating permit program to the EPA.

1914 (c) Any operating permit issued under this section may not become effective until the

1915 day after the EPA issues approval of the permit program or November 15, 1995, whichever

1916 occurs first.

1917 (3) (a) Operating permits issued under this section shall be for a period of five years

1918 unless the board makes a written finding, after public comment and hearing, and based on

substantial evidence in the record, that an operating permit term of less than five years is necessary to protect the public health and the environment of the state.

(b) The executive secretary may issue, modify, or renew an operating permit only after providing public notice, an opportunity for public comment, and an opportunity for a public hearing.

(c) The executive secretary shall, in conformity with the 1990 Clean Air Act and implementing federal regulations, revise the conditions of issued operating permits to incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990 Clean Air Act, if the remaining period of the permit is three or more years.

(d) The executive secretary may terminate, modify, revoke, or reissue an operating permit for cause.

(4) (a) The board shall establish a proposed annual emissions fee that conforms with Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources required to obtain a permit. The emissions fee established under this section is in addition to fees assessed under Section 19-2-108 for issuance of an approval order.

(b) In establishing the fee the board shall comply with the provisions of Section ~~[63J-1-303]~~ 63J-1-504 that require a public hearing and require the established fee to be submitted to the Legislature for its approval as part of the department's annual appropriations request.

(c) The fee shall cover all reasonable direct and indirect costs required to develop and administer the program and the small business assistance program established under Section 19-2-109.2. The board shall prepare an annual report of the emissions fees collected and the costs covered by those fees under this Subsection (4).

(d) The fee shall be established uniformly for all sources required to obtain an operating permit under the program and for all regulated pollutants.

(e) The fee may not be assessed for emissions of any regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emissions fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(5) Emissions fees for the period:

(a) of July 1, 1992, through June 30, 1993, shall be based on the most recent emissions

1950 inventory prepared by the executive secretary; and

1951 (b) on and after July 1, 1993, but prior to issuance of an operating permit, shall be  
1952 based on the most recent emissions inventory, unless a source elects prior to July 1, 1992, to  
1953 base the fee on allowable emissions, if applicable for a regulated pollutant.

1954 (6) After an operating permit is issued the emissions fee shall be based on actual  
1955 emissions for a regulated pollutant unless a source elects, prior to the issuance or renewal of a  
1956 permit, to base the fee during the period of the permit on allowable emissions for that regulated  
1957 pollutant.

1958 (7) If the owner or operator of a source subject to this section fails to timely pay an  
1959 annual emissions fee, the executive secretary may:

1960 (a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus  
1961 interest on the fee computed at 12% annually; or

1962 (b) revoke the operating permit.

1963 (8) The owner or operator of a source subject to this section may contest an emissions  
1964 fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4,  
1965 Administrative Procedures Act, as provided in this Subsection (8).

1966 (a) The owner or operator must pay the fee under protest prior to being entitled to a  
1967 hearing. Payment of an emissions fee or penalty under protest is not a waiver of the right to  
1968 contest the fee or penalty under this section.

1969 (b) A request for a hearing under this Subsection (8) shall be made after payment of the  
1970 emissions fee and within six months after the emissions fee was due.

1971 (9) To reinstate an operating permit revoked under Subsection (7) the owner or  
1972 operator shall pay all outstanding emissions fees, a penalty of not more than 50% of all  
1973 outstanding fees, and interest on the outstanding emissions fees computed at 12% annually.

1974 (10) All emissions fees and penalties collected by the department under this section  
1975 shall be deposited in the General Fund as the Air Pollution Operating Permit Program  
1976 dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by  
1977 the department in developing and administering the program and the small business assistance  
1978 program under Section 19-2-109.2.

1979 (11) Failure of the executive secretary to act on any operating permit application or  
1980 renewal is a final administrative action only for the purpose of obtaining judicial review by any

of the following persons to require the executive secretary to take action on the permit or its renewal without additional delay:

- (a) the applicant;
- (b) any person who participated in the public comment process; or
- (c) any other person who could obtain judicial review of that action under applicable law.

Section 45. Section **19-2-109.5** is amended to read:

**19-2-109.5. Private sector air quality permitting professionals certification program.**

(1) As used in this section, "AQPP" means an air quality permitting professional.

(2) The board may establish a program to certify private sector AQPPs, including consultants and employees of companies that may seek air quality permits from the division.

Any program established under this section shall include:

(a) a training program established and operated by the department, which describes and explains the state law and rules regarding the air quality permit application and approval procedure under this chapter;

(b) the requirement to pass an exam to measure qualifications of AQPP applicants;

(c) an option for certification of an AQPP by passing the exam without undergoing any training required under the program;

(d) an application process, including a fee established under Section ~~[63J-1-303]~~ 63J-1-504 that covers the costs of the training, testing, and application process and the department's maintenance of a list of certified AQPPs;

(e) certification of qualified AQPP applicants;

(f) maintenance by the department of a current list of certified AQPPs, which is available to the public;

(g) procedures for the expedited review by the department of air quality permit applications submitted by certified AQPPs; and

(h) professional standards for AQPPs.

(3) The board may not require AQPP certification as a condition of preparing or submitting a notice of intent or operating permit application under this chapter.

(4) Any program under this section shall provide for revocation of any certification

issued under this section if the department determines, through an administrative hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act, that the AQPP:

(a) knowingly or negligently submitted false information or data as part of an air quality permit application;

(b) prepared more than three air quality permit applications in one calendar year in a manner that each did not substantially comply with department application requirements; or

(c) prepared any air quality permit application in violation of the professional standards defined by department rule.

Section 46. Section **19-3-104** is amended to read:

**19-3-104. Registration and licensing of radiation sources by department -- Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.**

(1) As used in this section:

(a) "Decommissioning" includes financial assurance.

(b) "Source material" and "byproduct material" have the same definitions as in 42 U.S.C.A. 2014, Atomic Energy Act of 1954, as amended.

(2) The board may require the registration or licensing of radiation sources that constitute a significant health hazard.

(3) All sources of ionizing radiation, including ionizing radiation producing machines, shall be registered or licensed by the department.

(4) The board may make rules:

(a) necessary for controlling exposure to sources of radiation that constitute a significant health hazard;

(b) to meet the requirements of federal law relating to radiation control to ensure the radiation control program under this part is qualified to maintain primacy from the federal government;

(c) to establish:

(i) board accreditation requirements and procedures for mammography facilities; and

(ii) certification procedure and qualifications for persons who survey mammography equipment and oversee quality assurance practices at mammography facilities; and

(d) as necessary regarding the possession, use, transfer, or delivery of source and byproduct material and the disposal of byproduct material to establish requirements for:

2043 (i) the licensing, operation, decontamination, and decommissioning, including financial  
2044 assurances; and

2045 (ii) the reclamation of sites, structures, and equipment used in conjunction with the  
2046 activities described in this Subsection (4).

2047 (5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and  
2048 byproduct material and the disposal of byproduct material at uranium mills or commercial  
2049 waste facilities, as provided in this Subsection (5).

2050 (b) On and after January 1, 2003 through March 30, 2003:

2051 (i) \$6,667 per month for uranium mills or commercial sites disposing of or  
2052 reprocessing byproduct material; and

2053 (ii) \$4,167 per month for those uranium mills the executive secretary has determined  
2054 are on standby status.

2055 (c) On and after March 31, 2003 through June 30, 2003 the same fees as in Subsection  
2056 (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an  
2057 amendment for agreement state status for uranium recovery regulation on or before March 30,  
2058 2003.

2059 (d) If the Nuclear Regulatory Commission does not grant the amendment for state  
2060 agreement status on or before March 30, 2003, fees under Subsection (5)(e) do not apply and  
2061 are not required to be paid until on and after the later date of:

2062 (i) October 1, 2003; or

2063 (ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for  
2064 agreement state status for uranium recovery regulation.

2065 (e) For the payment periods beginning on and after July 1, 2003, the department shall  
2066 establish the fees required under Subsection (5)(a) under Section ~~[63J-1-303]~~ 63J-1-504,  
2067 subject to the restrictions under Subsection (5)(d).

2068 (f) The department shall deposit fees it receives under this Subsection (5) into the  
2069 Environmental Quality Restricted Account created in Section 19-1-108.

2070 (6) (a) The department shall assess fees for registration, licensing, and inspection of  
2071 radiation sources under this section.

2072 (b) The department shall comply with the requirements of Section ~~[63J-1-303]~~  
2073 63J-1-504 in assessing fees for licensure and registration.

2074 (7) The department shall coordinate its activities with the Department of Health rules  
2075 made under Section 26-21a-203.

2076 (8) (a) Except as provided in Subsection (9), the board may not adopt rules, for the  
2077 purpose of the state assuming responsibilities from the United States Nuclear Regulatory  
2078 Commission with respect to regulation of sources of ionizing radiation, that are more stringent  
2079 than the corresponding federal regulations which address the same circumstances.

2080 (b) In adopting those rules, the board may incorporate corresponding federal  
2081 regulations by reference.

2082 (9) (a) The board may adopt rules more stringent than corresponding federal  
2083 regulations for the purpose described in Subsection (8) only if it makes a written finding after  
2084 public comment and hearing and based on evidence in the record that corresponding federal  
2085 regulations are not adequate to protect public health and the environment of the state.

2086 (b) Those findings shall be accompanied by an opinion referring to and evaluating the  
2087 public health and environmental information and studies contained in the record which form  
2088 the basis for the board's conclusion.

2089 (10) (a) The board shall by rule:

2090 (i) authorize independent qualified experts to conduct inspections required under this  
2091 chapter of x-ray facilities registered with the division; and

2092 (ii) establish qualifications and certification procedures necessary for independent  
2093 experts to conduct these inspections.

2094 (b) Independent experts under this Subsection (10) are not considered employees or  
2095 representatives of the division or the state when conducting the inspections.

2096 (11) (a) The board may by rule establish criteria for siting commercial low-level  
2097 radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section  
2098 19-3-103.7.

2099 (b) Subject to Subsection 19-3-105(10), any facility under Subsection (11)(a) for which  
2100 a radioactive material license is required by this section shall comply with those criteria.

2101 (c) Subject to Subsection 19-3-105(10), a facility may not receive a radioactive  
2102 material license until siting criteria have been established by the board. The criteria also apply  
2103 to facilities that have applied for but not received a radioactive material license.

2104 (12) The board shall by rule establish financial assurance requirements for closure and

2105 postclosure care of radioactive waste land disposal facilities, taking into account existing  
2106 financial assurance requirements.

2107 Section 47. Section **19-3-106.4** is amended to read:

2108 **19-3-106.4. Generator site access permits.**

2109 (1) A generator or broker may not transfer radioactive waste to a commercial  
2110 radioactive waste treatment or disposal facility in the state without first obtaining a generator  
2111 site access permit from the executive secretary.

2112 (2) The board may make rules pursuant to Section 19-3-104 governing a generator site  
2113 access permit program.

2114 (3) (a) Except as provided in Subsection (3)(b), the department shall establish fees for  
2115 generator site access permits in accordance with Section [~~63J-1-303~~] 63J-1-504.

2116 (b) On and after July 1, 2001 through June 30, 2002, the fees are:

2117 (i) \$1,300 for generators transferring 1,000 or more cubic feet of radioactive waste per  
2118 year;

2119 (ii) \$500 for generators transferring less than 1,000 cubic feet of radioactive waste per  
2120 year; and

2121 (iii) \$5,000 for brokers.

2122 (c) The department shall deposit fees received under this section into the  
2123 Environmental Quality Restricted Account created in Section 19-1-108.

2124 (4) This section does not apply to a generator or broker transferring radioactive waste  
2125 to a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source Material.

2126 Section 48. Section **19-3-308** is amended to read:

2127 **19-3-308. Application fee and annual fees.**

2128 (1) (a) Any application for a waste transfer, storage, decay in storage, treatment, or  
2129 disposal facility shall be accompanied by an initial fee of \$5,000,000.

2130 (b) The applicant shall subsequently pay an additional fee to cover the costs to the state  
2131 associated with review of the application, including costs to the state and the state's contractors  
2132 for permitting, technical, administrative, legal, safety, and emergency response reviews,  
2133 planning, training, infrastructure, and other impact analyses, studies, and services required to  
2134 evaluate a proposed facility.

2135 (2) For the purpose of funding the state oversight and inspection of any waste transfer,

storage, decay in storage, treatment, or disposal facility, and to establish state infrastructure, including, but not limited to providing for state Department of Environmental Quality, state Department of Transportation, state Department of Public Safety, and other state agencies' technical, administrative, legal, infrastructure, maintenance, training, safety, socio-economic, law enforcement, and emergency resources necessary to respond to these facilities, the owner or operator shall pay to the state a fee as established by department rule under Section ~~[63J-1-303]~~ 63J-1-504, to be assessed:

(a) per ton of storage cask and high level nuclear waste per year for storage, decay in storage, treatment, or disposal of high level nuclear waste;

(b) per ton of transportation cask and high level nuclear waste for each transfer of high level nuclear waste;

(c) per ton of storage cask and greater than class C radioactive waste for the storage, decay in storage, treatment, or disposal of greater than class C radioactive waste; and

(d) per ton of transportation cask and greater than class C radioactive waste for each transfer of greater than class C radioactive waste.

(3) Funds collected under Subsection (2) shall be placed in the Nuclear Accident and Hazard Compensation Account, created in Subsection 19-3-309(3).

(4) The owner or operator of the facility shall pay the fees imposed under this section to the department on or before the 15th day of the month following the month in which the fee accrued.

(5) Annual fees due under this part accrue on July 1 of each year and shall be paid to the department by July 15 of that year.

Section 49. Section **19-3-315** is amended to read:

**19-3-315. Transportation requirements.**

(1) A person may not transport wastes in the state, including on highways, roads, rail, by air, or otherwise, without:

(a) having received approval from the state Department of Transportation; and

(b) having demonstrated compliance with rules of the state Department of Transportation.

(2) The Department of Transportation may:

(a) make rules requiring a transport and route approval permit, weight restrictions,

2167 tracking systems, and state escort; and

2168 (b) assess appropriate fees as established under Section [~~63J-1-303~~] 63J-1-504 for each  
2169 shipment of waste, consistent with the requirements and limitations of federal law.

2170 (3) The Department of Environmental Quality shall establish any other transportation  
2171 rules as necessary to protect the public health, safety, and environment.

2172 (4) Unless expressly authorized by the governor, with the concurrence of the  
2173 Legislature, an easement or other interest in property may not be granted upon any lands within  
2174 the state for a right of way for any carrier transportation system that:

2175 (a) is not a class I common or contract rail carrier organized and doing business prior to  
2176 January 1, 1999; and

2177 (b) transports high level nuclear waste or greater than class C radioactive waste to a  
2178 storage facility within the state.

2179 Section 50. Section **19-5-120** is amended to read:

2180 **19-5-120. Sewage permit program fee.**

2181 (1) The department may assess a fee established under Section [~~63J-1-303~~] 63J-1-504  
2182 against persons required to obtain a permit under Section 19-5-108 for the management of  
2183 sewage sludge, to be applied to the costs of administering the sewage permit program required  
2184 by this chapter.

2185 (2) The total of the combined fees assessed against all permittees under this section  
2186 may not be more than \$28,000 annually.

2187 (3) In establishing the fee for each sludge disposal permit holder, the department shall  
2188 take into account the proportionate size of the population served by the permit holder.

2189 (4) All proceeds from the fee shall be applied to the administering of the sewage permit  
2190 program required by this chapter.

2191 Section 51. Section **19-5-121** is amended to read:

2192 **19-5-121. Underground wastewater disposal systems -- Certification required to**  
2193 **design, inspect, maintain, or conduct percolation or soil tests -- Exemptions -- Rules --**  
2194 **Fees.**

2195 (1) As used in this section, "maintain" does not include the pumping of an underground  
2196 wastewater disposal system.

2197 (2) (a) Except as provided in Subsections (2)(b) and (2)(c), beginning January 1, 2002,

2198 a person may not design, inspect, maintain, or conduct percolation or soil tests for an  
2199 underground wastewater disposal system, without first obtaining certification from the board.

2200 (b) An individual is not required to obtain certification from the board to maintain an  
2201 underground wastewater disposal system that serves a noncommercial, private residence owned  
2202 by the individual or a member of the individual's family and in which the individual or a  
2203 member of the individual's family resides or an employee of the individual resides without  
2204 payment of rent.

2205 (c) The board shall make rules allowing an uncertified individual to conduct  
2206 percolation or soil tests for an underground wastewater disposal system that serves a  
2207 noncommercial, private residence owned by the individual and in which the individual resides  
2208 or intends to reside, or which is intended for use by an employee of the individual without  
2209 payment of rent, if the individual:

2210 (i) has the capability of properly conducting the tests; and

2211 (ii) is supervised by a certified individual when conducting the tests.

2212 (3) (a) The board shall adopt and enforce rules for the certification and recertification  
2213 of individuals who design, inspect, maintain, or conduct percolation or soil tests for  
2214 underground wastewater disposal systems.

2215 (b) (i) The rules shall specify requirements for education and training and the type and  
2216 duration of experience necessary to obtain certification.

2217 (ii) The rules shall recognize the following in meeting the requirements for  
2218 certification:

2219 (A) the experience of a contractor licensed under Title 58, Chapter 55, Utah  
2220 Construction Trades Licensing Act, who has five or more years of experience installing  
2221 underground wastewater disposal systems;

2222 (B) the experience of an environmental health scientist licensed under Title 58, Chapter  
2223 20a, Environmental Health Scientist Act; or

2224 (C) the educational background of a professional engineer licensed under Title 58,  
2225 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

2226 (iii) If eligibility for certification is based on experience, the applicant for certification  
2227 must show proof of experience.

2228 (4) The department may establish fees in accordance with Section [63J-1-303]

2229 63J-1-504 for the testing and certification of individuals who design, inspect, maintain, or  
2230 conduct percolation or soil tests for underground wastewater disposal systems.

2231 Section 52. Section **19-5-122** is amended to read:

2232 **19-5-122. Underground wastewater disposal systems -- Fee imposed on new**  
2233 **systems.**

2234 (1) Beginning July 1, 2001, a one-time fee is imposed on each new underground  
2235 wastewater disposal system installed.

2236 (2) (a) From July 1, 2001 through June 30, 2002, the fee shall be \$25.

2237 (b) Beginning July 1, 2002, the fee shall be established by the department in  
2238 accordance with Section [~~63J-1-303~~] 63J-1-504.

2239 (3) (a) The fee shall be paid when plans and specifications for the construction of a  
2240 new underground wastewater disposal system are approved by the local health department or  
2241 the Department of Environmental Quality.

2242 (b) A local health department shall remit the fee revenue to the Division of Finance  
2243 quarterly.

2244 (4) The fee revenue shall be:

2245 (a) deposited into the Underground Wastewater Disposal Restricted Account created in  
2246 Section 19-5-123; and

2247 (b) used to pay for costs of underground wastewater disposal system training programs.  
2248 Section 53. Section **19-6-408** is amended to read:

2249 **19-6-408. Underground storage tank registration fee -- Processing fee for tanks**  
2250 **not in the program.**

2251 (1) The department may assess an annual underground storage tank registration fee  
2252 against owners or operators of underground storage tanks that have not been closed. These fees  
2253 shall be:

2254 (a) billed per facility;

2255 (b) due on July 1 annually;

2256 (c) deposited with the department as dedicated credits;

2257 (d) used by the department for the administration of the underground storage tank  
2258 program outlined in this part; and

2259 (e) established under Section [~~63J-1-303~~] 63J-1-504.

(2) (a) In addition to the fee under Subsection (1), an owner or operator who elects to demonstrate financial assurance through a mechanism other than the Environmental Assurance Program shall pay a processing fee of:

(i) for fiscal year 1997-98, \$1,000 for each financial assurance mechanism document submitted to the division for review; and

(ii) on and after July 1, 1998, a processing fee established under Section ~~[63J-1-303]~~ 63J-1-504.

(b) If a combination of financial assurance mechanisms is used to demonstrate financial assurance, the fee under Subsection (2)(a) shall be paid for each document submitted.

(c) As used in this Subsection (2), "financial assurance mechanism document" may be a single document that covers more than one facility through a single financial assurance mechanism.

(3) Any funds provided for administration of the underground storage tank program under this section that are not expended at the end of the fiscal year lapse into the Petroleum Storage Tank Restricted Account created in Section 19-6-405.5.

(4) The executive secretary shall provide all owners or operators who pay the annual underground storage tank registration fee a certificate of registration.

(5) (a) The executive secretary may issue a notice of agency action assessing a civil penalty of \$1,000 per facility if an owner or operator of an underground storage tank facility fails to pay the required fee within 60 days after the July 1 due date.

(b) The registration fee and late payment penalty accrue interest at 12% per annum.

(c) If the registration fee, late payment penalty, and interest accrued under this Subsection (5) are not paid in full within 60 days after the July 1 due date any certificate of compliance issued prior to the July 1 due date lapses. The executive secretary may not reissue the certificate of compliance until full payment under this Subsection (5) is made to the department.

(d) The executive secretary may waive any penalty assessed under this Subsection (5) if no fuel has been dispensed from the tank on or after July 1, 1991.

Section 54. Section ~~19-6-806~~ is amended to read:

**19-6-806. Registration of waste tire transporters and recyclers.**

(1) (a) The executive secretary shall register each applicant for registration to act as a

2291 waste tire transporter if the applicant meets the requirements of this section.

2292 (b) An applicant for registration as a waste tire transporter shall:

2293 (i) submit an application in a form prescribed by the executive secretary;

2294 (ii) pay a fee as determined by the board under Section [~~63J-1-303~~] 63J-1-504;

2295 (iii) provide the name and business address of the operator;

2296 (iv) provide proof of liability insurance or other form of financial responsibility in an  
2297 amount determined by board rule, but not more than \$300,000, for any liability the waste tire  
2298 transporter may incur in transporting waste tires; and

2299 (v) meet requirements established by board rule.

2300 (c) The holder of a registration under this section shall advise the executive secretary in  
2301 writing of any changes in application information provided to the executive secretary within 20  
2302 days of the change.

2303 (d) If the executive secretary has reason to believe a waste tire transporter has disposed  
2304 of tires other than as allowed under this part, the executive secretary shall conduct an  
2305 investigation and, after complying with the procedural requirements of Title 63G, Chapter 4,  
2306 Administrative Procedures Act, may revoke the registration.

2307 (2) (a) The executive secretary shall register each applicant for registration to act as a  
2308 waste tire recycler if the applicant meets the requirements of this section.

2309 (b) An applicant for registration as a waste tire recycler shall:

2310 (i) submit an application in a form prescribed by the executive secretary;

2311 (ii) pay a fee as determined by the board under Section [~~63J-1-303~~] 63J-1-504;

2312 (iii) provide the name and business address of the operator of the recycling business;

2313 (iv) provide proof of liability insurance or other form of financial responsibility in an  
2314 amount determined by board rule, but not more than \$300,000, for any liability the waste tire  
2315 recycler may incur in storing and recycling waste tires;

2316 (v) engage in activities as described under the definition of recycler in Section  
2317 19-6-803; and

2318 (vi) meet requirements established by board rule.

2319 (c) The holder of a registration under this section shall advise the executive secretary in  
2320 writing of any changes in application information provided to the executive secretary within 20  
2321 days of the change.

(d) If the executive secretary has reason to believe a waste tire recycler has falsified any information provided in an application for partial reimbursement under this section, the executive secretary shall, after complying with the procedural requirements of Title 63G, Chapter 4, Administrative Procedures Act, revoke the registration.

(3) The board shall establish a uniform fee for registration which shall be imposed by any unit of local government or local health department that requires a registration fee as part of the registration of waste tire transporters or waste tire recyclers.

Section 55. Section **19-6-1003** is amended to read:

**19-6-1003. Board and executive secretary powers.**

(1) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

- (a) governing administrative proceedings under this part;
  - (b) specifying the terms and conditions under which the executive secretary shall approve, disapprove, revoke, or review a plan submitted by a manufacturer; and
  - (c) governing reports and educational materials required by this part.
- (2) These rules shall include:
- (a) time requirements for plan submission, review, approval, and implementation;
  - (b) a public notice and comment period for a proposed plan; and
  - (c) safety standards for the collection, packaging, transportation, storage, recycling, and disposal of mercury switches.

(3) The board may request the attorney general to bring an action for injunctive relief and enforcement of this part, including, without limitation, imposition of the penalty provided in Section 19-6-1006.

(4) As authorized by the board, the executive secretary may:

- (a) review and approve or disapprove plans, specifications, or other data related to mercury switch removal;
- (b) enforce a rule by issuing a notice, an order, or both, which may be subsequently amended or revoked by the board; and
- (c) initiate an administrative action to compel compliance with this part and any rules adopted under this part.

(5) The executive secretary shall establish a fee to cover the costs of a plan's review by

2353 following the procedures and requirements of Section [~~63J-1-303~~] 63J-1-504.

2354 Section 56. Section **19-8-117** is amended to read:

2355 **19-8-117. Program report and budget allocations -- Fee schedule.**

2356 (1) (a) For applications submitted on or after May 5, 1997 through June 30, 1998, the  
2357 application fee under this chapter is \$2,000.

2358 (b) Regarding applications submitted on and after July 1, 1998, the executive director  
2359 shall annually calculate the costs to administer the voluntary cleanup program under this  
2360 chapter and shall establish the fees for the program under Section [~~63J-1-303~~] 63J-1-504.

2361 (2) All fees under Subsection (1) shall be deposited in the account created under  
2362 Section 19-8-103.

2363 Section 57. Section **23-14-18** is amended to read:

2364 **23-14-18. Establishment of seasons, locations, limits, and regulations by Wildlife**  
2365 **Board.**

2366 (1) To provide an adequate and flexible system of protection, propagation,  
2367 introduction, increase, control, harvest, management, and conservation of protected wildlife in  
2368 this state and to provide for the use and development of protected wildlife for public recreation  
2369 and food supply while maintaining a sustainable population of protected wildlife, the Wildlife  
2370 Board shall determine the circumstances, time, location, means, and the amounts, and numbers  
2371 of protected wildlife which may be taken.

2372 (2) The Wildlife Board shall, except as otherwise specified in this code:

2373 (a) fix seasons and shorten, extend, or close seasons on any species of protected  
2374 wildlife in any locality, or in the entire state, if the board finds that the action is necessary to  
2375 effectuate proper wildlife management and control;

2376 (b) close or open areas to fishing, trapping, or hunting;

2377 (c) establish refuges and preserves;

2378 (d) regulate and prescribe the means by which protected wildlife may be taken;

2379 (e) regulate the transportation and storage of protected wildlife, or their parts, within  
2380 the boundaries of the state and the shipment or transportation out of the state;

2381 (f) establish or change bag limits and possession limits;

2382 (g) prescribe safety measures and establish other regulations as may be considered  
2383 necessary in the interest of wildlife conservation and the safety and welfare of hunters,

2384 trappers, fishermen, landowners, and the public;

2385 (h) (i) prescribe when licenses, permits, tags, and certificates of registration shall be  
2386 required and procedures for their issuance and use; and

2387 (ii) establish forms and fees for licenses, permits, tags, and certificates of registration;  
2388 and

2389 (i) prescribe rules and regulations as it may consider necessary to control the use and  
2390 harvest of protected wildlife by private associations, clubs, partnerships, or corporations,  
2391 provided the rules and regulations do not preclude the landowner from personally controlling  
2392 trespass upon the owner's properties nor from charging a fee to trespass for purposes of hunting  
2393 or fishing.

2394 (3) The Wildlife Board may allow a season on protected wildlife to commence on any  
2395 day of the week except Sunday.

2396 (4) The Wildlife Board shall establish fees for licenses, permits, tags, and certificates  
2397 of registration in accordance with Section [~~63J-1-303~~] 63J-1-504.

2398 Section 58. Section **23-16-4** is amended to read:

2399 **23-16-4. Compensation for damage to crops, fences, or irrigation equipment --**  
2400 **Limitations -- Appeals.**

2401 (1) The division may provide compensation to claimants for damage caused by big  
2402 game to:

2403 (a) cultivated crops from or on cleared and planted land;

2404 (b) fences on private land; or

2405 (c) irrigation equipment on private land.

2406 (2) To be eligible to receive compensation as provided in this section, the claimant:

2407 (a) must notify the division of the damage within 72 hours after the damage is  
2408 discovered; and

2409 (b) allow division personnel reasonable access to the property to verify and alleviate  
2410 the depredation problem.

2411 (3) (a) The appraisal of the damage shall be made by the claimant and the division as  
2412 soon after notification as possible.

2413 (b) In determining damage payment, the division and claimant shall consider:

2414 (i) the extent of damage experienced; and

2415 (ii) any revenue the landowner derives from:  
2416 (A) participation in a cooperative wildlife management unit;  
2417 (B) use of landowner association permits;  
2418 (C) use of mitigation permits; and  
2419 (D) charging for hunter access.

2420 (c) In determining how to assess and compensate for damages to cultivated crops, the  
2421 division's determination shall be based on the:  
2422 (i) full replacement value in the local market of the cultivated crops that actually have  
2423 been or will be damaged or consumed by big game animals; and  
2424 (ii) cost of delivery of a replacement crop to the location of the damaged crop or other  
2425 location that is not farther from the source of the replacement crop.

2426 (d) If the claimant and the division are unable to agree on a fair and equitable damage  
2427 payment, they shall designate a third party, consisting of one or more persons familiar with the  
2428 crops, fences, or irrigation equipment and the type of game animals doing the damage, to  
2429 appraise the damage.

2430 (4) (a) Notwithstanding Section [~~63J-1-303~~] 63J-1-504, the total amount of  
2431 compensation that may be provided by the division pursuant to this section and the total cost of  
2432 fencing materials provided by the division to prevent crop damage may not exceed the  
2433 legislative appropriation for fencing material and compensation for damaged crops, fences, and  
2434 irrigation equipment.

2435 (b) (i) Any claim of \$1,000 or less may be paid after appraisal of the damage as  
2436 provided in Subsection (3), unless the claim brings the total amount of claims submitted by the  
2437 claimant in the fiscal year to an amount in excess of \$1,000.

2438 (ii) Any claim for damage to irrigation equipment may be paid after appraisal of the  
2439 damage as provided in Subsection (3).

2440 (c) (i) Any claim in excess of \$1,000, or claim that brings the total amount of claims  
2441 submitted by the claimant in the fiscal year to an amount in excess of \$1,000, shall be treated  
2442 as follows:  
2443 (A) \$1,000 may be paid pursuant to the conditions of this section; and  
2444 (B) the amount in excess of \$1,000 may not be paid until the total amount of the  
2445 approved claims of all the claimants and expenses for fencing materials for the fiscal year are

2446 determined.

2447 (ii) If the total exceeds the amount appropriated by the Legislature pursuant to  
2448 Subsection (4)(a), claims in excess of \$1,000, or any claim that brings the total amount of a  
2449 claimant's claims in a fiscal year to an amount in excess of \$1,000, shall be prorated.

2450 (5) The division may deny or limit compensation if the claimant:

2451 (a) has failed to exercise reasonable care and diligence to avoid the loss or minimize  
2452 the damage; or

2453 (b) has unreasonably restricted hunting on land under the claimant's control or passage  
2454 through the land to access public lands for the purpose of hunting, after receiving written  
2455 notification from the division of the necessity of allowing such hunting or access to control or  
2456 mitigate damage by big game.

2457 (6) (a) The Wildlife Board shall make rules specifying procedures for the appeal of  
2458 division actions under this section.

2459 (b) Upon the petition of an aggrieved party to a final division action, the Wildlife  
2460 Board may review the action on the record and issue an order modifying or rescinding the  
2461 division action.

2462 (c) A qualified hearing examiner may be appointed for purposes of taking evidence and  
2463 making recommendations for a board order. The board shall consider the recommendations of  
2464 the examiner in making decisions.

2465 (d) Board review of final agency action and judicial review of final board action shall  
2466 be governed by Title 63G, Chapter 4, Administrative Procedures Act.

2467 Section 59. Section **26-1-6** is amended to read:

2468 **26-1-6. Fee schedule adopted by department.**

2469 (1) The department may adopt a schedule of fees that may be assessed for services  
2470 rendered by the department, provided that the fees are:

2471 (a) reasonable and fair; and

2472 (b) submitted to the Legislature as part of the department's annual appropriations  
2473 request.

2474 (2) When the department submits a fee schedule to the Legislature, the Legislature, in  
2475 accordance with Section [~~63J-1-303~~] 63J-1-504, may:

2476 (a) approve the fee;

2477 (b) increase or decrease and approve the fee; or

2478 (c) reject any fee submitted to it.

2479 (3) Fees approved by the Legislature pursuant to this section shall be paid into the state  
2480 treasury in accordance with Section ~~[63J-1-404]~~ 63J-1-104.

2481 Section 60. Section **26-2-22** is amended to read:

2482 **26-2-22. Inspection of vital records.**

2483 (1) (a) The vital records shall be open to inspection, but only in compliance with the  
2484 provisions of this chapter, department rules, and Section 78B-6-144.

2485 (b) It is unlawful for any state or local officer or employee to disclose data contained in  
2486 vital records contrary to this chapter or department rule.

2487 (c) A custodian of vital records may permit inspection of a vital record or issue a  
2488 certified copy of a record or a part of a record when the custodian is satisfied that the applicant  
2489 has demonstrated a direct, tangible, and legitimate interest.

2490 (2) A direct, tangible, and legitimate interest in a vital record is present only if:

2491 (a) the request is from:

2492 (i) the subject;

2493 (ii) a member of the subject's immediate family;

2494 (iii) the guardian of the subject;

2495 (iv) a designated legal representative of the subject; or

2496 (v) a person, including a child-placing agency as defined in Section 78B-6-103, with  
2497 whom a child has been placed pending finalization of an adoption of the child;

2498 (b) the request involves a personal or property right of the subject of the record;

2499 (c) the request is for official purposes of a state, local, or federal governmental agency;

2500 (d) the request is for a statistical or medical research program and prior consent has  
2501 been obtained from the state registrar; or

2502 (e) the request is a certified copy of an order of a court of record specifying the record  
2503 to be examined or copied.

2504 (3) For purposes of Subsection (2):

2505 (a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or  
2506 grandchild;

2507 (b) a designated legal representative means an attorney, physician, funeral service

2508 director, genealogist, or other agent of the subject or the subject's immediate family who has  
2509 been delegated the authority to access vital records;

2510 (c) except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or  
2511 the immediate family member of a parent, who does not have legal or physical custody of or  
2512 visitation or parent-time rights for a child because of the termination of parental rights pursuant  
2513 to Title 78A, Chapter 6, Juvenile Court Act of 1996, or by virtue of consenting to or  
2514 relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act,  
2515 may not be considered as having a direct, tangible, and legitimate interest; and

2516 (d) a commercial firm or agency requesting names, addresses, or similar information  
2517 may not be considered as having a direct, tangible, and legitimate interest.

2518 (4) Upon payment of a fee established in accordance with Section [~~63J-1-303~~]  
2519 63J-1-504, the following records shall be available to the public:

2520 (a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding  
2521 confidential information collected for medical and health use, if 100 years or more have passed  
2522 since the date of birth;

2523 (b) a death record if 50 years or more have passed since the date of death; and

2524 (c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed  
2525 since the date of the event upon which the record is based.

2526 Section 61. Section **26-21a-205** is amended to read:

2527 **26-21a-205. Department duties.**

2528 The department shall:

2529 (1) enforce rules established under this part;

2530 (2) authorize qualified department agents to conduct inspections of mammogram  
2531 facilities under department rules;

2532 (3) collect and credit fees for certification under Section [~~63J-1-303~~] 63J-1-504; and

2533 (4) provide necessary administrative and staff support to the committee.

2534 Section 62. Section **31A-3-103** is amended to read:

2535 **31A-3-103. Fees.**

2536 (1) For purposes of this section:

2537 (a) "Regulatory fee" is as defined in Section [~~63J-1-303~~] 63J-1-504.

2538 (b) "Services" means functions that are reasonable and necessary to enable the

2539 commissioner to perform the duties imposed by this title including:

2540 (i) issuing and renewing licenses and certificates of authority;

2541 (ii) filing policy forms;

2542 (iii) reporting agent appointments and terminations; and

2543 (iv) filing annual statements.

2544 (c) Fees related to the renewal of licenses may be imposed no more frequently than

2545 once each year.

2546 (2) (a) A regulatory fee charged by the department shall be set in accordance with

2547 Section [~~63J-1-303~~] 63J-1-504.

2548 (b) Fees shall be set and collected for services provided by the department.

2549 (3) (a) For a fee authorized by this chapter that is not a regulatory fee, the department

2550 may adopt a schedule of fees provided that each fee in the schedule of fees is:

2551 (i) reasonable and fair; and

2552 (ii) submitted to the Legislature as part of the department's annual appropriations

2553 request.

2554 (b) If a fee schedule described in Subsection (3)(a) is submitted as part of the

2555 department's annual appropriations request, the Legislature may, in a manner substantially

2556 similar to Section [~~63J-1-303~~] 63J-1-504:

2557 (i) approve any fee in the fee schedule;

2558 (ii) (A) increase or decrease any fee in the fee schedule; and

2559 (B) approve any fee in the fee schedule as changed by the Legislature; or

2560 (iii) reject any fee in the fee schedule.

2561 (c) (i) Except as provided in Subsection (3)(c)(ii), a fee approved by the Legislature

2562 pursuant to this Subsection (3) shall be deposited into the General Fund for appropriation by

2563 the Legislature.

2564 (ii) A fee approved by the Legislature pursuant to this Subsection (3) that relates to the

2565 use of electronic or other similar technology to provide the services of the department shall be

2566 deposited into the General Fund as a dedicated credit to be used by the department to provide

2567 services through use of electronic commerce or other similar technology.

2568 (4) The commissioner shall separately publish the schedule of fees approved by the

2569 Legislature and make it available upon request for \$1 per copy. This fee schedule shall also be

2570 included in any compilation of rules promulgated by the commissioner.

2571 (5) The commissioner shall, by rule, establish the deadlines for payment of any fee  
2572 established by the department in accordance with this section.

2573 Section 63. Section **31A-3-304 (Superseded 07/01/10)** is amended to read:

2574 **31A-3-304 (Superseded 07/01/10). Annual fees -- Other taxes or fees prohibited.**

2575 (1) (a) A captive insurance company shall pay an annual fee imposed under this section  
2576 to obtain or renew a certificate of authority.

2577 (b) The commissioner shall:

2578 (i) determine the annual fee pursuant to Sections 31A-3-103 and [~~63J-1-303~~]  
2579 63J-1-504; and

2580 (ii) consider whether the annual fee is competitive with fees imposed by other states on  
2581 captive insurance companies.

2582 (2) A captive insurance company that fails to pay the fee required by this section is  
2583 subject to the relevant sanctions of this title.

2584 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter  
2585 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or  
2586 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance  
2587 company, and no other occupation tax or other tax or fee may be levied or collected from a  
2588 captive insurance company by the state or a county, city, or municipality within this state.

2589 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real  
2590 and personal property taxes.

2591 (4) A captive insurance company shall pay the fee imposed by this section to the  
2592 department by March 31 of each year.

2593 (5) (a) The funds received pursuant to Subsection (2) shall be deposited into the  
2594 General Fund as a dedicated credit to be used by the department to:

2595 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and

2596 (ii) promote the captive insurance industry in Utah.

2597 (b) At the end of each fiscal year, funds received by the department in excess of  
2598 \$250,000 shall be treated as free revenue in the General Fund.

2599 Section 64. Section **31A-3-304 (Effective 07/01/10)** is amended to read:

2600 **31A-3-304 (Effective 07/01/10). Annual fees -- Other taxes or fees prohibited.**

2601 (1) (a) A captive insurance company shall pay an annual fee imposed under this section  
2602 to obtain or renew a certificate of authority.

2603 (b) The commissioner shall:

2604 (i) determine the annual fee pursuant to Sections 31A-3-103 and ~~[63J-1-303]~~

2605 63J-1-504; and

2606 (ii) consider whether the annual fee is competitive with fees imposed by other states on  
2607 captive insurance companies.

2608 (2) A captive insurance company that fails to pay the fee required by this section is  
2609 subject to the relevant sanctions of this title.

2610 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter  
2611 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or  
2612 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance  
2613 company, and no other occupation tax or other tax or fee may be levied or collected from a  
2614 captive insurance company by the state or a county, city, or municipality within this state.

2615 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real  
2616 and personal property taxes.

2617 (4) A captive insurance company shall pay the fee imposed by this section to the  
2618 department by March 31 of each year.

2619 (5) (a) The funds received pursuant to Subsection (2) shall be deposited into the  
2620 General Fund as a dedicated credit to be used by the department to:

2621 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and

2622 (ii) promote the captive insurance industry in Utah.

2623 (b) At the end of each fiscal year, funds received by the department in excess of  
2624 \$750,000 shall be treated as free revenue in the General Fund.

2625 Section 65. Section ~~31A-34-104~~ is amended to read:

2626 **31A-34-104. Alliance -- Required license.**

2627 (1) A person must be licensed as an alliance pursuant to this chapter to directly or  
2628 indirectly make available or otherwise arrange for health insurance through multiple  
2629 unaffiliated insurers through the use of coordinated actuarial models, coordinated underwriting,  
2630 or coordinated marketing methodologies.

2631 (2) (a) A person may not hold itself out as a health insurance purchasing alliance,

purchasing alliance, health insurance purchasing cooperative, purchasing cooperative, or otherwise use a similar name unless licensed by the commissioner as an alliance.

(b) Notwithstanding Subsection (2)(a), a person may hold itself out as a voluntary health insurance purchasing association without being licensed by the commissioner as provided in Section 31A-34-105.

(3) To apply for licensure as an alliance, a person shall complete an application in a form designated by the commissioner and file it with the commissioner, together with the applicable filing fees determined by the commissioner under Section ~~[63J-1-303]~~ 63J-1-504.

Section 66. Section **31A-35-301** is amended to read:

**31A-35-301. The commissioner's authority.**

(1) The commissioner shall:

(a) make rules as necessary for the administration of this chapter;

(b) with information as provided by the board, issue or deny licensure under this chapter;

(c) take action regarding a license, including suspension or revocation; and

(d) maintain and publish a current list of licensed bail bond surety companies and producers.

(2) The commissioner may establish fees for the issuance, renewal, and reinstatement of a bail bond surety company license in accordance with Section ~~[63J-1-303]~~ 63J-1-504.

Section 67. Section **31A-35-401** is amended to read:

**31A-35-401. Requirement for license or certificate of authority -- Process -- Fees -- Limitations.**

(1) (a) A person may not engage in the bail bond surety insurance business unless that person:

(i) is a bail bond surety company licensed under this chapter;

(ii) is a surety insurer that is granted a certificate under this section in the same manner as other insurers doing business in this state are granted certificates of authority under this title; or

(iii) is a bail bond producer licensed in accordance with this section.

(b) A bail bond surety company shall be licensed under this chapter as an agency.

(c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing -

2663 Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.

2664 (2) A person applying for a bail bond surety company license under this chapter shall  
2665 submit to the commissioner:

2666 (a) a completed application form as prescribed by the commissioner;

2667 (b) a fee as determined by the commissioner in accordance with Section [~~63J-1-303~~]  
2668 63J-1-504; and

2669 (c) any additional information required by rule.

2670 (3) Fees required under this section are not refundable.

2671 (4) Fees collected from a bail bond surety company shall be deposited in a restricted  
2672 account created in Section 31A-35-407.

2673 (5) (a) A bail bond surety company shall be domiciled in Utah.

2674 (b) A bail bond producer shall be a resident of Utah.

2675 (c) A foreign surety insurer that is granted a certificate to issue bail bonds may only  
2676 issue bail bonds through a bail bond surety company licensed under this chapter.

2677 Section 68. Section **31A-35-406** is amended to read:

2678 **31A-35-406. Renewal and reinstatement.**

2679 (1) (a) To renew its license under this chapter, on or before the last day of the month in  
2680 which the license expires a bail bond surety company shall:

2681 (i) complete and submit a renewal application to the department; and

2682 (ii) pay the department the applicable renewal fee established in accordance with  
2683 Section [~~63J-1-303~~] 63J-1-504.

2684 (b) A bail bond surety company shall renew its license under this chapter annually as  
2685 established by department rule, regardless of when the license is issued.

2686 (2) A bail bond surety company may renew a bail bond surety company license not  
2687 renewed under Subsection (1) within 30 days after the expiration date by:

2688 (a) submitting a renewal application required by Subsection (1); and

2689 (b) paying a late renewal fee established in accordance with Section [~~63J-1-303~~]  
2690 63J-1-504.

2691 (3) A bail bond surety company may apply for reinstatement of an expired bail bond  
2692 surety company license between 31 days and six months following the expiration of the license  
2693 under Subsection (1) by:

- 2694 (a) submitting the renewal application required by Subsection (1); and  
2695 (b) paying a license reinstatement fee established in accordance with Section  
2696 ~~[63J-1-303]~~ 63J-1-504.
- 2697 (4) If a bail bond surety company license has been expired for more than six months,  
2698 the person applying for reinstatement of the bail bond surety license shall:
- 2699 (a) submit an application form to the commissioner; and  
2700 (b) pay the application fee established in accordance with Section ~~[63J-1-303]~~  
2701 63J-1-504.
- 2702 (5) If a bail bond surety company license is suspended, the applicant may not submit an  
2703 application for a bail bond surety company license until after the end of the period of  
2704 suspension.
- 2705 (6) Fees collected under this section shall be deposited in the restricted account created  
2706 in Section 31A-35-407.
- 2707 Section 69. Section **31A-37-202** is amended to read:
- 2708 **31A-37-202. Permissive areas of insurance.**
- 2709 (1) (a) Except as provided in Subsection (1)(b), when permitted by its articles of  
2710 incorporation or charter, a captive insurance company may apply to the commissioner for a  
2711 certificate of authority to do all insurance authorized by this title except workers' compensation  
2712 insurance.
- 2713 (b) Notwithstanding Subsection (1)(a):
- 2714 (i) a pure captive insurance company may not insure a risk other than a risk of:
- 2715 (A) its parent or affiliate;
- 2716 (B) a controlled unaffiliated business; or
- 2717 (C) a combination of Subsections (1)(b)(i)(A) and (B);
- 2718 (ii) an association captive insurance company may not insure a risk other than a risk of:
- 2719 (A) an affiliate;
- 2720 (B) a member organization of its association; and
- 2721 (C) an affiliate of a member organization of its association;
- 2722 (iii) an industrial insured captive insurance company may not insure a risk other than a  
2723 risk of:
- 2724 (A) an industrial insured that is part of the industrial insured group;

2725 (B) an affiliate of an industrial insured that is part of the industrial insured group; and

2726 (C) a controlled unaffiliated business of:

2727 (I) an industrial insured that is part of the industrial insured group; or

2728 (II) an affiliate of an industrial insured that is part of the industrial insured group;

2729 (iv) a special purpose captive insurance company may only insure a risk of its parent;

2730 (v) a captive insurance company may not provide:

2731 (A) personal motor vehicle insurance coverage;

2732 (B) homeowner's insurance coverage; or

2733 (C) a component of a coverage described in this Subsection (1)(b)(v); and

2734 (vi) a captive insurance company may not accept or cede reinsurance except as

2735 provided in Section 31A-37-303.

2736 (c) Notwithstanding Subsection (1)(b)(iv), for a risk approved by the commissioner a

2737 special purpose captive insurance company may provide:

2738 (i) insurance;

2739 (ii) reinsurance; or

2740 (iii) both insurance and reinsurance.

2741 (2) To conduct insurance business in this state a captive insurance company shall:

2742 (a) obtain from the commissioner a certificate of authority authorizing it to conduct

2743 insurance business in this state;

2744 (b) hold at least once each year in this state:

2745 (i) a board of directors meeting; or

2746 (ii) in the case of a reciprocal insurer, a subscriber's advisory committee meeting;

2747 (c) maintain in this state:

2748 (i) the principal place of business of the captive insurance company; or

2749 (ii) in the case of a branch captive insurance company, the principal place of business

2750 for the branch operations of the branch captive insurance company; and

2751 (d) except as provided in Subsection (3), appoint a resident registered agent to accept

2752 service of process and to otherwise act on behalf of the captive insurance company in this state.

2753 (3) Notwithstanding Subsection (2)(d), in the case of a captive insurance company

2754 formed as a corporation or a reciprocal insurer, if the registered agent cannot with reasonable

2755 diligence be found at the registered office of the captive insurance company, the commissioner

2756 is the agent of the captive insurance company upon whom process, notice, or demand may be  
2757 served.

2758 (4) (a) Before receiving a certificate of authority, a captive insurance company:

2759 (i) formed as a corporation shall file with the commissioner:

2760 (A) a certified copy of:

2761 (I) articles of incorporation or the charter of the corporation; and

2762 (II) bylaws of the corporation;

2763 (B) a statement under oath of the president and secretary of the corporation showing

2764 the financial condition of the corporation; and

2765 (C) any other statement or document required by the commissioner under Section

2766 31A-37-106;

2767 (ii) formed as a reciprocal shall:

2768 (A) file with the commissioner:

2769 (I) a certified copy of the power of attorney of the attorney-in-fact of the reciprocal;

2770 (II) a certified copy of the subscribers' agreement of the reciprocal;

2771 (III) a statement under oath of the attorney-in-fact of the reciprocal showing the

2772 financial condition of the reciprocal; and

2773 (IV) any other statement or document required by the commissioner under Section

2774 31A-37-106; and

2775 (B) submit to the commissioner for approval a description of the:

2776 (I) coverages;

2777 (II) deductibles;

2778 (III) coverage limits;

2779 (IV) rates; and

2780 (V) any other information the commissioner requires under Section 31A-37-106.

2781 (b) (i) If there is a subsequent material change in an item in the description required

2782 under Subsection (4)(a)(ii)(B) for a reciprocal captive insurance company, the reciprocal

2783 captive insurance company shall submit to the commissioner for approval an appropriate

2784 revision to the description required under Subsection (4)(a)(ii)(B).

2785 (ii) A reciprocal captive insurance company that is required to submit a revision under

2786 Subsection (4)(b)(i) may not offer any additional types of insurance until the commissioner

2787 approves a revision of the description.

2788 (iii) A reciprocal captive insurance company shall inform the commissioner of a  
2789 material change in a rate within 30 days of the adoption of the change.

2790 (c) In addition to the information required by Subsection (4)(a), an applicant captive  
2791 insurance company shall file with the commissioner evidence of:

2792 (i) the amount and liquidity of the assets of the applicant captive insurance company  
2793 relative to the risks to be assumed by the applicant captive insurance company;

2794 (ii) the adequacy of the expertise, experience, and character of the person who will  
2795 manage the applicant captive insurance company;

2796 (iii) the overall soundness of the plan of operation of the applicant captive insurance  
2797 company;

2798 (iv) the adequacy of the loss prevention programs for the following of the applicant  
2799 captive insurance company:

2800 (A) a parent;

2801 (B) a member organization; or

2802 (C) an industrial insured; and

2803 (v) any other factor the commissioner:

2804 (A) adopts by rule under Section 31A-37-106; and

2805 (B) considers relevant in ascertaining whether the applicant captive insurance company  
2806 will be able to meet the policy obligations of the applicant captive insurance company.

2807 (d) In addition to the information required by Subsections (4)(a), (b), and (c), an  
2808 applicant sponsored captive insurance company shall file with the commissioner:

2809 (i) a business plan at the level of detail required by the commissioner under Section  
2810 31A-37-106 demonstrating:

2811 (A) the manner in which the applicant sponsored captive insurance company will  
2812 account for the losses and expenses of each protected cell; and

2813 (B) the manner in which the applicant sponsored captive insurance company will report  
2814 to the commissioner the financial history, including losses and expenses, of each protected cell;

2815 (ii) a statement acknowledging that the applicant sponsored captive insurance company  
2816 will make all financial records of the applicant sponsored captive insurance company,  
2817 including records pertaining to a protected cell, available for inspection or examination by the

2818 commissioner;

2819 (iii) a contract or sample contract between the applicant sponsored captive insurance

2820 company and a participant; and

2821 (iv) evidence that expenses will be allocated to each protected cell in an equitable

2822 manner.

2823 (5) (a) Information submitted pursuant to Subsection (4) is classified as a protected

2824 record under Title 63G, Chapter 2, Government Records Access and Management Act.

2825 (b) Notwithstanding Title 63G, Chapter 2, Government Records Access and

2826 Management Act, the commissioner may disclose information submitted pursuant to

2827 Subsection (4) to a public official having jurisdiction over the regulation of insurance in

2828 another state if:

2829 (i) the public official receiving the information agrees in writing to maintain the

2830 confidentiality of the information; and

2831 (ii) the laws of the state in which the public official serves require the information to be

2832 confidential.

2833 (c) This Subsection (5) does not apply to information provided by an industrial insured

2834 captive insurance company insuring the risks of an industrial insured group.

2835 (6) (a) A captive insurance company shall pay to the department the following

2836 nonrefundable fees established by the department under Sections 31A-3-103 and ~~[63J-1-303]~~

2837 63J-1-504:

2838 (i) a fee for examining, investigating, and processing, by a department employee, of an

2839 application for a certificate of authority made by a captive insurance company;

2840 (ii) a fee for obtaining a certificate of authority for the year the captive insurance

2841 company is issued a certificate of authority by the department; and

2842 (iii) a certificate of authority renewal fee.

2843 (b) The commissioner may:

2844 (i) retain legal, financial, and examination services from outside the department to

2845 perform the services described in:

2846 (A) Subsection (6)(a); and

2847 (B) Section 31A-37-502; and

2848 (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the

2849 applicant captive insurance company.

2850 (7) If the commissioner is satisfied that the documents and statements filed by the  
2851 applicant captive insurance company comply with this chapter, the commissioner may grant a  
2852 certificate of authority authorizing the company to do insurance business in this state.

2853 (8) A certificate of authority granted under this section expires annually and must be  
2854 renewed by July 1 of each year.

2855 Section 70. Section **34A-1-106** is amended to read:

2856 **34A-1-106. Fees.**

2857 (1) Unless otherwise provided by statute, the commission may adopt a schedule of fees  
2858 assessed for services provided by the commission by following the procedures and  
2859 requirements of Section [~~63J-1-303~~] 63J-1-504.

2860 (2) The commission shall submit each fee established under this section to the  
2861 Legislature for its approval as part of the commission's annual appropriations request.

2862 Section 71. Section **34A-7-104** is amended to read:

2863 **34A-7-104. Fees.**

2864 The owner or user of a boiler required by this part to be inspected shall pay to the  
2865 commission fees for inspection or for permits to operate in amounts set by the commission  
2866 pursuant to Section [~~63J-1-303~~] 63J-1-504.

2867 Section 72. Section **34A-7-203** is amended to read:

2868 **34A-7-203. Requirements for operating an elevator or escalator -- Inspection --**  
2869 **Division duties.**

2870 (1) An elevator or escalator may not operate in this state unless:

2871 (a) the owner or operator of the elevator or escalator obtains an inspection certificate  
2872 under Subsection (3); and

2873 (b) the inspection certificate described in Subsection (1)(a) has not:

2874 (i) expired under Subsection (3); or

2875 (ii) been suspended under Section 34A-7-204.

2876 (2) An elevator or escalator used or proposed to be used in this state shall be inspected  
2877 as to its safety to operate in accordance with the safety code:

2878 (a) every two years; or

2879 (b) more frequently than every two years if the division determines that more frequent

2880 inspections are necessary.

2881 (3) (a) If upon inspection an elevator or escalator is safe to operate in accordance with  
2882 the safety code, the inspector shall issue to the owner or operator an inspection certificate.

2883 (b) An inspection certificate issued under Subsection (3)(a) shall expire two years from  
2884 the date the inspection certificate is issued.

2885 (4) An inspector employed by the division under this part shall at all times meet  
2886 nationally recognized standards of qualifications for inspectors of elevators and escalators, as  
2887 defined by rule by the division.

2888 (5) The owner or operator of an elevator or escalator that is used in the state shall pay  
2889 to the commission a fee in amounts set by the commission pursuant to Section [~~63J-1-303~~]  
2890 63J-1-504:

2891 (a) for inspection; and

2892 (b) for an inspection certificate.

2893 (6) The division:

2894 (a) shall provide for the inspection of elevators and escalators in accordance with this  
2895 section;

2896 (b) shall adopt by rule one or more nationally recognized standards or other safety  
2897 codes to be used in inspecting elevators or escalators; and

2898 (c) may adopt amendments to the safety code adopted under Subsection (6)(b).

2899 Section 73. Section **35A-1-106** is amended to read:

2900 **35A-1-106. Fees.**

2901 (1) Unless otherwise provided by statute, the department may adopt a schedule of fees  
2902 assessed for services provided by the department by following the procedures and requirements  
2903 of Section [~~63J-1-303~~] 63J-1-504.

2904 (2) The department shall submit each fee established under this section to the  
2905 Legislature for its approval as part of the department's annual appropriations request.

2906 Section 74. Section **36-12-13** is amended to read:

2907 **36-12-13. Office of Legislative Fiscal Analyst established -- Powers, functions,**  
2908 **and duties -- Qualifications.**

2909 (1) There is established an Office of Legislative Fiscal Analyst as a permanent staff  
2910 office for the Legislature.

2911 (2) The powers, functions, and duties of the Office of Legislative Fiscal Analyst under  
2912 the supervision of the fiscal analyst are:

2913 (a) to analyze in detail the executive budget before the convening of each legislative  
2914 session and make recommendations to the Legislature on each item or program appearing in  
2915 the executive budget;

2916 (b) to prepare cost estimates on all proposed bills that anticipate state government  
2917 expenditures;

2918 (c) to prepare cost estimates on all proposed bills that anticipate expenditures by  
2919 county, municipal, local district, or special service district governments;

2920 (d) to prepare cost estimates on all proposed bills that anticipate direct expenditures by  
2921 any Utah resident, and the cost to the overall impacted Utah resident population;

2922 (e) to prepare a review and analysis of revenue estimates for existing and proposed  
2923 revenue acts;

2924 (f) to report instances in which the administration may be failing to carry out the  
2925 expressed intent of the Legislature;

2926 (g) to direct attention to each new proposed service contained in the governor's budget;

2927 (h) to direct attention to each budget item previously denied by the Legislature;

2928 (i) to propose and analyze statutory changes for more effective operational economies  
2929 or more effective administration;

2930 (j) to prepare, after each session of the Legislature, a summary showing the effect of  
2931 the final legislative program on the financial condition of the state;

2932 (k) to conduct organizational and management improvement studies;

2933 (l) to prepare and deliver upon request of any interim committee or the Legislative  
2934 Management Committee, reports on the finances of the state and on anticipated or proposed  
2935 requests for appropriations;

2936 (m) to recommend areas for research studies by the executive department or the interim  
2937 committees;

2938 (n) to assist in prescribing the format for the presentation of the governor's budget to  
2939 facilitate program and in-depth review of state expenditures in accordance with Sections  
2940 ~~[63J-1-501]~~ 63J-1-701 and ~~[63J-1-502]~~ 63J-1-702;

2941 (o) to recommend to the appropriations subcommittees the agencies or programs for

which an in-depth budget review should be requested, and to recommend to the Legislative Management Committee the priority in which the request should be made;

(p) to appoint and develop a professional staff within budget limitations; and

(q) to prepare and submit the annual budget request for the office.

(3) (a) In accordance with Subsection (3)(b) and subject to Subsection (3)(c), the Office of Legislative Fiscal Analyst shall submit an annual report to the Executive Appropriations Committee of the Legislature, at the committee's November meeting, on funds expended by the state during the preceding state fiscal year to provide financial assistance or services to low-income individuals and families.

(b) The report described in Subsection (3)(a) shall:

(i) separate the funds expended into categories by program, service, or population served;

(ii) indicate whether the expended funds described in Subsection (3)(a) are state or federal funds; and

(iii) include a total of all state funds and federal funds expended by the state in the preceding fiscal year to provide financial assistance or services to low-income individuals and families.

(c) If the Executive Appropriations Committee of the Legislature does not meet in November, the Office of Legislative Fiscal Analyst shall submit the report described in Subsection (3)(a) at the committee's next meeting.

(4) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

(5) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

Section 75. Section **38-1-27** is amended to read:

**38-1-27. State Construction Registry -- Form and contents of notice of commencement, preliminary notice, and notice of completion.**

(1) As used in this section and Sections 38-1-30 through 38-1-37:

(a) "Alternate filing" means a legible and complete filing made in a manner established

2973 by the division under Subsection (2)(e) other than an electronic filing.  
2974 (b) "Cancel" means to indicate that a filing is no longer given effect.  
2975 (c) "Construction project," "project," or "improvement" means all labor, equipment,  
2976 and materials provided:  
2977 (i) under an original contract; or  
2978 (ii) by, or under contracts with, an owner-builder.  
2979 (d) "Database" means the State Construction Registry created in this section.  
2980 (e) (i) "Designated agent" means the third party the Division of Occupational and  
2981 Professional Licensing contracts with to create and maintain the State Construction Registry.  
2982 (ii) The designated agent is not an agency, instrumentality, or a political subdivision of  
2983 the state.  
2984 (f) "Division" means the Division of Occupational and Professional Licensing.  
2985 (g) "Interested person" means a person who may be affected by a construction project.  
2986 (h) "Program" means the State Construction Registry Program created in this section.  
2987 (2) Subject to receiving adequate funding through a legislative appropriation and  
2988 contracting with an approved third party vendor who meets the requirements of Sections  
2989 38-1-30 through 38-1-37, there is created the State Construction Registry Program that shall:  
2990 (a) (i) assist in protecting public health, safety, and welfare; and  
2991 (ii) promote a fair working environment;  
2992 (b) be overseen by the division with the assistance of the designated agent;  
2993 (c) provide a central repository for notices of commencement, preliminary notices, and  
2994 notices of completion filed in connection with all privately owned construction projects as well  
2995 as all state and local government owned construction projects throughout Utah;  
2996 (d) be accessible for filing and review by way of the program Internet website of:  
2997 (i) notices of commencement;  
2998 (ii) preliminary notices; and  
2999 (iii) notices of completion;  
3000 (e) accommodate:  
3001 (i) electronic filing of the notices described in Subsection (2)(d); and  
3002 (ii) alternate filing of the notices described in Subsection (2)(d) by U.S. mail, telefax,  
3003 or any other alternate method as provided by rule made by the division in accordance with Title

3004 63G, Chapter 3, Utah Administrative Rulemaking Act;

3005 (f) (i) provide electronic notification for up to three e-mail addresses for each interested  
3006 person or company who requests notice from the construction notice registry; and

3007 (ii) provide alternate means of notification for a person who makes an alternate filing,  
3008 including U.S. mail, telefax, or any other method as prescribed by rule made by the division in  
3009 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

3010 (g) provide hard-copy printing of electronic receipts for an individual filing evidencing  
3011 the date and time of the individual filing and the content of the individual filing.

3012 (3) (a) The designated agent shall provide notice of all other filings for a project to any  
3013 person who files a notice of commencement, preliminary notice, or notice of completion for  
3014 that project, unless the person:

3015 (i) requests that the person not receive notice of other filings; or

3016 (ii) does not provide the designated agent with the person's contact information in a  
3017 manner that adequately informs the designated agent.

3018 (b) An interested person may request notice of filings related to a project.

3019 (c) The database shall be indexed by:

3020 (i) owner name;

3021 (ii) original contractor name;

3022 (iii) subdivision, development, or other project name, if any;

3023 (iv) project address;

3024 (v) lot or parcel number;

3025 (vi) unique project number assigned by the designated agent; and

3026 (vii) any other identifier that the division considers reasonably appropriate in  
3027 collaboration with the designated agent.

3028 (4) (a) In accordance with the process required by Section [~~63J-1-303~~] 63J-1-504, the  
3029 division shall establish the fees for:

3030 (i) a notice of commencement;

3031 (ii) a preliminary notice;

3032 (iii) a notice of completion;

3033 (iv) a request for notice;

3034 (v) providing a required notice by an alternate method of delivery;

3035 (vi) a duplicate receipt of a filing; and  
3036 (vii) account setup for a person who wishes to be billed periodically for filings with the  
3037 database.

3038 (b) The fees allowed under Subsection (4)(a) may not exceed the amount reasonably  
3039 necessary to create and maintain the database.

3040 (c) The fees established by the division may vary by method of filing if one form of  
3041 filing is more costly to process than another form of filing.

3042 (d) The division may provide by contract that the designated agent may retain all fees  
3043 collected by the designated agent except that the designated agent shall remit to the division the  
3044 cost of the division's oversight under Subsection (2)(b).

3045 (5) (a) The database is classified as a public record under Title 63G, Chapter 2,  
3046 Government Records Access and Management Act, unless otherwise classified by the division.

3047 (b) A request for information submitted to the designated agent is not subject to Title  
3048 63G, Chapter 2, Government Records Access and Management Act.

3049 (c) Information contained in a public record contained in the database shall be  
3050 requested from the designated agent.

3051 (d) The designated agent may charge a commercially reasonable fee allowed by the  
3052 designated agent's contract with the division for providing information under Subsection (5)(c).

3053 (e) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
3054 Management Act, if information is available in a public record contained in the database, a  
3055 person may not request the information from the division.

3056 (f) (i) A person may request information that is not a public record contained in the  
3057 database from the division in accordance with Title 63G, Chapter 2, Government Records  
3058 Access and Management Act.

3059 (ii) The division shall inform the designated agent of how to direct inquiries made to  
3060 the designated agent for information that is not a public record contained in the database.

3061 (6) The following are not an adjudicative proceeding under Title 63G, Chapter 4,  
3062 Administrative Procedures Act:

3063 (a) the filing of a notice permitted by this chapter;

3064 (b) the rejection of a filing permitted by this chapter; or

3065 (c) other action by the designated agent in connection with a filing of any notice

permitted by this chapter.

(7) The division and the designated agent need not determine the timeliness of any notice before filing the notice in the database.

(8) (a) A person who is delinquent on the payment of a fee established under Subsection (4) may not file a notice with the database.

(b) A determination that a person is delinquent on the payment of a fee for filing established under Subsection (4) shall be made in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) Any order issued in a proceeding described in Subsection (8)(b) may prescribe the method of that person's payment of fees for filing notices with the database after issuance of the order.

(9) If a notice is filed by a third party on behalf of another, the notice is considered to be filed by the person on whose behalf the notice is filed.

(10) A person filing a notice of commencement, preliminary notice, or notice of completion is responsible for verifying the accuracy of information entered into the database, whether the person files electronically or by alternate or third party filing.

Section 76. Section **38-11-201** is amended to read:

**38-11-201. Residence Lien Recovery Fund.**

(1) There is created a restricted special revenue fund called the "Residence Lien Recovery Fund."

(2) (a) The fund consists of all amounts collected by the division in accordance with Section 38-11-202.

(b) (i) The division shall deposit the funds in an account with the state treasurer.

(ii) The division shall record the funds in the Residence Lien Recovery Fund.

(c) The fund shall earn interest.

(3) The division shall employ personnel and resources necessary to administer the fund and shall use fund monies in accordance with Sections 38-11-203 and 38-11-204 and to pay the costs charged to the fund by the attorney general.

(4) Costs incurred by the division for administering the fund shall be paid out of fund monies.

(5) The Division of Finance shall report annually to the Legislature, the division, and

3097 the board. The report shall state:

3098 (a) amounts received by the fund;

3099 (b) disbursements from the fund;

3100 (c) interest earned and credited to the fund; and

3101 (d) the fund balance.

3102 (6) (a) For purposes of establishing and assessing regulatory fees under [Subsection  
3103 ~~63J-1-303(5)~~] Section 63J-1-504, the provisions of this chapter are considered a new program  
3104 for fiscal year 1995-96.

3105 (b) The department shall submit its fee schedule to the Legislature for its approval at  
3106 the 1996 Annual General Session.

3107 Section 77. Section **38-11-202** is amended to read:

3108 **38-11-202. Payments to the fund.**

3109 The Residence Lien Recovery Fund shall be supported solely from:

3110 (1) initial and special assessments collected by the division from licensed contractors  
3111 registered as qualified beneficiaries in accordance with Subsections 38-11-301(1) and (2) and  
3112 Section 38-11-206;

3113 (2) initial and special assessments collected by the division from other qualified  
3114 beneficiaries registering with the division in accordance with Subsection 38-11-301(3) and  
3115 Section 38-11-206;

3116 (3) fees determined by the division under Section [~~63J-1-303~~] 63J-1-504 collected  
3117 from laborers under Subsection 38-11-204[(8)](7) when the laborers obtain a recovery from the  
3118 fund;

3119 (4) amounts collected by subrogation under Section 38-11-205 on behalf of the fund  
3120 following a payment from the fund;

3121 (5) application fees determined by the division under Section [~~63J-1-303~~] 63J-1-504  
3122 collected from:

3123 (a) qualified beneficiaries or laborers under Subsection 38-11-204(1)(b) when  
3124 qualified beneficiaries or laborers make a claim against the fund; or

3125 (b) owners or agents of the owners seeking to obtain a certificate of compliance for the  
3126 owner;

3127 (6) registration fees determined by the division under Section [~~63J-1-303~~] 63J-1-504

3128 collected from other qualified beneficiaries registering with the department in accordance with  
3129 Subsection 38-11-301(3)(a)(iii);

3130 (7) reinstatement fees determined by the division under Section [~~63J-1-303~~] 63J-1-504  
3131 collected from registrants in accordance with Subsection 38-11-302(5)(b);

3132 (8) civil fines authorized under Subsection 38-11-205(2) collected by the attorney  
3133 general for failure to reimburse the fund; and

3134 (9) any interest earned by the fund.

3135 Section 78. Section **38-11-204** is amended to read:

3136 **38-11-204. Claims against the fund -- Requirement to make a claim --**

3137 **Qualifications to receive compensation -- Qualifications to receive a certificate of**  
3138 **compliance.**

3139 (1) To claim recovery from the fund a person shall:

3140 (a) meet the requirements of either Subsection (4) or (7);

3141 (b) pay an application fee determined by the division under Section [~~63J-1-303~~]  
3142 63J-1-504; and

3143 (c) file with the division a completed application on a form provided by the division  
3144 accompanied by supporting documents establishing:

3145 (i) that the person meets the requirements of either Subsection (4) or (7);

3146 (ii) that the person was a qualified beneficiary or laborer during the construction on the  
3147 owner-occupied residence; and

3148 (iii) the basis for the claim.

3149 (2) To recover from the fund, the application required by Subsection (1) shall be filed  
3150 no later than one year:

3151 (a) from the date the judgment required by Subsection (4)(d) is entered;

3152 (b) from the date the nonpaying party filed bankruptcy, if the claimant is precluded  
3153 from obtaining a judgment or from satisfying the requirements of Subsection (4)(d) because the  
3154 nonpaying party filed bankruptcy within one year after the entry of judgment; or

3155 (c) from the date the laborer, trying to recover from the fund, completed the laborer's  
3156 qualified services.

3157 (3) To obtain a certificate of compliance an owner or agent of the owner shall establish  
3158 with the division that the owner meets the requirements of Subsections (4)(a) and (4)(b).

3159 (4) To recover from the fund, regardless of whether the residence is occupied by the  
3160 owner, a subsequent owner, or the owner or subsequent owner's tenant or lessee, a qualified  
3161 beneficiary shall establish that:

3162 (a) (i) the owner of the owner-occupied residence or the owner's agent entered into a  
3163 written contract with an original contractor licensed or exempt from licensure under Title 58,  
3164 Chapter 55, Utah Construction Trades Licensing Act:

3165 (A) for the performance of qualified services;

3166 (B) to obtain the performance of qualified services by others; or

3167 (C) for the supervision of the performance by others of qualified services in  
3168 construction on that residence;

3169 (ii) the owner of the owner-occupied residence or the owner's agent entered into a  
3170 written contract with a real estate developer for the purchase of an owner-occupied residence;  
3171 or

3172 (iii) the owner of the owner-occupied residence or the owner's agent entered into a  
3173 written contract with a factory built housing retailer for the purchase of an owner-occupied  
3174 residence;

3175 (b) the owner has paid in full the original contractor, licensed or exempt from licensure  
3176 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, real estate developer, or  
3177 factory built housing retailer under Subsection (4)(a) with whom the owner has a written  
3178 contract in accordance with the written contract and any amendments to the contract;

3179 (c) (i) the original contractor, licensed or exempt from licensure under Title 58,  
3180 Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory  
3181 built housing retailer subsequently failed to pay a qualified beneficiary who is entitled to  
3182 payment under an agreement with that original contractor or real estate developer licensed or  
3183 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for  
3184 services performed or materials supplied by the qualified beneficiary;

3185 (ii) a subcontractor who contracts with the original contractor, licensed or exempt from  
3186 licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real estate  
3187 developer, or the factory built housing retailer failed to pay a qualified beneficiary who is  
3188 entitled to payment under an agreement with that subcontractor or supplier; or

3189 (iii) a subcontractor who contracts with a subcontractor or supplier failed to pay a

3190 qualified beneficiary who is entitled to payment under an agreement with that subcontractor or  
3191 supplier;

3192 (d) (i) unless precluded from doing so by the nonpaying party's bankruptcy filing  
3193 within the applicable time, the qualified beneficiary filed an action against the nonpaying party  
3194 to recover monies owed to the qualified beneficiary within the earlier of:

3195 (A) 180 days from the date the qualified beneficiary filed a notice of claim under  
3196 Section 38-1-7; or

3197 (B) 270 days from the completion of the original contract pursuant to Subsection  
3198 38-1-7(1);

3199 (ii) the qualified beneficiary has obtained a judgment against the nonpaying party who  
3200 failed to pay the qualified beneficiary under an agreement to provide qualified services for  
3201 construction of that owner-occupied residence;

3202 (iii) (A) the qualified beneficiary has:

3203 (I) obtained from a court of competent jurisdiction the issuance of an order requiring  
3204 the judgment debtor, or if a corporation any officer of the corporation, to appear before the  
3205 court at a specified time and place to answer concerning the debtor's or corporation's property;

3206 (II) received return of service of the order from a person qualified to serve documents  
3207 under the Utah Rules of Civil Procedure, Rule 4(b); and

3208 (III) made reasonable efforts to obtain asset information from the supplemental  
3209 proceedings; and

3210 (B) if assets subject to execution are discovered as a result of the order required under  
3211 Subsection (4)(d)(iii)(A) or for any other reason, to obtain the issuance of a writ of execution  
3212 from a court of competent jurisdiction; or

3213 (iv) the qualified beneficiary timely filed a proof of claim where permitted in the  
3214 bankruptcy action, if the nonpaying party has filed bankruptcy;

3215 (e) the qualified beneficiary is not entitled to reimbursement from any other person;  
3216 and

3217 (f) the qualified beneficiary provided qualified services to a contractor, licensed or  
3218 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

3219 (5) The requirements of Subsections (4)(d) (ii) and (iii) need not be met if the qualified  
3220 beneficiary is prevented from compliance because the nonpaying party files bankruptcy.

3221 (6) To recover from the fund a laborer shall:  
3222 (a) establish that the laborer has not been paid wages due for the work performed at the  
3223 site of a construction on an owner-occupied residence; and  
3224 (b) provide any supporting documents or information required by rule by the division.  
3225 (7) A fee determined by the division under Section ~~[63J-1-303]~~ 63J-1-504 shall be  
3226 deducted from any recovery from the fund received by a laborer.  
3227 (8) The requirements of Subsections (4)(a) and (4)(b) may be satisfied if an owner or  
3228 agent of the owner establishes to the satisfaction of the director that the owner of the  
3229 owner-occupied residence or the owner's agent entered into a written contract with an original  
3230 contractor who:  
3231 (a) was a business entity that was not licensed under Title 58, Chapter 55, Utah  
3232 Construction Trades Licensing Act, but was solely or partly owned by an individual who was  
3233 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; or  
3234 (b) was a natural person who was not licensed under Title 58, Chapter 55, Utah  
3235 Construction Trades Licensing Act, but who was the sole or partial owner and qualifier of a  
3236 business entity that was licensed under Title 58, Chapter 55, Utah Construction Trades  
3237 Licensing Act.  
3238 (9) The director shall have equitable power to determine if the requirements of  
3239 Subsections (4)(a) and (4)(b) have been met, but any decision by the director under this chapter  
3240 shall not alter or have any effect on any other decision by the division under Title 58,  
3241 Occupations and Professions.  
3242 Section 79. Section **38-11-206** is amended to read:  
3243 **38-11-206. Limitations on fund balance -- Payment of special assessments.**  
3244 (1) (a) If on December 31 of any year the balance in the fund is less than \$1,500,000,  
3245 the division shall make a special assessment against all qualified beneficiaries in an amount  
3246 that will restore the unencumbered fund balance to not less than \$2,000,000 or more than  
3247 \$2,500,000.  
3248 (b) The amount of the special assessment shall be determined by the division under  
3249 ~~[Subsection 63J-1-303(5)]~~ Section 63J-1-504 after consultation with the board.  
3250 (2) Special assessments made under this section shall be due and payable on May 1  
3251 following assessment.

(3) The fund balance limitations set forth in Subsection (1)(a) shall be used by the division only for the purpose of determining the amount of any special assessment and do not prohibit the fund balance from exceeding \$2,500,000 or falling below \$2,000,000.

Section 80. Section **38-11-301** is amended to read:

**38-11-301. Registration as a qualified beneficiary -- Initial regular assessment -- Affidavit.**

(1) A person licensed as of July 1, 1995, as a contractor under the provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that regularly engage in providing qualified services shall be automatically registered as a qualified beneficiary upon payment of the initial assessment.

(2) A person applying for licensure as a contractor after July 1, 1995, in license classifications that regularly engage in providing qualified services shall be automatically registered as a qualified beneficiary upon issuance of a license and payment of the initial assessment.

(3) (a) After July 1, 1995, any person providing qualified services as other than a contractor as provided in Subsection (1) or any person exempt from licensure under the provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, may register as a qualified beneficiary by:

(i) submitting an application in a form prescribed by the division;

(ii) demonstrating registration with the Division of Corporations and Commercial Code as required by state law;

(iii) paying a registration fee determined by the division under Section [~~63J-1-303~~] 63J-1-504; and

(iv) paying the initial assessment established under Subsection (4), and any special assessment determined by the division under Subsection 38-11-206(1).

(b) A person who does not register under Subsection (1), (2), or (3)(a) shall be prohibited from recovering under the fund as a qualified beneficiary for work performed as qualified services while not registered with the fund.

(4) (a) An applicant shall pay an initial assessment determined by the division under Section [~~63J-1-303~~] 63J-1-504.

(b) The initial assessment to qualified registrants under Subsection (1) shall be made

3283 not later than July 15, 1995, and shall be paid no later than November 1, 1995.

3284 (c) The initial assessment to qualified registrants under Subsections (2) and (3) shall be  
3285 paid at the time of application for license or registration, however, beginning on May 1, 1996,  
3286 only one initial assessment or special assessments thereafter shall be required for persons  
3287 having multiple licenses under this section.

3288 (5) A person shall be considered to have been registered as a qualified beneficiary on  
3289 January 1, 1995, for purposes of meeting the requirements of Subsection 38-11-204(1)(c)(ii) if  
3290 the person:

3291 (a) (i) is licensed on or before July 1, 1995, as a contractor under the provisions of Title  
3292 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that  
3293 regularly engage in providing qualified services; or

3294 (ii) provides qualified services after July 1, 1995, as other than a contractor as provided  
3295 in Subsection (5)(a)(i) or is exempt from licensure under the provisions of Title 58, Chapter 55,  
3296 Utah Construction Trades Licensing Act; and

3297 (b) registers as a qualified beneficiary under Subsection (1) or (3) on or before  
3298 November 1, 1995.

3299 Section 81. Section **38-11-302** is amended to read:

3300 **38-11-302. Effective date and term of registration -- Penalty for failure to pay**  
3301 **assessments -- Reinstatement.**

3302 (1) (a) A registration as a qualified beneficiary under this chapter is effective on the  
3303 date the division receives the initial assessment of the qualified beneficiary.

3304 (b) A registrant shall be required to renew the registrant's registration upon imposition  
3305 of a special assessment under Subsection 38-11-206(1).

3306 (2) A registration automatically expires if a registrant fails to renew the registrant's  
3307 registration as required under Subsection (1).

3308 (3) The division shall notify a qualified beneficiary in accordance with procedures  
3309 established by rule when renewal of registration is required in connection with a special  
3310 assessment.

3311 (4) The license renewal notice to a contractor shall notify the licensee that failure to  
3312 renew the license will result in automatic expiration of the licensee's registration as a qualified  
3313 beneficiary and of the limitations set forth in Subsection (6) on qualified beneficiaries whose

3314 registration has expired to make a claim upon the fund.

3315 (5) Registration may be reinstated by:

3316 (a) submitting an application for reinstatement in a form prescribed by the division;

3317 (b) paying a reinstatement fee determined by the division under Section [~~63J-1-303~~]

3318 63J-1-504; and

3319 (c) paying all unpaid assessments that were assessed during the period of the person's  
3320 registration and all assessments made upon qualified beneficiaries during the period the  
3321 applicant's registration was expired.

3322 (6) (a) A qualified beneficiary whose registration expires loses all rights to make a  
3323 claim upon the fund or receive compensation from the fund resulting from providing qualified  
3324 service during the period of expiration.

3325 (b) Except as provided by Section 58-55-401, a qualified beneficiary whose  
3326 registration expires may make a claim upon the fund or receive compensation from the fund for  
3327 qualified services provided during the period the qualified beneficiary was part of the fund.

3328 Section 82. Section ~~40-2-401~~ is amended to read:

3329 **40-2-401. Necessity of certificate.**

3330 (1) A person may not work in an occupation referred to in Section 40-2-402 unless  
3331 granted a certificate by the commission.

3332 (2) (a) (i) The commission may grant a temporary coal mine foreman certificate or a  
3333 temporary coal mine surface foreman certificate to an applicant who is:

3334 (A) recommended by a coal mine; and

3335 (B) interviewed and found competent by two panel members.

3336 (ii) A certificate granted under Subsection (2)(a)(i) remains in effect until:

3337 (A) the next scheduled certification test;

3338 (B) the person is retested; or

3339 (C) the commission terminates the certificate.

3340 (b) (i) The commission may grant a surface foreman certificate to a current holder of an  
3341 underground mine foreman certificate, if the applicant has three years of varied surface mining  
3342 experience.

3343 (ii) A surface foreman certificate applicant may receive credit for surface experience in  
3344 any other industry that has substantially equivalent surface facilities, if the applicant has

3345 performed or is presently performing the duties normally required of a surface foreman.

3346 (3) (a) The commission shall collect a fee described in Subsection (3)(b) for each  
3347 temporary certificate.

3348 (b) The commission shall establish the fee by following Section [~~63J-1-303~~]  
3349 63J-1-504.

3350 (4) (a) An owner, operator, contractor, lessee, or agent may not employ a worker in any  
3351 occupation referred to in Section 40-2-402 who is uncertified.

3352 (b) The certificate shall be on file and available for inspection to interested persons in  
3353 the office of the coal mine.

3354 (5) The commission shall grant a certificate to an applicant referred to in Section  
3355 40-2-402 who:

3356 (a) passes the certification test administered by the panel; and

3357 (b) meets the qualifications specified in Section 40-2-402.

3358 (6) (a) The commission may grant a certificate to an applicant involved in gilsonite or  
3359 other hydrocarbon mining as provided by rule.

3360 (b) The commission shall enact rules governing the certification procedure, test, and  
3361 qualifications for applicants involved in gilsonite or other hydrocarbon mining.

3362 (7) The commission may by rule require certification and recertification of other coal  
3363 mine occupations, including the certification of a new coal miner.

3364 Section 83. Section ~~40-2-402~~ is amended to read:

3365 **40-2-402. Certification requirements.**

3366 (1) The commission shall collect a fee for:

3367 (a) the taking of a certification test; or

3368 (b) the retaking of one or more sections of a certification test.

3369 (2) (a) The commission shall establish fees by following Section [~~63J-1-303~~]  
3370 63J-1-504.

3371 (b) Notwithstanding [~~Subsection 63J-1-303(2)(e)~~] Section 63J-1-504, the commission:

3372 (i) shall retain the fees as dedicated credits; and

3373 (ii) may only use the fees to administer the certification test.

3374 (3) An applicant who fails any section of the certification test may retake that section  
3375 of the test.

3376 (4) (a) An applicant who wishes to obtain a mine foreman certificate shall have at least  
3377 four years varied underground coal mining experience, of which:

3378 (i) two years' experience may be credited to a mining engineering graduate of an  
3379 accredited four-year college; or

3380 (ii) one year's experience may be credited to a graduate of a two-year course in mining  
3381 technology.

3382 (b) (i) An applicant who wishes to obtain a surface foreman certificate shall have at  
3383 least three years of varied surface experience.

3384 (ii) The commission may grant a surface foreman certificate applicant credit for surface  
3385 experience in any other industry that has substantially equivalent surface facilities.

3386 (c) An applicant who wishes to obtain a fire boss certificate shall have at least two  
3387 years of underground coal mining experience, of which:

3388 (i) one year's experience may be credited to a mining engineering graduate of an  
3389 accredited four-year college; or

3390 (ii) six months' experience may be credited to a graduate of a two-year course in  
3391 mining technology.

3392 (d) An applicant who wishes to obtain an underground mine electrician certificate shall  
3393 have at least one year of varied electrical experience as specified in 30 C.F.R. Sec. 75.153.

3394 (e) An applicant who wishes to obtain a surface mine electrician certificate shall have  
3395 at least one year of varied surface electrical experience as specified in 30 C.F.R. Sec. 77.103.

3396 (5) A certificate granted under Section 40-2-401 and this section shall expire if the  
3397 certificate holder ceases to work in the mining industry or a mine related industry for more than  
3398 five consecutive years.

3399 Section 84. Section **40-6-14.5** is amended to read:

3400 **40-6-14.5. Oil and Gas Conservation Account created -- Contents -- Use of**  
3401 **account monies.**

3402 (1) There is created within the General Fund a restricted account known as the Oil and  
3403 Gas Conservation Account.

3404 (2) The contents of the account shall consist of:

3405 (a) revenues from the fee levied under Section 40-6-14, including any penalties or  
3406 interest charged for delinquent payments; and

- 3407 (b) interest and earnings on account monies.
- 3408 (3) Account monies shall be used to pay for the:
- 3409 (a) administration of this chapter; and
- 3410 (b) plugging and reclamation of abandoned oil or gas wells or bore, core, or
- 3411 exploratory holes for which:
- 3412 (i) there is no reclamation surety; or
- 3413 (ii) the forfeited surety is insufficient for plugging and reclamation.
- 3414 (4) Priority in the use of the monies shall be given to paying for the administration of
- 3415 this chapter.
- 3416 (5) Appropriations for plugging and reclamation of abandoned oil or gas wells or bore,
- 3417 core, or exploratory holes shall be nonlapsing.
- 3418 (6) The balance of the Oil and Gas Conservation Account at the end of a fiscal year
- 3419 may not exceed \$750,000. Any excess monies shall be transferred to the General Fund.
- 3420 (7) (a) As used in this Subsection (7), "excess fee revenue" means revenue collected in
- 3421 fiscal year 1999-2000 from the fee levied under Section 40-6-14 that exceeds the fee revenue
- 3422 appropriated to the Division of Oil, Gas, and Mining in fiscal year 1999-2000.
- 3423 (b) If there is a General Fund surplus for fiscal year 1999-2000, the Division of Finance
- 3424 shall transfer General Fund surplus monies to the Oil and Gas Conservation Account in an
- 3425 amount up to the excess fee revenue.
- 3426 (c) The transfer provided in Subsection (7)(b) shall be made after General Fund surplus
- 3427 monies are transferred to the General Fund Budget Reserve Account pursuant to Section
- 3428 ~~[63J-1-202]~~ 63J-1-312.
- 3429 Section 85. Section **41-1a-115** is amended to read:
- 3430 **41-1a-115. Division records -- Copies.**
- 3431 (1) The division shall file each application received.
- 3432 (2) The division shall keep a record of each registration on a calendar year basis as
- 3433 follows:
- 3434 (a) under a distinctive registration number assigned to the vehicle, vessel, or outboard
- 3435 motor;
- 3436 (b) alphabetically, under the name of the owner of the vehicle, vessel, or outboard
- 3437 motor;

(c) under the identification number of the vehicle, vessel, or outboard motor; and  
(d) in any manner the division finds desirable for compiling statistical information or of comparative value for use in determining registration fees in future years.

(3) (a) The division shall maintain a current record of each certificate of title it issues.

(b) (i) The division shall file and retain every surrendered certificate of title and every application for title to permit the tracing of title of the vehicles designated in them.

(ii) The retention period for division records shall be set by the Division of Archives and Records Service in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(4) (a) The commission and officers of the division the commission designates may prepare under the seal of the division and deliver upon request a certified copy of any record of the division, including microfilmed records, charging a fee, determined by the commission pursuant to Section [~~63J-1-303~~] 63J-1-504, for each document authenticated.

(b) The application shall include the requested information to identify the applicant.

(c) Each certified copy is admissible in any proceeding in any court in the same manner as the original.

(5) The division shall comply with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 86. Section **41-1a-116** is amended to read:

**41-1a-116. Records -- Access to records -- Fees.**

(1) (a) All motor vehicle title and registration records of the division are protected unless the division determines based upon a written request by the subject of the record that the record is public.

(b) In addition to the provisions of this section, access to all division records is permitted for all purposes described in the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(2) (a) Access to public records is determined by Section 63G-2-201.

(b) A record designated as public under Subsection (1)(a) may be used for advertising or solicitation purposes.

(3) Access to protected records, except as provided in Subsection (4), is determined by Section 63G-2-202.

3469 (4) In addition to those persons granted access to protected records under Section  
3470 63G-2-202, the division may disclose a protected record to a licensed private investigator,  
3471 holding a valid agency or registrant license, with a legitimate business need, a person with a  
3472 bona fide security interest, or the owner of a mobile home park subject to Subsection (5), only  
3473 upon receipt of a signed acknowledgment that the person receiving that protected record may  
3474 not:

3475 (a) resell or disclose information from that record to any other person except as  
3476 permitted in the federal Driver's Privacy Protection Act of 1994; or

3477 (b) use information from that record for advertising or solicitation purposes.

3478 (5) The division may disclose the name or address, or both, of the lienholder or mobile  
3479 home owner of record, or both of them, to the owner of a mobile home park, if all of the  
3480 following conditions are met:

3481 (a) a mobile home located within the mobile home park owner's park has been  
3482 abandoned under Section 57-16-13 or the resident is in default under the resident's lease;

3483 (b) the mobile home park owner has conducted a reasonable search, but is unable to  
3484 determine the name or address, or both, of the lienholder or mobile home owner of record; and

3485 (c) the mobile home park owner has submitted a written statement to the division  
3486 explaining the mobile home park owner's efforts to determine the name or address, or both, of  
3487 the lienholder or mobile home owner of record before the mobile home park owner contacted  
3488 the division.

3489 (6) The division may provide protected information to a statistic gathering entity under  
3490 Subsection (4) only in summary form.

3491 (7) A person allowed access to protected records under Subsection (4) may request  
3492 motor vehicle title or registration information from the division regarding any person, entity, or  
3493 motor vehicle by submitting a written application on a form provided by the division.

3494 (8) If a person regularly requests information for business purposes, the division may  
3495 by rule allow the information requests to be made by telephone and fees as required under  
3496 Subsection (9) charged to a division billing account to facilitate division service. The rules  
3497 shall require that the:

3498 (a) division determine if the nature of the business and the volume of requests merit the  
3499 dissemination of the information by telephone;

3500 (b) division determine if the credit rating of the requesting party justifies providing a  
3501 billing account; and

3502 (c) requestor submit to the division an application that includes names and signatures  
3503 of persons authorized to request information by telephone and charge the fees to the billing  
3504 account.

3505 (9) (a) The division shall charge a reasonable search fee determined under Section  
3506 [~~63J-1-303~~] 63J-1-504 for the research of each record requested.

3507 (b) Fees may not be charged for furnishing information to persons necessary for their  
3508 compliance with this chapter.

3509 (c) Law enforcement agencies have access to division records free of charge.

3510 Section 87. Section **41-1a-301** is amended to read:

3511 **41-1a-301. Apportioned registration and licensing of interstate vehicles.**

3512 (1) (a) An owner or operator of a fleet of commercial vehicles based in this state and  
3513 operating in two or more jurisdictions may register commercial vehicles for operation under the  
3514 International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity  
3515 Agreement by filing an application with the division.

3516 (b) The application shall include information that identifies the vehicle owner, the  
3517 vehicle, the miles traveled in each jurisdiction, and other information pertinent to the  
3518 registration of apportioned vehicles.

3519 (c) Vehicles operated exclusively in this state may not be apportioned.

3520 (2) (a) If no operations were conducted during the preceding year, the application shall  
3521 contain a statement of the proposed operations and an estimate of annual mileage for each  
3522 jurisdiction.

3523 (b) The division may adjust the estimate if the division is not satisfied with its  
3524 correctness.

3525 (c) At renewal, the registrant shall use the actual mileage from the preceding year in  
3526 computing fees due each jurisdiction.

3527 (3) The registration fee for apportioned vehicles shall be determined as follows:

3528 (a) divide the in-jurisdiction miles by the total miles generated during the preceding  
3529 year;

3530 (b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206;

3531 and

3532 (c) multiply the sum obtained under Subsection (3)(b) by the quotient obtained under  
3533 Subsection (3)(a).

3534 (4) Trailers or semitrailers of apportioned fleets may be listed separately as "trailer  
3535 fleets" with the fees paid according to the total distance those trailers were towed in all  
3536 jurisdictions during the preceding year mileage reporting period.

3537 (5) (a) (i) When the proper fees have been paid and the property tax or in lieu fee has  
3538 been cleared under Section 41-1a-206 or 41-1a-207, a registration card, annual decal, and  
3539 where necessary, license plate, will be issued for each unit listed on the application.

3540 (ii) An original registration must be carried in each vehicle at all times.

3541 (b) Original registration cards for trailers or semitrailers may be carried in the power  
3542 unit.

3543 (c) (i) In lieu of a permanent registration card or license plate, the division may issue  
3544 one temporary permit authorizing operation of new or unlicensed vehicles until the permanent  
3545 registration is completed.

3546 (ii) Once a temporary permit is issued, the registration process may not be cancelled.  
3547 Registration must be completed and the fees and any property tax or in lieu fee due must be  
3548 paid for the vehicle for which the permit was issued.

3549 (iii) Temporary permits may not be issued for renewals.

3550 (d) (i) The division shall issue one distinctive license plate that displays the letters APP  
3551 for apportioned vehicles.

3552 (ii) The plate shall be displayed on the front of an apportioned truck tractor or power  
3553 unit or on the rear of any apportioned vehicle.

3554 (iii) Distinctive decals displaying the word "apportioned" and the month and year of  
3555 expiration shall be issued for each apportioned vehicle.

3556 (e) A nonrefundable administrative fee, determined by the commission pursuant to  
3557 Section [~~63J-1-303~~] 63J-1-504, shall be charged for each temporary permit, registration, or  
3558 both.

3559 (6) Vehicles that are apportionally registered are fully registered for intrastate and  
3560 interstate movements, providing the proper interstate and intrastate authority has been secured.

3561 (7) (a) Vehicles added to an apportioned fleet after the beginning of the registration

3562 year shall be registered by applying the quotient under Subsection (3)(a) for the original  
3563 application to the fees due for the remainder of the registration year.

3564 (b) (i) The owner shall maintain and submit complete annual mileage for each vehicle  
3565 in each jurisdiction, showing all miles operated by the lessor and lessee.

3566 (ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of  
3567 the year immediately preceding the calendar year in which the registration year begins.

3568 (c) (i) An owner-operator, who is a lessor, may be the registrant and the vehicle may be  
3569 registered in the name of the owner-operator.

3570 (ii) The identification plates and registration card shall be the property of the lessor and  
3571 may reflect both the owner-operator's name and that of the carrier as lessee.

3572 (iii) The allocation of fees shall be according to the operational records of the  
3573 owner-operator.

3574 (d) (i) The lessee may be the registrant of a leased vehicle at the option of the lessor.

3575 (ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name  
3576 shall appear on the registration.

3577 (iii) The allocation of fees shall be according to the records of the carrier.

3578 (8) (a) Any registrant whose application for apportioned registration has been accepted  
3579 shall preserve the records on which the application is based for a period of three years after the  
3580 close of the registration year.

3581 (b) The records shall be made available to the division upon request for audit as to  
3582 accuracy of computations, payments, and assessments for deficiencies, or allowances for  
3583 credits.

3584 (c) An assessment for deficiency or claim for credit may not be made for any period for  
3585 which records are no longer required.

3586 (d) Interest in the amount prescribed by Section 59-1-402 shall be assessed or paid  
3587 from the date due until paid on deficiencies found due after audit.

3588 (e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

3589 (f) The division may enter into agreements with other International Registration Plan  
3590 jurisdictions for joint audits.

3591 (9) (a) Except as provided in Subsection (9)(b), all state fees collected under this  
3592 section shall be deposited in the Transportation Fund.

3593 (b) The following fees may be used by the commission as a dedicated credit to cover  
 3594 the costs of electronic credentialing as provided in Section 41-1a-303:

3595 (i) \$5 of each temporary registration permit fee paid under Subsection (12)(a)(i) for a  
 3596 single unit; and

3597 (ii) \$10 of each temporary registration permit fee paid under Subsection (12)(a)(ii) for  
 3598 multiple units.

3599 (10) If registration is for less than a full year, fees for apportioned registration shall be  
 3600 assessed according to Section 41-1a-1207.

3601 (a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the  
 3602 new vehicle is of the same weight category as the replaced vehicle, the registrant must file a  
 3603 supplemental application.

3604 (ii) A registration card that transfers the license plate to the new vehicle shall be issued.

3605 (iii) When a replacement vehicle is of greater weight than the replaced vehicle,  
 3606 additional registration fees are due.

3607 (b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is  
 3608 registered, the registrant shall notify the division and surrender the registration card and license  
 3609 plate of the withdrawn vehicle.

3610 (11) (a) An out-of-state carrier with an apportionally registered vehicle who has not  
 3611 presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or  
 3612 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway  
 3613 use tax computed as follows:

3614 (i) Multiply the number of vehicles or combination vehicles registered in each weight  
 3615 class by the equivalent tax figure from the following tables:

3616 Vehicle or Combination

3617 Registered Weight	Age of Vehicle	Equivalent Tax
3618 12,000 pounds or less	12 or more years	\$10
3619 12,000 pounds or less	9 or more years but less than 12 years	\$50
3620 12,000 pounds or less	6 or more years but less than 9 years	\$80
3621 12,000 pounds or less	3 or more years but less than 6 years	\$110
3622 12,000 pounds or less	Less than 3 years	\$150

3623 Vehicle or Combination      Equivalent

3624	Registered Weight	Tax
3625	12,001 - 18,000 pounds	\$150
3626	18,001 - 34,000 pounds	200
3627	34,001 - 48,000 pounds	300
3628	48,001 - 64,000 pounds	450
3629	64,001 pounds and over	600

3630 (ii) Multiply the equivalent tax value for the total fleet determined under Subsection  
 3631 (11)(a)(i) by the fraction computed under Subsection (3) for the apportioned fleet for the  
 3632 registration year.

3633 (b) Fees shall be assessed as provided in Section 41-1a-1207.

3634 (12) (a) Commercial vehicles meeting the registration requirements of another  
 3635 jurisdiction may, as an alternative to full or apportioned registration, secure a temporary  
 3636 registration permit for a period not to exceed 96 hours or until they leave the state, whichever is  
 3637 less, for a fee of:

3638 (i) \$25 for a single unit; and

3639 (ii) \$50 for multiple units.

3640 (b) A state temporary permit or registration fee is not required from nonresident owners  
 3641 or operators of vehicles or combination of vehicles having a gross laden weight of 26,000  
 3642 pounds or less for each single unit or combination.

3643 Section 88. Section **41-1a-418** is amended to read:

3644 **41-1a-418. Authorized special group license plates.**

3645 (1) The division shall only issue special group license plates in accordance with this  
 3646 section through Section 41-1a-422 to a person who is specified under this section within the  
 3647 categories listed as follows:

3648 (a) disability special group license plates issued in accordance with Section 41-1a-420;

3649 (b) honor special group license plates, as in a war hero, which plates are issued for a:

3650 (i) survivor of the Japanese attack on Pearl Harbor;

3651 (ii) former prisoner of war;

3652 (iii) recipient of a Purple Heart;

3653 (iv) disabled veteran; or

3654 (v) recipient of a gold star award issued by the United States Secretary of Defense;

3655 (c) unique vehicle type special group license plates, as for historical, collectors value,  
3656 or other unique vehicle type, which plates are issued for:

3657 (i) a special interest vehicle;

3658 (ii) a vintage vehicle;

3659 (iii) a farm truck; or

3660 (iv) (A) until Subsection (1)(c)(iv)(B) applies, a vehicle powered by clean fuel as  
3661 defined in Section 59-13-102; or

3662 (B) beginning on the effective date of rules made by the Department of Transportation  
3663 authorized under Subsection 41-6a-702(5)(b), a vehicle powered by clean fuel that meets the  
3664 standards established by the Department of Transportation in rules authorized under Subsection  
3665 41-6a-702(5)(b);

3666 (d) recognition special group license plates, as in a public official or an emergency  
3667 service giver, which plates are issued for a:

3668 (i) current member of the Legislature;

3669 (ii) current member of the United States Congress;

3670 (iii) current member of the National Guard;

3671 (iv) licensed amateur radio operator;

3672 (v) currently employed, volunteer, or retired firefighter;

3673 (vi) emergency medical technician;

3674 (vii) current member of a search and rescue team; or

3675 (viii) current honorary consulate designated by the United States Department of State;

3676 and

3677 (e) support special group license plates, as for a contributor to an institution or cause,  
3678 which plates are issued for a contributor to:

3679 (i) an institution's scholastic scholarship fund;

3680 (ii) the Division of Wildlife Resources;

3681 (iii) the Department of Veterans' Affairs;

3682 (iv) the Division of Parks and Recreation;

3683 (v) the Department of Agriculture and Food;

3684 (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

3685 (vii) the Boy Scouts of America;

- 3686 (viii) spay and neuter programs through No More Homeless Pets in Utah;  
3687 (ix) the Boys and Girls Clubs of America;  
3688 (x) Utah public education;  
3689 (xi) programs that provide support to organizations that create affordable housing for  
3690 those in severe need through the Division of Real Estate;  
3691 (xii) the Department of Public Safety; or  
3692 (xiii) programs that support Zion National Park.  
3693 (2) Beginning January 1, 2003, the division may not issue a new type of special group  
3694 license plate unless the division receives:  
3695 (a) a start-up fee established under Section [~~63J-1-303~~] 63J-1-504 for production and  
3696 administrative costs for providing the new special group license plates; or  
3697 (b) a legislative appropriation for the start-up fee provided under Subsection (2)(a).  
3698 (3) (a) A sponsoring organization that qualifies for tax-exempt status under Internal  
3699 Revenue Code Section 501(c)(3) may request the commission to authorize a new type of  
3700 special group license plate for the sponsoring organization. The sponsoring organization shall:  
3701 (i) collect a minimum of 200 applications; and  
3702 (ii) pay a start-up fee established under Section [~~63J-1-303~~] 63J-1-504 for production  
3703 and administrative costs for providing the new type of special group license plates.  
3704 (b) If the provisions of Subsection (3)(a) are met, the commission shall approve the  
3705 request and the division shall:  
3706 (i) design a license plate in accordance with Section 41-1a-419; and  
3707 (ii) issue the new type of special group license plates.  
3708 Section 89. Section **41-1a-419** is amended to read:  
3709 **41-1a-419. Plate design -- Vintage vehicle certification and registration --**  
3710 **Personalized special group license plates -- Rulemaking.**  
3711 (1) (a) The design and maximum number of numerals or characters on special group  
3712 license plates shall be determined by the division in accordance with the requirements under  
3713 Subsection (1)(b).  
3714 (b) Each special group license plate shall display:  
3715 (i) the word Utah;  
3716 (ii) the name or identifying slogan of the special group;

3717 (iii) a symbol decal not exceeding two positions in size representing the special group;  
3718 and

3719 (iv) the combination of letters, numbers, or both uniquely identifying the registered  
3720 vehicle.

3721 (2) (a) The division shall, after consultation with a representative designated by the  
3722 special group, specify the word or words comprising the special group name and the symbol  
3723 decal to be displayed upon the special group license plates.

3724 (b) A special group license plate symbol decal may not be redesigned:

3725 (i) unless the division receives a redesign fee established by the division under Section  
3726 ~~[63J-1-303]~~ 63J-1-504; and

3727 (ii) more frequently than every five years.

3728 (c) (i) Except as provided in Subsection (2)(c)(ii), a special group license plate symbol  
3729 decal may not be reordered unless the division receives a symbol decal reorder fee established  
3730 by the division under Section ~~[63J-1-303]~~ 63J-1-504.

3731 (ii) A recognition special group license plate symbol decal for a currently employed,  
3732 volunteer, or retired firefighter issued in accordance with Subsection 41-1a-418(1)(d)(v) that is  
3733 reordered on or after July 1, 2007, but on or before June 30, 2008, is exempt from the symbol  
3734 decal reorder fee authorized under Subsection (2)(c)(i).

3735 (3) The license plates issued for horseless carriages prior to July 1, 1992, are valid  
3736 without renewal as long as the vehicle is owned by the registered owner and the license plates  
3737 may not be recalled by the division.

3738 (4) A person who meets the criteria established under Sections 41-1a-418 through  
3739 41-1a-422 for issuance of special group license plates may make application in the same  
3740 manner provided in Sections 41-1a-410 and 41-1a-411 for personalized special group license  
3741 plates.

3742 (5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah  
3743 Administrative Rulemaking Act, to:

3744 (a) establish qualifying criteria for persons to receive, renew, or surrender special group  
3745 license plates; and

3746 (b) establish the maximum number of numerals or characters for special group license  
3747 plates.

3748 Section 90. Section **41-1a-422** is amended to read:

3749 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**  
3750 **contribution collection procedures.**

3751 (1) As used in this section:

3752 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who  
3753 has donated or in whose name at least \$25 has been donated to:

3754 (A) a scholastic scholarship fund of a single named institution;

3755 (B) the Department of Veterans' Affairs for veterans' programs;

3756 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in  
3757 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,  
3758 access, and management of wildlife habitat;

3759 (D) the Department of Agriculture and Food for the benefit of conservation districts;

3760 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;

3761 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with  
3762 the donation evenly divided between the two;

3763 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America  
3764 council as specified by the contributor;

3765 (H) No More Homeless Pets in Utah for distribution to organizations or individuals  
3766 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

3767 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth  
3768 development programs;

3769 (J) the Utah Association of Public School Foundations to support public education;

3770 (K) the Utah Housing Opportunity Restricted Account created in Section 61-2-28 to  
3771 assist people who have severe housing needs;

3772 (L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118  
3773 to support the families of fallen Utah Highway Patrol troopers and other Department of Public  
3774 Safety employees; or

3775 (M) the Division of Parks and Recreation for distribution to organizations that provide  
3776 support for Zion National Park.

3777 (ii) (A) For a veterans' special group license plate, "contributor" means a person who  
3778 has donated or in whose name at least a \$25 donation at the time of application and \$10 annual

3779 donation thereafter has been made.

3780 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a  
3781 person who:

3782 (I) has donated or in whose name at least \$30 has been donated at the time of  
3783 application and annually after the time of application; and

3784 (II) is a member of a trade organization for real estate licensees that has more than  
3785 15,000 Utah members.

3786 (C) For an Honoring Heroes special group license plate, "contributor" means a person  
3787 who has donated or in whose name at least \$35 has been donated at the time of application and  
3788 annually thereafter.

3789 (b) "Institution" means a state institution of higher education as defined under Section  
3790 53B-3-102 or a private institution of higher education in the state accredited by a regional or  
3791 national accrediting agency recognized by the United States Department of Education.

3792 (2) (a) An applicant for original or renewal collegiate special group license plates under  
3793 Subsection (1)(a)(i) must be a contributor to the institution named in the application and  
3794 present the original contribution verification form under Subsection (2)(b) or make a  
3795 contribution to the division at the time of application under Subsection (3).

3796 (b) An institution with a support special group license plate shall issue to a contributor  
3797 a verification form designed by the commission containing:

3798 (i) the name of the contributor;

3799 (ii) the institution to which a donation was made;

3800 (iii) the date of the donation; and

3801 (iv) an attestation that the donation was for a scholastic scholarship.

3802 (c) The state auditor may audit each institution to verify that the moneys collected by  
3803 the institutions from contributors are used for scholastic scholarships.

3804 (d) After an applicant has been issued collegiate license plates or renewal decals, the  
3805 commission shall charge the institution whose plate was issued, a fee determined in accordance  
3806 with Section [~~63J-1-303~~] 63J-1-504 for management and administrative expenses incurred in  
3807 issuing and renewing the collegiate license plates.

3808 (e) If the contribution is made at the time of application, the contribution shall be  
3809 collected, treated, and deposited as provided under Subsection (3).

3810 (3) (a) An applicant for original or renewal support special group license plates under  
3811 this section must be a contributor to the sponsoring organization associated with the license  
3812 plate.

3813 (b) This contribution shall be:

3814 (i) unless collected by the named institution under Subsection (2), collected by the  
3815 division;

3816 (ii) considered a voluntary contribution for the funding of the activities specified under  
3817 this section and not a motor vehicle registration fee; and

3818 (iii) deposited into the appropriate account less actual administrative costs associated  
3819 with issuing the license plates.

3820 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to  
3821 registration or renewal of registration.

3822 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to  
3823 the division when issuing original:

3824 (i) snowmobile license plates; or

3825 (ii) conservation license plates.

3826 (4) Veterans' license plates shall display one of the symbols representing the Army,  
3827 Navy, Air Force, Marines, Coast Guard, or American Legion.

3828 Section 91. Section **41-1a-1007** is amended to read:

3829 **41-1a-1007. Fees.**

3830 (1) A certified vehicle inspector may charge a fee in accordance with Section  
3831 ~~[63J-1-303]~~ 63J-1-504 for each inspection under Subsection 41-1a-1002(1).

3832 (2) To cover the costs of inspection and to defray the cost of certification, the fee  
3833 charged under this section by a certified vehicle inspector shall be retained by the Motor  
3834 Vehicle Enforcement Division as a dedicated credit.

3835 Section 92. Section **41-1a-1010** is amended to read:

3836 **41-1a-1010. Permit required to dismantle vehicle -- Duties upon receiving the**  
3837 **permit -- Exceptions.**

3838 (1) (a) A person may not scrap, dismantle, destroy, or otherwise change any vehicle so  
3839 that it loses its character, until the person submits to the division:

3840 (i) the certificate of title for the vehicle for cancellation; and

3841 (ii) an application for a permit to dismantle the vehicle.  
3842 (b) Upon approval of the application, the division shall issue a permit to dismantle the  
3843 vehicle.

3844 (2) Except as provided in Subsection (3), if a permit to dismantle is issued under this  
3845 section, the vehicle shall be destroyed and may not be rebuilt or reconstructed and may not be  
3846 retitled or registered.

3847 (3) A vehicle for which a permit to dismantle has been issued by the division may be  
3848 retitled and the permit to dismantle rescinded if:

3849 (a) prior to receiving a dismantling permit the vehicle had a Utah certificate of title;

3850 (b) the vehicle has not been dismantled;

3851 (c) an investigator for the Motor Vehicle Enforcement Division of the commission  
3852 determines after a physical inspection of the vehicle that it is the same vehicle for which the  
3853 permit to dismantle was issued; and

3854 (d) the applicant pays the fee under Subsection (4).

3855 (4) The commission may collect a fee established in accordance with Section  
3856 ~~[63J-1-303]~~ 63J-1-504 to cover the expenses of an inspection under Subsection (3).

3857 Section 93. Section **41-1a-1211** is amended to read:

3858 **41-1a-1211. License plate fees -- Application fees for issuance and renewal of**  
3859 **personalized and special group license plates -- Replacement fee for license plates --**  
3860 **Postage fees.**

3861 (1) (a) Except as provided in Subsections (11) and (12), a license plate fee of \$5 per set  
3862 shall be paid to the division for the issuance of any new license plate under Part 4, License  
3863 Plates and Registration Indicia.

3864 (b) The license plate fee shall be deposited as follows:

3865 (i) \$4 as provided in Section 41-1a-1201; and

3866 (ii) \$1 in the Transportation Fund.

3867 (2) An applicant for original issuance of personalized license plates issued under  
3868 Section 41-1a-410 shall pay a \$50 per set license plate application fee in addition to the fee  
3869 required in Subsection (1).

3870 (3) Beginning July 1, 2003, a person who applies for a special group license plate shall  
3871 pay a \$5 fee for the original set of license plates in addition to the fee required under

3872 Subsection (1).

3873 (4) An applicant for original issuance of personalized special group license plates shall  
3874 pay the license plate application fees required in Subsection (2) in addition to the license plate  
3875 fees and license plate application fees established under Subsections (1) and (3).

3876 (5) An applicant for renewal of personalized license plates issued under Section  
3877 41-1a-410 shall pay a \$10 per set application fee.

3878 (6) (a) A fee of \$5 shall be paid to the division for the replacement of any license plate  
3879 issued under Part 4, License Plates and Registration Indicia.

3880 (b) The license plate fee shall be deposited as follows:

3881 (i) \$4 as provided in Section 41-1a-1201; and

3882 (ii) \$1 in the Transportation Fund.

3883 (7) The division may charge a fee established under Section [~~63J-1-303~~] 63J-1-504 to  
3884 recover its costs for the replacement of decals issued under Section 41-1a-418.

3885 (8) The division may charge a fee established under Section [~~63J-1-303~~] 63J-1-504 to  
3886 recover the cost of issuing stickers under Section 41-1a-416.

3887 (9) In addition to any other fees required by this section, the division shall assess a fee  
3888 established under Section [~~63J-1-303~~] 63J-1-504 to cover postage expenses if new or  
3889 replacement license plates are mailed to the applicant.

3890 (10) The fees required under this section are separate from and in addition to  
3891 registration fees required under Section 41-1a-1206.

3892 (11) (a) An applicant for a license plate issued under Section 41-1a-407 is not subject  
3893 to the license plate fee under Subsection (1).

3894 (b) An applicant for a Purple Heart special group license plate issued in accordance  
3895 with Section 41-1a-421 is exempt from the fees under Subsections (1), (3), and (7).

3896 (12) A person is exempt from the fee under Subsection (1) or (6) if the person:

3897 (a) was issued a clean fuel special group license plate in accordance with Section  
3898 41-1a-418 prior to the effective date of rules made by the Department of Transportation under  
3899 Subsection 41-6a-702(5)(b);

3900 (b) beginning on the effective date of rules made by the Department of Transportation  
3901 authorized under Subsection 41-6a-702(5)(b), is no longer eligible for a clean fuel special  
3902 group license plate under the rules made by the Department of Transportation; and

3903 (c) upon renewal or reissuance, is required to replace the clean fuel special group  
3904 license plate with a new license plate.

3905 Section 94. Section **41-1a-1212** is amended to read:

3906 **41-1a-1212. Fee for replacement of license plate decals.**

3907 A fee established in accordance with Section [~~63J-1-303~~] 63J-1-504 shall be paid to the  
3908 division for the replacement of a license plate decal required by Section 41-1a-402.

3909 Section 95. Section **41-1a-1221** is amended to read:

3910 **41-1a-1221. Fees to cover the cost of electronic payments.**

3911 (1) As used in this section:

3912 (a) "Electronic payment" means use of any form of payment processed through  
3913 electronic means, including credit cards, debit cards, and automatic clearinghouse transactions.

3914 (b) "Electronic payment fee" means the fee assessed to defray:

3915 (i) the charge, discount fee, or processing fee charged by credit card companies or  
3916 processing agents to process an electronic payment; or

3917 (ii) costs associated with the purchase of equipment necessary for processing electronic  
3918 payments.

3919 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all  
3920 registrations and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), and (2).

3921 (b) The fee described in Subsection (2)(a):

3922 (i) shall be imposed regardless of the method of payment for a particular transaction;  
3923 and

3924 (ii) need not be separately identified from the fees imposed for registration and  
3925 renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), and (2).

3926 (3) The division shall establish the fee according to the procedures and requirements of  
3927 Section [~~63J-1-303~~] 63J-1-504.

3928 (4) A fee imposed under this section:

3929 (a) shall be used by the division as a dedicated credit to cover the costs of electronic  
3930 payments;

3931 (b) is nonlapsing; and

3932 (c) is not subject to Subsection 63J-2-202(2).

3933 Section 96. Section **41-3-601** is amended to read:

3934           **41-3-601. Fees.**

3935           (1) To pay for administering and enforcing this chapter, the administrator shall collect  
3936 fees determined by the commission under Section [~~63J-1-303~~] 63J-1-504 for each of the  
3937 following:

- 3938           (a) new motor vehicle dealer's license;
  - 3939           (b) used motor vehicle dealer's license;
  - 3940           (c) new motorcycle, off-highway vehicle, and small trailer dealer;
  - 3941           (d) used motorcycle, off-highway vehicle, and small trailer dealer;
  - 3942           (e) motor vehicle salesperson's license;
  - 3943           (f) motor vehicle salesperson's transfer or reissue fee;
  - 3944           (g) motor vehicle manufacturer's license;
  - 3945           (h) motor vehicle transporter's license;
  - 3946           (i) motor vehicle dismantler's license;
  - 3947           (j) motor vehicle crusher's license;
  - 3948           (k) motor vehicle remanufacturer's license;
  - 3949           (l) body shop's license;
  - 3950           (m) distributor or factory branch and distributor branch's license;
  - 3951           (n) representative's license;
  - 3952           (o) dealer plates;
  - 3953           (p) dismantler plates;
  - 3954           (q) manufacturer plates;
  - 3955           (r) transporter plates;
  - 3956           (s) damaged plate replacement;
  - 3957           (t) in-transit permits;
  - 3958           (u) loaded demonstration permits;
  - 3959           (v) additional place of business;
  - 3960           (w) special equipment dealer's license;
  - 3961           (x) temporary permits; and
  - 3962           (y) temporary sports event registration certificates.
- 3963           (2) (a) To pay for training certified vehicle inspectors and enforcement under Sections  
3964 41-1a-1001 through 41-1a-1008, the State Tax Commission shall establish and the

3965 administrator shall collect inspection fees determined by the commission under Section  
3966 [~~63J-1-303~~] 63J-1-504.

3967 (b) The division shall use fees collected under Subsection (2)(a) as nonlapsing  
3968 dedicated credits to be used toward the costs of the division.

3969 (3) (a) At the time of application, the administrator shall collect a fee of \$200 for each  
3970 salvage vehicle buyer license.

3971 (b) The administrator may retain a portion of the fee under Subsection (3)(a) to offset  
3972 the administrator's actual costs of administering and enforcing salvage vehicle buyer licenses.

3973 (4) The division shall use fees collected under Subsections (1)(x) and (y) as nonlapsing  
3974 dedicated credits to be used toward the costs of the division.

3975 Section 97. Section ~~41-3-604~~ is amended to read:

3976 **41-3-604. Fee to cover the cost of electronic payments.**

3977 (1) As used in this section:

3978 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

3979 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

3980 (2) (a) The division may collect a fee to cover the cost of electronic payments on the  
3981 following transactions:

3982 (i) each purchase or renewal of a license under Section 41-3-202;

3983 (ii) each purchase of a book of temporary permits under Section 41-3-302;

3984 (iii) each penalty issued for a delinquent temporary permit under Section 41-3-302;

3985 (iv) each purchase of an in-transit permit under Section 41-3-305;

3986 (v) each purchase of a loaded demonstration permit under Section 41-3-502;

3987 (vi) each purchase of a license plate under Section 41-3-503; and

3988 (vii) each purchase of a salvage vehicle buyer license under Section 41-3-202.

3989 (b) The fee described in Subsection (2)(a):

3990 (i) shall be imposed regardless of the method of payment for a particular transaction;

3991 and

3992 (ii) need not be separately identified from the fees and penalty described in Subsections

3993 (2)(a)(i) through (vii).

3994 (3) The division shall establish the fee under Subsection (2)(a) according to the  
3995 procedures and requirements of Section [~~63J-1-303~~] 63J-1-504.

3996 (4) A fee imposed under this section:

3997 (a) shall be used by the division as a dedicated credit to cover the costs of electronic  
3998 payments;

3999 (b) is nonlapsing; and

4000 (c) is not subject to Subsection 63J-2-202(2).

4001 Section 98. Section **41-6a-404** is amended to read:

4002 **41-6a-404. Accident reports -- When confidential -- Insurance policy information**  
4003 **-- Use as evidence -- Penalty for false information.**

4004 (1) As used in this section:

4005 (a) "Agent" means:

4006 (i) a person's attorney;

4007 (ii) a person's insurer;

4008 (iii) a general acute hospital, as defined in Section 26-21-2, that:

4009 (A) has an emergency room; and

4010 (B) is providing or has provided emergency services to the person in relation to the  
4011 accident; or

4012 (iv) any other individual or entity with signed permission from the person to receive  
4013 the person's accident report.

4014 (b) "Accompanying data" means all materials gathered by the investigating peace  
4015 officer in an accident investigation including:

4016 (i) the identity of witnesses and, if known, contact information;

4017 (ii) witness statements;

4018 (iii) photographs and videotapes;

4019 (iv) diagrams; and

4020 (v) field notes.

4021 (2) Except as provided in Subsection (3), all accident reports required in this part to be  
4022 filed with the department:

4023 (a) are without prejudice to the reporting individual;

4024 (b) are protected and for the confidential use of the department or other state, local, or  
4025 federal agencies having use for the records for official governmental statistical, investigative,  
4026 and accident prevention purposes; and

4027 (c) may be disclosed only in a statistical form that protects the privacy of any person  
4028 involved in the accident.

4029 (3) (a) Subject to the provisions of this section, the department or the responsible law  
4030 enforcement agency employing the peace officer that investigated the accident shall disclose an  
4031 accident report to:

4032 (i) a person involved in the accident, excluding a witness to the accident;

4033 (ii) a person suffering loss or injury in the accident;

4034 (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)

4035 and (ii);

4036 (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

4037 (v) a state, local, or federal agency that uses the records for official governmental,  
4038 investigative, or accident prevention purposes;

4039 (vi) law enforcement personnel when acting in their official governmental capacity;

4040 and

4041 (vii) a licensed private investigator.

4042 (b) The responsible law enforcement agency employing the peace officer that  
4043 investigated the accident:

4044 (i) shall in compliance with Subsection (3)(a):

4045 (A) disclose an accident report; or

4046 (B) upon written request disclose an accident report and its accompanying data within  
4047 ten business days from receipt of a written request for disclosure; or

4048 (ii) may withhold an accident report, and any of its accompanying data if disclosure  
4049 would jeopardize an ongoing criminal investigation or criminal prosecution.

4050 (c) In accordance with Subsection (3)(a), the department or the responsible law  
4051 enforcement agency employing the investigating peace officer shall disclose whether any  
4052 person or vehicle involved in an accident reported under this section was covered by a vehicle  
4053 insurance policy, and the name of the insurer.

4054 (d) Information provided to a member of the press or broadcast news media under  
4055 Subsection (3)(a)(iv) may only include:

4056 (i) the name, age, sex, and city of residence of each person involved in the accident;

4057 (ii) the make and model year of each vehicle involved in the accident;

4058 (iii) whether or not each person involved in the accident was covered by a vehicle  
4059 insurance policy;

4060 (iv) the location of the accident; and

4061 (v) a description of the accident that excludes personal identifying information not  
4062 listed in Subsection (3)(d)(i).

4063 (e) The department shall disclose to any requesting person the following vehicle  
4064 accident history information, excluding personal identifying information, in bulk electronic  
4065 form:

4066 (i) any vehicle identifying information that is electronically available, including the  
4067 make, model year, and vehicle identification number of each vehicle involved in an accident;

4068 (ii) the date of the accident; and

4069 (iii) any electronically available data which describes the accident, including a  
4070 description of any physical damage to the vehicle.

4071 (f) The department may establish a fee under Section [~~63J-1-303~~] 63J-1-504 based on  
4072 the fair market value of the information for providing bulk vehicle accident history information  
4073 under Subsection (3)(e).

4074 (4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section  
4075 may not be used as evidence in any civil or criminal trial arising out of an accident.

4076 (b) (i) Upon demand of any party to the trial or upon demand of any court, the  
4077 department shall furnish a certificate showing that a specified accident report has or has not  
4078 been made to the department in compliance with law.

4079 (ii) If the report has been made, the certificate furnished by the department shall show:

4080 (A) the date, time, and location of the accident;

4081 (B) the names and addresses of the drivers;

4082 (C) the owners of the vehicles involved; and

4083 (D) the investigating peace officers.

4084 (iii) The reports may be used as evidence when necessary to prosecute charges filed in  
4085 connection with a violation of Subsection (5).

4086 (5) A person who gives information in reports as required in this part knowing or  
4087 having reason to believe that the information is false is guilty of a class A misdemeanor.

4088 (6) The department and the responsible law enforcement agency employing the

investigating peace officer may charge a reasonable fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).

Section 99. Section **41-6a-518** is amended to read:

**41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Impecuniosity -- Fee.**

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.

(c) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court may require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds a level ordered by the court.

(b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(d) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation involves drugs other than alcohol.

(3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition

4120 interlock system;

4121 (b) order that an ignition interlock system be installed on each motor vehicle owned or  
4122 operated by the probationer, at the probationer's expense;

4123 (c) immediately notify the Driver License Division and the person's probation provider  
4124 of the order; and

4125 (d) require the probationer to provide proof of compliance with the court's order to the  
4126 probation provider within 30 days of the order.

4127 (4) (a) The probationer shall provide timely proof of installation within 30 days of an  
4128 order imposing the use of a system or show cause why the order was not complied with to the  
4129 court or to the probationer's probation provider.

4130 (b) The probation provider shall notify the court of failure to comply under Subsection  
4131 (4)(a).

4132 (c) For failure to comply under Subsection (4)(a) or upon receiving the notification  
4133 under Subsection (4)(b), the court shall order the Driver License Division to suspend the  
4134 probationer's driving privileges for the remaining period during which the compliance was  
4135 imposed.

4136 (d) Cause for failure to comply means any reason the court finds sufficiently justifiable  
4137 to excuse the probationer's failure to comply with the court's order.

4138 (5) (a) Any probationer required to install an ignition interlock system shall have the  
4139 system monitored by the manufacturer or dealer of the system for proper use and accuracy at  
4140 least semiannually and more frequently as the court may order.

4141 (b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the  
4142 court or the person's probation provider.

4143 (ii) The report shall be issued within 14 days following each monitoring.

4144 (6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the  
4145 reasonable costs of leasing or buying and installing and maintaining the system.

4146 (b) A probationer may not be excluded from this section for inability to pay the costs,  
4147 unless:

4148 (i) the probationer files an affidavit of impecuniosity; and

4149 (ii) the court enters a finding that the probationer is impecunious.

4150 (c) In lieu of waiver of the entire amount of the cost, the court may direct the

4151 probationer to make partial or installment payments of costs when appropriate.

4152 (d) The ignition interlock provider shall cover the costs of waivers by the court under  
4153 this Subsection (6).

4154 (7) (a) If a probationer is required in the course and scope of employment to operate a  
4155 motor vehicle owned by the probationer's employer, the probationer may operate that motor  
4156 vehicle without installation of an ignition interlock system only if:

4157 (i) the motor vehicle is used in the course and scope of employment;

4158 (ii) the employer has been notified that the employee is restricted; and

4159 (iii) the employee has proof of the notification in the employee's possession while  
4160 operating the employer's motor vehicle.

4161 (b) (i) To the extent that an employer-owned motor vehicle is made available to a  
4162 probationer subject to this section for personal use, no exemption under this section shall apply.

4163 (ii) A probationer intending to operate an employer-owned motor vehicle for personal  
4164 use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock  
4165 system shall notify the employer and obtain consent in writing from the employer to install a  
4166 system in the employer-owned motor vehicle.

4167 (c) A motor vehicle owned by a business entity that is all or partly owned or controlled  
4168 by a probationer subject to this section is not a motor vehicle owned by the employer and does  
4169 not qualify for an exemption under this Subsection (7).

4170 (8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4171 the commissioner shall make rules setting standards for the certification of ignition interlock  
4172 systems.

4173 (b) The standards under Subsection (8)(a) shall require that the system:

4174 (i) not impede the safe operation of the motor vehicle;

4175 (ii) have features that make circumventing difficult and that do not interfere with the  
4176 normal use of the motor vehicle;

4177 (iii) require a deep lung breath sample as a measure of breath alcohol concentration;

4178 (iv) prevent the motor vehicle from being started if the driver's breath alcohol  
4179 concentration exceeds a specified level;

4180 (v) work accurately and reliably in an unsupervised environment;

4181 (vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section [~~63J-1-303~~] 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(9) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 100. Section **41-12a-202** is amended to read:

**41-12a-202. Access to accident reports.**

(1) Accident reports and supplemental information as required under this chapter are protected and are for the confidential use of the department and other state, local, or federal government agencies and may be disclosed only as provided in Section 41-6a-404.

(2) (a) Any person entitled to the disclosure of an accident report, as provided in Section 41-6a-404, may obtain a photocopy by paying the department a fee established under Section [~~63J-1-303~~] 63J-1-504.

(b) These fees shall be deposited in the General Fund.

Section 101. Section **41-12a-805** is amended to read:

**41-12a-805. Disclosure of insurance information -- Penalty.**

(1) Information in the database established under Section 41-12a-803 provided by a person to the designated agent is considered to be the property of the person providing the information.

(2) The information may not be disclosed from the database under Title 63G, Chapter

4213 2, Government Records Access and Management Act, or otherwise, except as follows:

4214 (a) for the purpose of investigating, litigating, or enforcing the owner's or operator's

4215 security requirement under Section 41-12a-301, the designated agent shall verify insurance

4216 information through the state computer network for a state or local government agency or

4217 court;

4218 (b) for the purpose of investigating, litigating, or enforcing the owner's or operator's

4219 security requirement under Section 41-12a-301, the designated agent shall, upon request, issue

4220 to any state or local government agency or court a certificate documenting the insurance

4221 information, according to the database, of a specific individual or motor vehicle for the time

4222 period designated by the government agency;

4223 (c) upon request, the department or its designated agent shall disclose whether or not a

4224 person is an insured individual and the insurance company name to:

4225 (i) that individual or, if that individual is deceased, any interested person of that

4226 individual, as defined in Section 75-1-201;

4227 (ii) the parent or legal guardian of that individual if the individual is an unemancipated

4228 minor;

4229 (iii) the legal guardian of that individual if the individual is legally incapacitated;

4230 (iv) a person who has power of attorney from the insured individual;

4231 (v) a person who submits a notarized release from the insured individual dated no more

4232 than 90 days before the date the request is made; or

4233 (vi) a person suffering loss or injury in a motor vehicle accident in which the insured

4234 individual is involved, but only as part of an accident report as authorized in Section

4235 41-12a-202;

4236 (d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations

4237 by state or local law enforcement agencies related to the:

4238 (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter

4239 1a, Motor Vehicle Act;

4240 (ii) purchase of a motor vehicle under Title 59, Chapter 12, Sales and Use Tax Act; and

4241 (iii) owner's or operator's security requirements under Section 41-12a-301;

4242 (e) upon request of a peace officer acting in an official capacity under the provisions of

4243 Subsection (2)(d), the department or the designated agent shall, upon request, disclose relevant

4244 information for investigation, enforcement, or prosecution;

4245 (f) for the purpose of the state auditor, the legislative auditor general, or other auditor  
4246 of the state conducting audits of the program;

4247 (g) upon request of a financial institution as defined under Section 7-1-103 for the  
4248 purpose of protecting the financial institution's bona fide security interest in a motor vehicle;  
4249 and

4250 (h) upon the request of a state or local law enforcement agency for the purpose of  
4251 investigating and prosecuting identity theft and other crimes.

4252 (3) (a) The department may allow the designated agent to prepare and deliver upon  
4253 request, a report on the insurance information of a person or motor vehicle in accordance with  
4254 this section.

4255 (b) The report may be in the form of:

4256 (i) a certified copy that is considered admissible in any court proceeding in the same  
4257 manner as the original; or

4258 (ii) information accessible through the Internet or through other electronic medium if  
4259 the department determines that sufficient security is provided to ensure compliance with this  
4260 section.

4261 (c) The department may allow the designated agent to charge a fee established by the  
4262 department under Section [~~63J-1-303~~] 63J-1-504 for each:

4263 (i) document authenticated, including each certified copy;

4264 (ii) record accessed by the Internet or by other electronic medium; and

4265 (iii) record provided to a financial institution under Subsection (2)(g).

4266 (4) A person who knowingly releases or discloses information from the database for a  
4267 purpose other than those authorized in this section or to a person who is not entitled to it is  
4268 guilty of a third degree felony.

4269 (5) An insurer is not liable to any person for complying with Section 31A-22-315 by  
4270 providing information to the designated agent.

4271 (6) Neither the state nor the department's designated agent is liable to any person for  
4272 gathering, managing, or using the information in the database as provided in Section  
4273 31A-22-315 and this part.

4274 Section 102. Section **41-22-33** is amended to read:

**41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.**

(1) (a) A fee set by the board in accordance with Section ~~[63J-1-303]~~ 63J-1-504 shall be added to the registration fee required to register an off-highway vehicle under Section 41-22-8 to help fund the off-highway vehicle safety and education program.

(b) The division may also collect a fee set by the board in accordance with Section ~~[63J-1-303]~~ 63J-1-504 from each person who:

(i) receives the training and takes the knowledge and skills test for off-highway vehicle use; or

(ii) takes the knowledge and skills test for off-highway vehicle use.

(c) If the board modifies the fee under Subsection (1)(a), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the board provides the State Tax Commission:

(i) notice from the board stating that the board will modify the fee; and

(ii) a copy of the fee modification.

(2) (a) To help defray instructors' costs, the division may reimburse volunteer certified off-highway vehicle safety instructors up to \$6 for each student who receives the training and takes the knowledge and skills test.

(b) On or before the 10th day of each calendar month, volunteer off-highway vehicle safety instructors shall report to the division all fees collected and students trained and shall accompany the report with all money received for off-highway vehicle training.

(c) If a volunteer off-highway vehicle safety instructor intentionally or negligently fails to pay the amount due, the division may assess a penalty of 20% of the amount due. All delinquent payments shall bear interest at the rate of 1% per month. If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total due together with interest.

(d) All fees collected from students shall be kept separate and apart from private funds of the instructor and shall at all times belong to the state. In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against the instructor, receiver, or trustee for all money owing the state for training and shall not be stopped from asserting the claim by reason of commingling of funds or otherwise.

(e) A person may not:

- 4306 (i) willfully misdate an off-highway vehicle education safety certificate;  
4307 (ii) issue an incomplete certificate; or  
4308 (iii) issue a receipt in lieu of a certificate.

4309 Section 103. Section **41-22-36** is amended to read:

4310 **41-22-36. Fees to cover the costs of electronic payments.**

4311 (1) As used in this section:

4312 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

4313 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

4314 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all  
4315 registrations and renewals of registration under Section 41-22-8.

4316 (b) The fee described in Subsection (2)(a) shall be imposed regardless of the method of  
4317 payment for a particular transaction.

4318 (3) The division shall establish the fee according to the procedures and requirements of  
4319 Section [~~63J-1-303~~] 63J-1-504.

4320 (4) A fee imposed under this section:

4321 (a) shall be used by the Motor Vehicle Division as a dedicated credit to cover the costs  
4322 of electronic payments;

4323 (b) is nonlapsing;

4324 (c) is not subject to Subsection 63J-2-202(2); and

4325 (d) need not be separately identified from the fees imposed on registrations and  
4326 renewals of registration under Section 41-22-8.

4327 Section 104. Section **42-2-10** is amended to read:

4328 **42-2-10. Penalties.**

4329 Any person who carries on, conducts, or transacts business under an assumed name  
4330 without having complied with the provisions of this chapter, and until the provisions of this  
4331 chapter are complied with:

4332 (1) shall not sue, prosecute, or maintain any action, suit, counterclaim, cross complaint,  
4333 or proceeding in any of the courts of this state; and

4334 (2) may be subject to a penalty in the form of a late filing fee determined by the  
4335 division director in an amount not to exceed three times the fees charged under Section 42-2-7  
4336 and established under Section [~~63J-1-303~~] 63J-1-504.

4337 Section 105. Section **42-3-2** is amended to read:

4338 **42-3-2. Recording fee.**

4339 Any person having the name of the person's farm so recorded shall first pay to the  
4340 commissioner of agriculture and food a fee determined by the commissioner pursuant to  
4341 Section [~~63J-1-303~~] 63J-1-504. This fee shall be transmitted to the General Fund.

4342 Section 106. Section **42-3-4** is amended to read:

4343 **42-3-4. Cancellation by owner -- Fee.**

4344 When any owner of a registered farm desires to cancel its registered name, the owner  
4345 shall write on the back of the certificate the following: "This name is canceled, and I hereby  
4346 release all rights thereunder," and shall sign such statement in the presence of a witness and file  
4347 the same in the office of the commissioner of agriculture and food. For such filing the  
4348 commissioner of agriculture and food shall charge a fee determined by the commissioner  
4349 pursuant to Section [~~63J-1-303~~] 63J-1-504, which shall be paid to the General Fund. The  
4350 commissioner of agriculture and food shall, when such certificate so endorsed has been filed in  
4351 the commissioner's office, write on the margin of the register of such name the word  
4352 "canceled."

4353 Section 107. Section **46-1-3** is amended to read:

4354 **46-1-3. Qualifications -- Commissioning -- Jurisdiction and term.**

4355 (1) Except as provided in Subsection (3), the lieutenant governor shall commission as a  
4356 notary any qualified person who submits an application in accordance with this chapter.

4357 (2) A person qualified for a notarial commission shall:

4358 (a) be 18 years of age or older;

4359 (b) lawfully reside in this state 30 days immediately preceding the filing for a notarial  
4360 commission and maintain permanent residency thereafter;

4361 (c) be able to read, write, and understand English;

4362 (d) submit an application to the lieutenant governor containing no significant  
4363 misstatement or omission of fact and include at least:

4364 (i) a statement of the applicant's personal qualifications, the applicant's residence  
4365 address, a business address in this state, and daytime telephone number;

4366 (ii) the applicant's age and date of birth;

4367 (iii) all criminal convictions of the applicant, including any pleas of admission and

4368 nolo contendere;

4369 (iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a  
4370 notarial commission or other professional license involving the applicant in this or any other  
4371 state;

4372 (v) the acknowledgment of a passing score by the applicant on a written examination  
4373 administered under Subsection (5);

4374 (vi) a declaration by the applicant; and

4375 (vii) an application fee determined under Section ~~[63J-1-303]~~ 63J-1-504;

4376 (e) be a Utah resident or have permanent resident status under Section 245 of the  
4377 Immigration and Nationality Act; and

4378 (f) be endorsed by two residents of the state who are over the age of 18.

4379 (3) The lieutenant governor may deny an application based on:

4380 (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

4381 (b) any revocation, suspension, or restriction of a notarial commission or professional  
4382 license issued to the applicant by this or any other state;

4383 (c) the applicant's official misconduct while acting in the capacity of a notary; or

4384 (d) the applicant's failure to pass the written examination.

4385 (4) A person commissioned as a notary by the lieutenant governor may perform  
4386 notarial acts in any part of this state for a term of four years, unless the person resigned or the  
4387 commission is revoked or suspended under Section 46-1-19.

4388 (5) Each applicant for a notarial commission shall take a written examination approved  
4389 by the lieutenant governor and submit the examination to a testing center designated by the  
4390 lieutenant governor for purposes of scoring the examination. The testing center designated by  
4391 the lieutenant governor shall issue a written acknowledgment to the applicant indicating  
4392 whether the applicant passed or failed the examination.

4393 Section 108. Section **48-1-42** is amended to read:

4394 **48-1-42. Registration of limited liability partnerships.**

4395 (1) (a) A partnership shall register with the Division of Corporations and Commercial  
4396 Code by filing an application or a renewal statement:

4397 (i) to become and to continue as a limited liability partnership; or

4398 (ii) to do business in this state as a foreign limited liability partnership.

4399 (b) The application or renewal statement shall include:  
4400 (i) the name of the limited liability partnership;  
4401 (ii) the information required by Subsection 16-17-203(1);  
4402 (iii) the number of partners;  
4403 (iv) a brief statement of the business in which the limited liability partnership engages;  
4404 (v) a brief statement that the partnership is applying for, or seeking to renew its status  
4405 as a limited liability partnership; and  
4406 (vi) if a foreign limited liability partnership, an original certificate of fact or good  
4407 standing from the office of the lieutenant governor or other responsible authority of the state in  
4408 which the limited liability partnership is formed.

4409 (2) The application or renewal statement required by Subsection (1) shall be executed  
4410 by a majority in voting interest of the partners or by one or more partners authorized by the  
4411 partnership to execute an application or renewal statement.

4412 (3) The application or renewal statement shall be accompanied by a filing fee  
4413 established under Section [~~63J-1-303~~] 63J-1-504.

4414 (4) The division shall register as a limited liability partnership any partnership that  
4415 submits a completed application with the required fee.

4416 (5) (a) The registration expires one year after the date an application is filed unless the  
4417 registration is voluntarily withdrawn by filing with the division a written withdrawal notice  
4418 executed by a majority in voting interest of the partners or by one or more partners authorized  
4419 to execute a withdrawal notice.

4420 (b) Registration of a partnership as a limited liability partnership shall be renewed if no  
4421 earlier than 60 days before the date the registration expires and no later than the date of  
4422 expiration, the limited liability partnership files with the division a renewal statement.

4423 (c) The division shall renew the registration as a limited liability partnership of any  
4424 limited liability partnership that timely submits a completed renewal statement with the  
4425 required fee.

4426 (d) If a renewal statement is timely filed, the registration is effective for one year after  
4427 the date the registration would have expired but for the filing or the renewal statement.

4428 (6) The status of a partnership as a limited liability partnership is not affected by  
4429 changes in the information stated in the application or renewal statement which take place after

the filing of an application or a renewal statement.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may issue rules providing for the form content and submittal of applications for registration or of renewal statements.

Section 109. Section **48-2a-206** is amended to read:

**48-2a-206. Filing with the division.**

(1) An original and one copy of the certificate of limited partnership, and of any certificates of amendment or cancellation, or of any judicial decree of amendment or cancellation, shall be delivered to the division. A person who executes a certificate as an attorney-in-fact or fiduciary need not exhibit evidence of the person's authority as a prerequisite to filing. Unless the division finds that any certificate does not conform to law as to its form, upon receipt of all filing fees established under Section [~~63J-1-303~~] 63J-1-504, it shall:

(a) place on the original and the copy a stamp or seal indicating the time, day, month, and year of the filing, the director of the division's signature, and the division's seal, or facsimiles thereof, and the name of the division;

(b) file the signed original in its office; and

(c) return the stamped copy to the person who filed it or the person's representative.

(2) The stamped copy of the certificate of limited partnership and of any certificate of amendment or cancellation shall be conclusive evidence that all conditions precedent required for the formation, amendment, or cancellation of a limited partnership have been complied with and the limited partnership has been formed, amended, or canceled under this chapter, except with respect to an action for involuntary cancellation of the limited partnership's certificate for fraud under Subsection 48-2a-203.5(1)(a).

(3) Upon the filing of a certificate of amendment or judicial decree of amendment with the division, the certificate of limited partnership is amended as set forth in the certificate of amendment or judicial decree of amendment, and upon filing a certificate of cancellation, or of a judicial decree of cancellation, the division shall cancel the certificate of limited partnership effective as of the date the cancellation was filed or as of the date specified in the decree, unless a later effective date is specified in the cancellation.

Section 110. Section **48-2a-1107** is amended to read:

**48-2a-1107. Fees.**

The division may charge and collect fees in accordance with the provisions of Section ~~[63J-1-303]~~ 63J-1-504.

Section 111. Section **48-2c-214** is amended to read:

**48-2c-214. Fees.**

Unless otherwise provided by statute, the division shall collect fees for its services in amounts determined by the department in accordance with the provisions of Section ~~[63J-1-303]~~ 63J-1-504.

Section 112. Section **51-9-202** is amended to read:

**51-9-202. Permanent state trust fund.**

(1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the General Fund Budget Reserve Account created in Section ~~[63J-1-202]~~ 63J-1-312.

(4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(5) On and after July 1, 2007, 40% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(6) Funds in the permanent state trust fund shall be deposited or invested pursuant to

4492 Section 51-7-12.1.

4493 (7) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and  
4494 dividends earned annually from the permanent state trust fund shall be deposited in the General  
4495 Fund. There shall be transferred on an ongoing basis from the General Fund to the permanent  
4496 state trust fund created under Utah Constitution Article XXII, Section 4, an amount equal to  
4497 50% of the interest and dividends earned annually from the permanent state trust fund. The  
4498 amount transferred into the fund under this Subsection (7)(a) shall be treated as principal.

4499 (b) Any annual interest or dividends earned from the permanent state trust fund that  
4500 remain in the General Fund after Subsection (7)(a) may be appropriated by the Legislature.

4501 (c) Any realized or unrealized gains or losses on investments in the permanent state  
4502 trust fund shall remain in the permanent state trust fund.

4503 (8) This section does not apply to funds deposited under Chapter ~~[97a,]~~ 9, Part 3,  
4504 Infrastructure and Economic Diversification Investment Account and Severance Tax Holding  
4505 Account, into the permanent state trust fund.

4506 Section 113. Section **53-1-106** is amended to read:

4507 **53-1-106. Department duties -- Powers.**

4508 (1) In addition to the responsibilities contained in this title, the department shall:

4509 (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic  
4510 Code, including:

4511 (i) setting performance standards for towing companies to be used by the department,  
4512 as required by Section 41-6a-1406; and

4513 (ii) advising the Department of Transportation regarding the safe design and operation  
4514 of school buses, as required by Section 41-6a-1304;

4515 (b) make rules to establish and clarify standards pertaining to the curriculum and  
4516 teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

4517 (c) aid in enforcement efforts to combat drug trafficking;

4518 (d) meet with the Department of Technology Services to formulate contracts, establish  
4519 priorities, and develop funding mechanisms for dispatch and telecommunications operations;

4520 (e) provide assistance to the Crime Victim Reparations Board and Office of Crime  
4521 Victim Reparations in conducting research or monitoring victims' programs, as required by  
4522 Section 63M-7-505;

4523 (f) develop sexual assault exam protocol standards in conjunction with the Utah  
4524 Hospital Association;

4525 (g) engage in emergency planning activities, including preparation of policy and  
4526 procedure and rulemaking necessary for implementation of the federal Emergency Planning  
4527 and Community Right to Know Act of 1986, as required by Section 63K-3-301;

4528 (h) implement the provisions of Section 53-2-202, the Emergency Management  
4529 Assistance Compact; and

4530 (i) (i) maintain a database of the information listed below regarding each driver license  
4531 or state identification card status check made by a law enforcement officer:

4532 (A) the agency employing the law enforcement officer;

4533 (B) the name of the law enforcement officer or the identifying number the agency has  
4534 assigned to the law enforcement officer;

4535 (C) the race and gender of the law enforcement officer;

4536 (D) the purpose of the law enforcement officer's status check, including but not limited  
4537 to a traffic stop or a pedestrian stop; and

4538 (E) the race of the individual regarding whom the status check is made, based on the  
4539 information provided through the application process under Section 53-3-205 or 53-3-804;

4540 (ii) provide access to the database created in Subsection (1)(i)(i) to the Commission on  
4541 Criminal and Juvenile Justice for the purpose of:

4542 (A) evaluating the data;

4543 (B) evaluating the effectiveness of the data collection process; and

4544 (C) reporting and making recommendations to the Legislature; and

4545 (iii) classify any personal identifying information of any individual, including law  
4546 enforcement officers, in the database as protected records under Subsection 63G-2-305(9).

4547 (2) (a) The department may establish a schedule of fees as required or allowed in this  
4548 title for services provided by the department.

4549 (b) The fees shall be established in accordance with Section [~~63J-1-303~~] 63J-1-504.

4550 (3) The department may establish or contract for the establishment of an Organ  
4551 Procurement Donor Registry in accordance with Section 26-28-120.

4552 Section 114. Section **53-1-110** is amended to read:

4553 **53-1-110. Compilation of highway, traffic, and driver licensing laws -- Printing**

4554 **and distribution -- Fees.**

4555 (1) (a) The commissioner shall compile an edition of the general highway, traffic, and  
4556 driver licensing laws of the state as soon as practicable after each regular session of the  
4557 Legislature.

4558 (b) The edition shall include laws enacted or amended by the most recent session of  
4559 the Legislature.

4560 (2) (a) The Division of Finance shall print a sufficient quantity of the compiled  
4561 highway, traffic, and driver licensing laws to distribute copies to all state, county, and local  
4562 enforcement agencies, courts, legislators, and other agencies as necessary.

4563 (b) A fee may be assessed for each copy of the compilation issued by the Division of  
4564 Finance. The fee shall be established by the Division of Finance in accordance with Section  
4565 ~~[63J-1-303]~~ 63J-1-504.

4566 Section 115. Section **53-2-403** is amended to read:

4567 **53-2-403. State Disaster Recovery Restricted Account.**

4568 (1) (a) There is created a restricted account in the General Fund known as the "State  
4569 Disaster Recovery Restricted Account."

4570 (b) The disaster recovery fund shall consist of:

4571 (i) monies deposited into the disaster recovery fund in accordance with Section  
4572 ~~[63J-1-204]~~ 63J-1-314;

4573 (ii) monies appropriated to the disaster recovery fund by the Legislature; and

4574 (iii) any other public or private monies received by the division that are:

4575 (A) given to the division for purposes consistent with this section; and

4576 (B) deposited into the disaster recovery fund at the request of:

4577 (I) the division; or

4578 (II) the person giving the monies.

4579 (c) The Division of Finance shall deposit interest or other earnings derived from  
4580 investment of fund monies into the General Fund.

4581 (d) Monies in the disaster recovery fund may only be used as follows:

4582 (i) without the monies being appropriated by the Legislature, in any fiscal year the  
4583 division may use \$100,000 to fund, in accordance with Section 53-2-404, costs to the state of  
4584 emergency disaster services in response to a declared disaster; and

4585 (ii) subject to being appropriated by the Legislature, monies not described in  
4586 Subsection (1)(d)(i) may be used to fund costs to the state directly related to a declared disaster  
4587 that are not costs related to:

4588 (A) emergency disaster services;

4589 (B) emergency preparedness; or

4590 (C) notwithstanding whether or not a county participates in the Wildland Fire  
4591 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs  
4592 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the  
4593 Wildland Fire Suppression Fund.

4594 (2) The state treasurer shall invest monies in the disaster recovery fund according to  
4595 Title 51, Chapter 7, State Money Management Act.

4596 (3) (a) Except as provided in Subsection (1), the monies in the disaster recovery fund  
4597 may not be diverted, appropriated, or used for a purpose that is not listed in this section.

4598 (b) Notwithstanding Section ~~[63J-1-307]~~ 63J-1-410, the Legislature may not  
4599 appropriate monies from the disaster recovery fund to eliminate or otherwise reduce an  
4600 operating deficit if the monies appropriated from the disaster recovery fund are used for a  
4601 purpose other than one listed in this section.

4602 (c) The Legislature may not amend the purposes for which monies in the disaster  
4603 recovery fund may be used except by the affirmative vote of two-thirds of all the members  
4604 elected to each house.

4605 Section 116. Section **53-2-404** is amended to read:

4606 **53-2-404. State costs for emergency disaster services.**

4607 (1) Subject to this section and Section 53-2-403, the division shall use monies  
4608 described in Subsection ~~[53-2-403(1)(c)(i)]~~ 58-60-305(1)(d) to fund costs to the state of  
4609 emergency disaster services.

4610 (2) Monies paid by the division under this section to government entities and private  
4611 persons providing emergency disaster services are subject to Title 63G, Chapter 6, Utah  
4612 Procurement Code.

4613 Section 117. Section **53-3-106** is amended to read:

4614 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**  
4615 **-- Uses as provided by appropriation -- Nonlapsing.**

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of monies generated from the following revenue sources:

(a) all monies received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section [~~63J-1-303~~] 63J-1-504; and

(c) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account monies shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(24) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of \$45, \$40 shall be deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All monies received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Appropriations to the department from the account are nonlapsing.

Section 118. Section **53-3-109** is amended to read:

**53-3-109. Records -- Access -- Fees -- Rulemaking.**

(1) (a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may only disclose personal identifying information:

(i) when the division determines it is in the interest of the public safety to disclose the information; and

(ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

(c) The division may disclose personal identifying information:

(i) to a licensed private investigator holding a valid agency license, with a legitimate

4647 business need;

4648 (ii) to an insurer, insurance support organization, or a self-insured entity, or its agents,  
4649 employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22,  
4650 Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities,  
4651 antifraud activities, rating, or underwriting for any person issued a license certificate under this  
4652 chapter; or

4653 (iii) to a depository institution as defined in Section 7-1-103 for use in accordance with  
4654 the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

4655 (2) (a) A person who receives personal identifying information shall be advised by the  
4656 division that the person may not:

4657 (i) disclose the personal identifying information from that record to any other person;  
4658 or

4659 (ii) use the personal identifying information from that record for advertising or  
4660 solicitation purposes.

4661 (b) Any use of personal identifying information by an insurer or insurance support  
4662 organization, or by a self-insured entity or its agents, employees, or contractors not authorized  
4663 by Subsection (1)(c)(ii) is:

4664 (i) an unfair marketing practice under Section 31A-23a-402; or

4665 (ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

4666 (3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee  
4667 may disclose portions of a driving record, in accordance with this Subsection (3), to an insurer  
4668 as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing  
4669 driving risk on the insurer's current motor vehicle insurance policyholders.

4670 (b) The disclosure under Subsection (3)(a) shall:

4671 (i) include the licensed driver's name, driver license number, date of birth, and an  
4672 indication of whether the driver has had a moving traffic violation that is a reportable violation,  
4673 as defined under Section 53-3-102 during the previous month;

4674 (ii) be limited to the records of drivers who, at the time of the disclosure, are covered  
4675 under a motor vehicle insurance policy of the insurer; and

4676 (iii) be made under a contract with the insurer or a designee of an insurer.

4677 (c) The contract under Subsection (3)(b)(iii) shall specify:

- 4678 (i) the criteria for searching and compiling the driving records being requested;  
4679 (ii) the frequency of the disclosures;  
4680 (iii) the format of the disclosures, which may be in bulk electronic form; and  
4681 (iv) a reasonable charge for the driving record disclosures under this Subsection (3).  
4682 (4) The division may:  
4683 (a) collect fees in accordance with Section 53-3-105 for searching and compiling its  
4684 files or furnishing a report on the driving record of a person;  
4685 (b) prepare under the seal of the division and deliver upon request, a certified copy of  
4686 any record of the division, and charge a fee under Section [~~63J-1-303~~] 63J-1-504 for each  
4687 document authenticated; and  
4688 (c) charge reasonable fees established in accordance with the procedures and  
4689 requirements of Section [~~63J-1-303~~] 63J-1-504 for disclosing personal identifying information  
4690 under Subsection (1)(c).  
4691 (5) Each certified copy of a driving record furnished in accordance with this section is  
4692 admissible in any court proceeding in the same manner as the original.  
4693 (6) (a) A driving record furnished under this section may only report on the driving  
4694 record of a person for a period of ten years.  
4695 (b) Subsection (6)(a) does not apply to court or law enforcement reports and to reports  
4696 of commercial driver license violations.  
4697 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4698 division may make rules to designate:  
4699 (a) what information shall be included in a report on the driving record of a person;  
4700 (b) the form of a report or copy of the report which may include electronic format;  
4701 (c) the form of a certified copy, as required under Section 53-3-216, which may include  
4702 electronic format;  
4703 (d) the form of a signature required under this chapter which may include electronic  
4704 format;  
4705 (e) the form of written request to the division required under this chapter which may  
4706 include electronic format;  
4707 (f) the procedures, requirements, and formats for disclosing personal identifying  
4708 information under Subsection (1)(c); and

4709 (g) the procedures, requirements, and formats necessary for the implementation of  
4710 Subsection (3).

4711 Section 119. Section **53-3-303.5** is amended to read:

4712 **53-3-303.5. Driver License Medical Advisory Board -- Medical waivers.**

4713 (1) The Driver License Medical Advisory Board shall:

4714 (a) advise the director of the division; and

4715 (b) establish and recommend in a manner specified by the board functional ability  
4716 profile guidelines and standards for determining the physical, mental, and emotional  
4717 capabilities of applicants for specific types of licenses, appropriate to various driving abilities.

4718 (2) (a) The Driver License Medical Advisory Board shall establish fitness standards,  
4719 including provisions for a waiver of specified federal driver's physical qualifications under 49  
4720 CFR 391.41, for intrastate commercial driving privileges.

4721 (b) The standards under this Subsection (2) may only be implemented if the United  
4722 States Department of Transportation (USDOT) will not impose any sanctions, including  
4723 funding sanctions, against the state.

4724 (3) In case of uncertainty of interpretation of these guidelines and standards, or in  
4725 special circumstances, applicants may request a review of any division decision by a panel of  
4726 board members. All of the actions of the director and board are subject to judicial review.

4727 (4) (a) If a person applies for a waiver established under Subsection (2), the applicant  
4728 shall bear any costs directly associated with the cost of administration of the waiver program,  
4729 with respect to the applicant's application, in addition to any fees required under Section  
4730 53-3-105.

4731 (b) The division shall establish any additional fee necessary to administer the license  
4732 under this Subsection (4) in accordance with Section [~~63J-1-303~~] 63J-1-504.

4733 Section 120. Section **53-3-506** is amended to read:

4734 **53-3-506. License expiration and renewal -- Fee required -- Disposition of**  
4735 **revenue.**

4736 (1) (a) All commercial driver training school licenses, commercial testing only school  
4737 licenses, school operator licenses, and instructor licenses:

4738 (i) expire one year from the date of issuance; and

4739 (ii) may be renewed upon application to the commissioner as prescribed by rule.

(b) Each application for an original or renewal school license, school operator license, or instructor license shall be accompanied by a fee determined by the department under Section ~~63J-1-303~~ 63J-1-504.

(c) A license fee may not be refunded if the license is rejected, suspended, or revoked.

(2) The license fees collected under this part shall be:

(a) placed in a fund designated as the "Commercial Driver Training Law Fund"; and

(b) used under the supervision and direction of the director of the Division of Finance for the administration of this part.

Section 121. Section **53-7-204.2** is amended to read:

**53-7-204.2. Fire Academy -- Establishment -- Fire Academy Support Account -- Funding.**

(1) In this section:

(a) "Account" means the Fire Academy Support Account created in Subsection (4).

(b) "Property insurance premium" means premium paid as consideration for property insurance as defined in Section 31A-1-301.

(2) The board shall:

(a) establish a fire academy that:

(i) provides instruction and training for paid, volunteer, institutional, and industrial firefighters;

(ii) develops new methods of firefighting and fire prevention;

(iii) provides training for fire and arson detection and investigation;

(iv) provides public education programs to promote fire safety;

(v) provides for certification of firefighters, pump operators, instructors, and officers; and

(vi) provides facilities for teaching fire-fighting skills;

(b) establish a cost recovery fee in accordance with Section ~~63J-1-303~~ 63J-1-504 for training commercially employed firefighters; and

(c) request funding for the academy.

(3) The board may:

(a) accept gifts, donations, and grants of property and services on behalf of the fire academy; and

4771 (b) enter into contractual agreements necessary to facilitate establishment of the school.  
4772 (4) (a) To provide a funding source for the academy and for the general operation of  
4773 the State Fire Marshal Division, there is created in the General Fund a restricted account  
4774 known as the Fire Academy Support Account.

4775 (b) The following revenue shall be deposited in the account to implement this section:

4776 (i) the percentage specified in Subsection (5) of the annual tax for each year that is  
4777 levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, upon  
4778 property insurance premiums and as applied to fire and allied lines insurance collected by  
4779 insurance companies within the state;

4780 (ii) the percentage specified in Subsection (6) of all money assessed and collected upon  
4781 life insurance premiums within the state;

4782 (iii) the cost recovery fees established by the board;

4783 (iv) gifts, donations, and grants of property on behalf of the fire academy; and

4784 (v) appropriations made by the Legislature.

4785 (5) The percentage of the tax specified in Subsection (4)(b)(i) to be deposited in the  
4786 account each fiscal year is 25%.

4787 (6) The percentage of the money specified in Subsection (4)(b)(ii) to be deposited in  
4788 the account each fiscal year is 5%.

4789 Section 122. Section **53-7-216** is amended to read:

4790 **53-7-216. Portable fire extinguishers -- Certification required to service.**

4791 (1) Each firm engaged in the business of servicing portable fire extinguishers or  
4792 automatic fire suppression systems that automatically detect fire and discharge an approved fire  
4793 extinguishing agent onto or in the area of the fire shall be certified by the state fire marshal.

4794 (2) An application for certification shall be in writing, on forms prescribed by the  
4795 board, and require evidence of competency.

4796 (3) The board may establish a fee under Section [~~63J-1-303~~] 63J-1-504 to be paid upon  
4797 application for certification.

4798 (4) This section does not apply to standpipe systems, deluge systems, or automatic fire  
4799 sprinkler systems.

4800 Section 123. Section **53-7-225.5** is amended to read:

4801 **53-7-225.5. Inspection and testing of automatic fire sprinkler systems --**

**Certification required.**

(1) Each person engaged in the inspection and testing of automatic fire sprinkler systems shall be certified by the state fire marshal.

(2) The board shall by rule prescribe an application form and standards for certification qualification and for renewal and revocation.

(3) Applicants for certification as an automatic fire sprinkler system inspector and tester shall:

(a) submit a written application on the form prescribed by the board;

(b) provide evidence of competency as required by the board; and

(c) submit the fee established under Subsection (4).

(4) The board may establish an application fee under Section [~~63J-1-303~~] 63J-1-504.

Section 124. Section **53-7-225.6** is amended to read:

**53-7-225.6. Inspection and testing of fire alarm systems -- Certification and exceptions.**

(1) (a) Each person, other than fire and building inspectors and electricians licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, engaged in the inspection and testing of fire alarm systems shall be certified by the state fire marshal.

(b) The board shall by administrative rule prescribe:

(i) an application form; and

(ii) standards for certification qualification and for renewal and revocation.

(2) Applicants for certification as a fire alarm system inspector and tester shall:

(a) submit a written application on the form prescribed by the board;

(b) provide evidence of competency as required by the board; and

(c) submit the fee established under Subsection (3).

(3) The board may establish an application fee under Section [~~63J-1-303~~] 63J-1-504.

Section 125. Section **53-7-314** is amended to read:

**53-7-314. Fees -- Setting -- Deposit -- Use.**

(1) The board shall establish fees authorized in this part in accordance with the procedures specified in Section [~~63J-1-303~~] 63J-1-504, but the fees shall be deposited as provided in Subsection (2).

(2) Fees collected by the division under this part, shall be deposited with the state

4833 treasurer as a nonlapsing dedicated credit, to be used for the implementation of this part.

4834 Section 126. Section **53-8-204** is amended to read:

4835 **53-8-204. Division duties -- Official inspection stations -- Permits -- Fees --**

4836 **Suspension or revocation -- Utah-based interstate commercial motor carriers.**

4837 (1) The division shall:

4838 (a) conduct examinations of every safety inspection station permit applicant and safety  
4839 inspector certificate applicant to determine whether the applicant is properly equipped and  
4840 qualified to make safety inspections;

4841 (b) issue safety inspection station permits and safety inspector certificates to qualified  
4842 applicants;

4843 (c) establish application, renewal, and reapplication fees in accordance with Section  
4844 ~~[63J-1-303]~~ 63J-1-504 for safety inspection station permits and safety inspector certificates;

4845 (d) provide instructions and all necessary forms, including safety inspection  
4846 certificates, to safety inspection stations for the inspection of motor vehicles and the issuance  
4847 of the safety inspection certificates;

4848 (e) charge a \$2 fee for each safety inspection certificate;

4849 (f) investigate complaints regarding safety inspection stations and safety inspectors;

4850 (g) compile and publish all applicable safety inspection laws, rules, instructions, and  
4851 standards and distribute them to all safety inspection stations and provide updates to the  
4852 compiled laws, rules, instructions, and standards as needed;

4853 (h) establish a fee in accordance with Section ~~[63J-1-303]~~ 63J-1-504 to cover the cost  
4854 of compiling and publishing the safety inspection laws, rules, instructions, and standards and  
4855 any updates; and

4856 (i) assist the council in conducting its meetings and hearings.

4857 (2) (a) (i) Receipts from the fees established in accordance with Subsection (1)(h) are  
4858 fixed collections to be used by the division for the expenses of the Utah Highway Patrol  
4859 incurred under Subsection (1)(h).

4860 (ii) Funds received in excess of the expenses under Subsection (1)(h) shall be deposited  
4861 in the Transportation Fund.

4862 (b) (i) The first \$.75 of the fee under Subsection (1)(e) is a dedicated credit to be used  
4863 solely by the Utah Highway Patrol for the expenses of administering this section.

4864 (ii) The remaining funds collected under Subsection (1)(e) shall be deposited in the  
4865 Transportation Fund.

4866 (iii) The dedicated credits described under Subsection (2)(b)(i) are in addition to any  
4867 other appropriations provided to administer the safety inspection program duties under this  
4868 section.

4869 (3) The division may:

4870 (a) before issuing a safety inspection permit, require an applicant, other than a fleet  
4871 station or government station, to file a bond that will provide a guarantee that the applicant  
4872 safety inspection station will make compensation for any damage to a motor vehicle during an  
4873 inspection or adjustment due to negligence on the part of an applicant or the applicant's  
4874 employees;

4875 (b) establish procedures governing the issuance of safety inspection certificates to  
4876 Utah-based interstate commercial motor carriers; and

4877 (c) suspend, revoke, or refuse renewal of any safety inspection station permit issued  
4878 when the division finds that the safety inspection station is not:

4879 (i) properly equipped; or

4880 (ii) complying with rules made by the division; and

4881 (d) suspend, revoke, or refuse renewal of any safety inspection station permit or safety  
4882 inspector certificate issued when the station or inspector has violated any safety inspection law  
4883 or rule.

4884 (4) The division shall maintain a record of safety inspection station permits and safety  
4885 inspector certificates issued, suspended, revoked, or refused renewal under Subsection (3)(c).

4886 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4887 division shall make rules:

4888 (a) setting minimum standards covering the design, construction, condition, and  
4889 operation of motor vehicle equipment for safely operating a motor vehicle on the highway;

4890 (b) establishing motor vehicle safety inspection procedures to ensure a motor vehicle  
4891 can be operated safely;

4892 (c) establishing safety inspection station building, equipment, and personnel  
4893 requirements necessary to qualify to perform safety inspections;

4894 (d) establishing age, training, examination, and renewal requirements to qualify for a

4895 safety inspector certificate;

4896 (e) establishing program guidelines for a school district that elects to implement a

4897 safety inspection apprenticeship program for high school students;

4898 (f) establishing requirements:

4899 (i) designed to protect consumers from unwanted or unneeded repairs or adjustments;

4900 (ii) for maintaining safety inspection records;

4901 (iii) for providing reports to the division; and

4902 (iv) for maintaining and protecting safety inspection certificates;

4903 (g) establishing procedures for a motor vehicle that fails a safety inspection;

4904 (h) setting bonding amounts for safety inspection stations if bonds are required under

4905 Subsection (3)(a); and

4906 (i) establishing procedures for a safety inspection station to follow if the station is

4907 going out of business.

4908 (6) The rules of the division:

4909 (a) shall conform as nearly as practical to federal motor vehicle safety standards

4910 including 49 CFR 393, 396, 396 Appendix G, and Federal Motor Vehicle Safety Standards

4911 205; and

4912 (b) may incorporate by reference, in whole or in part, the federal standards under

4913 Subsection (6)(a) and nationally recognized and readily available standards and codes on motor

4914 vehicle safety.

4915 Section 127. Section **53-10-108** is amended to read:

4916 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**

4917 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**

4918 **-- Missing children records.**

4919 (1) Dissemination of information from a criminal history record or warrant of arrest

4920 information from division files is limited to:

4921 (a) criminal justice agencies for purposes of administration of criminal justice and for

4922 employment screening by criminal justice agencies;

4923 (b) noncriminal justice agencies or individuals for any purpose authorized by statute,

4924 executive order, court rule, court order, or local ordinance;

4925 (c) agencies or individuals for the purpose of obtaining required clearances connected

4926 with foreign travel or obtaining citizenship;

4927 (d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice  
4928 agency to provide services required for the administration of criminal justice; and

4929 (ii) the agreement shall specifically authorize access to data, limit the use of the data to  
4930 purposes for which given, and ensure the security and confidentiality of the data;

4931 (e) agencies or individuals for the purpose of a preplacement adoptive study, in  
4932 accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

4933 (f) (i) agencies and individuals as the commissioner authorizes for the express purpose  
4934 of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice  
4935 agency; and

4936 (ii) private security agencies through guidelines established by the commissioner for  
4937 employment background checks for their own employees and prospective employees;

4938 (g) a qualifying entity for employment background checks for their own employees and  
4939 persons who have applied for employment with the qualifying entity; and

4940 (h) other agencies and individuals as the commissioner authorizes and finds necessary  
4941 for protection of life and property and for offender identification, apprehension, and  
4942 prosecution pursuant to an agreement.

4943 (2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access  
4944 to data, limit the use of data to research, evaluative, or statistical purposes, preserve the  
4945 anonymity of individuals to whom the information relates, and ensure the confidentiality and  
4946 security of the data.

4947 (3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must  
4948 obtain a signed waiver from the person whose information is requested.

4949 (b) The waiver must notify the signee:

4950 (i) that a criminal history background check will be conducted;

4951 (ii) who will see the information; and

4952 (iii) how the information will be used.

4953 (c) Information received by a qualifying entity under Subsection (1)(g) may only be:

4954 (i) available to persons involved in the hiring or background investigation of the  
4955 employee; and

4956 (ii) used for the purpose of assisting in making an employment or promotion decision.

(d) A person who disseminates or uses information obtained from the division under Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to any penalties provided under this section, is subject to civil liability.

(e) A qualifying entity that obtains information under Subsection (1)(g) shall provide the employee or employment applicant an opportunity to:

(i) review the information received as provided under Subsection (8); and

(ii) respond to any information received.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (3).

(g) (i) The applicant fingerprint card fee under Subsection (1)(g) is \$15.

(ii) The name check fee under Subsection (1)(g) is \$10.

(iii) These fees remain in effect until changed by the division through the process under Section ~~[63J-1-303]~~ 63J-1-504.

(iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(h) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (1)(g).

(4) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except that a criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by the agency to the person who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(5) If an individual has no prior criminal convictions, criminal history record information contained in the division's computerized criminal history files may not include arrest or disposition data concerning an individual who has been acquitted, the person's charges dismissed, or when no complaint against him has been filed.

(6) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by

4988 unauthorized agencies or individuals.

4989 (7) Direct access through remote computer terminals to criminal history record  
4990 information in the division's files is limited to those agencies authorized by the commissioner  
4991 under procedures designed to prevent unauthorized access to this information.

4992 (8) (a) The commissioner shall establish procedures to allow an individual right of  
4993 access to review and receive a copy of the individual's criminal history report.

4994 (b) A processing fee for the right of access service, including obtaining a copy of the  
4995 individual's criminal history report under Subsection (8)(a) is \$10. This fee remains in effect  
4996 until changed by the commissioner through the process under Section ~~[63J-1-303]~~ 63J-1-504.

4997 (c) (i) The commissioner shall establish procedures for an individual to challenge the  
4998 completeness and accuracy of criminal history record information contained in the division's  
4999 computerized criminal history files regarding that individual.

5000 (ii) These procedures shall include provisions for amending any information found to  
5001 be inaccurate or incomplete.

5002 (9) The private security agencies as provided in Subsection (1)(f)(ii):

5003 (a) shall be charged for access; and

5004 (b) shall be registered with the division according to rules made by the division under  
5005 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5006 (10) Before providing information requested under this section, the division shall give  
5007 priority to criminal justice agencies needs.

5008 (11) (a) Misuse of access to criminal history record information is a class B  
5009 misdemeanor.

5010 (b) The commissioner shall be informed of the misuse.

5011 Section 128. Section **53A-6-105** is amended to read:

5012 **53A-6-105. Licensing fees -- Credit to subfund -- Payment of expenses.**

5013 (1) The board shall levy a fee for each new, renewed, or reinstated license or  
5014 endorsement in accordance with Section ~~[63J-1-303]~~ 63J-1-504.

5015 (2) Fee payments are credited to the Professional Practices Restricted Subfund in the  
5016 Uniform School Fund.

5017 (3) The board shall pay the expenses of issuing licenses and of UPPAC operations, and  
5018 the costs of collecting license fees from the restricted subfund.

(4) The office shall submit an annual report to the Legislature's Public Education Appropriations Subcommittee informing the Legislature about the fund, fees assessed and collected, and expenditures from the fund.

Section 129. Section **53A-17a-105** is amended to read:

**53A-17a-105. Action required for underestimated or overestimated weighted pupil units -- Action required for underestimating or overestimating local contributions.**

(1) If the number of weighted pupil units in a program is underestimated in Section 53A-17a-104, the amount per pupil in that program paid under this chapter must be reduced so that the amount paid does not exceed the estimated amount by program.

(2) If the number of weighted pupil units in a program is overestimated in Section 53A-17a-104, the state superintendent of public instruction shall either increase the amount paid in that program per weighted pupil unit or transfer the unused amount in that program to another program included in the minimum school program.

(3) (a) If surplus funds are transferred to another program, the state superintendent, if the state superintendent determines certain districts have greater need for additional funds, may designate the districts as well as the programs to which the transferred funds will be allocated.

(b) Any amounts transferred under Subsection (3)(a) may be spent in addition to the amounts listed in Section 53A-17a-104.

(4) The limitation on the proceeds from local tax rates for operation and maintenance programs under this chapter is subject to modification by local school boards under Sections 53A-17a-133 and 53A-17a-134 and to special tax rates authorized by this chapter, and shall be adjusted accordingly.

(5) If local contributions are overestimated, the guarantee per weighted pupil unit is reduced for all programs so the total state contribution for operation and maintenance programs does not exceed the amount authorized in Subsection 53A-17a-104(1).

(6) (a) If local contributions from the basic tax rate for operation and maintenance programs are underestimated, the excess is applied first to support the value of the weighted pupil unit as set by the Legislature for total weighted pupil units generated by the districts and those costs of Social Security and retirement, transportation, and board and voted leeway that occur as a result of the additional generated weighted pupil units, following internal adjustments by the state superintendent as provided in this section.

(b) The state contribution is decreased so the total school program cost for operation and maintenance programs does not exceed the total estimated contributions to school districts for all programs under Subsection 53A-17a-104(2) plus the amount of local revenue necessary to support the value of the weighted pupil unit for weighted pupil units generated and those costs of Social Security and retirement, transportation, and board and voted leeway that occur as a result of the additional generated weighted pupil units.

(7) As an exception to Section [~~63J-1-401~~] 63J-1-601, the state fiscal officer may not close out appropriations from the Uniform School Fund at the end of a fiscal year.

Section 130. Section **53A-26a-302** is amended to read:

**53A-26a-302. Qualifications for certification.**

Each applicant for certification under this chapter shall:

- (1) submit an application in a form prescribed by the State Board of Education;
- (2) pay a fee determined by the State Board of Education under Section [~~63J-1-303~~] 63J-1-504 to help offset the costs of implementing this chapter for the administration of examinations for certification and for the issuance of certificates;
- (3) be of good moral character; and
- (4) comply with any other qualifications for certification established by the State Board of Education pursuant to Subsection 53A-26a-202(2).

Section 131. Section **54-5-1.5** is amended to read:

**54-5-1.5. Special regulation fee -- Supplemental Levy Committee -- Supplemental fee -- Fee for electrical cooperatives.**

(1) (a) A special fee to defray the cost of regulation is imposed upon all public utilities subject to the jurisdiction of the Public Service Commission.

(b) The special fee is in addition to any charge now assessed, levied, or required by law.

(2) (a) The executive director of the Department of Commerce shall determine the special fee for the Department of Commerce.

(b) The chair of the Public Service Commission shall determine the special fee for the Public Service Commission.

(c) The fee shall be assessed as a uniform percentage of the gross operating revenue for the preceding calendar year derived from each public utility's business and operations during

that period within this state, excluding income derived from interstate business. Gross operating revenue shall not include income to a wholesale electric cooperative derived from the sale of power to a rural electric cooperative which resells that power within the state.

(3) (a) The executive director of the Department of Commerce shall notify each public utility subject to the provisions of this chapter of the amount of the fee.

(b) The fee is due and payable on or before July 1 of each year.

(4) (a) It is the intent of the Legislature that the public utilities provide all of the funds for the administration, support, and maintenance of:

(i) the Public Service Commission;

(ii) state agencies within the Department of Commerce involved in the regulation of public utilities; and

(iii) expenditures by the attorney general for utility regulation.

(b) Notwithstanding Subsection (4)(a), the fee imposed by Subsection (1) shall not exceed the greater of:

(i) (A) for a public utility other than an electrical cooperative, .3% of the public utility's gross operating revenues for the preceding calendar year; or

(B) for an electrical cooperative, .15% of the electrical cooperative's gross operating revenues for the preceding calendar year; or

(ii) \$50.

(5) (a) There is created a Supplemental Levy Committee to levy additional assessments on public utilities when unanticipated costs of regulation occur in any fiscal year.

(b) The Supplemental Levy Committee shall consist of:

(i) one member selected by the executive director of the Department of Commerce;

(ii) one member selected by the chairman of the Public Service Commission;

(iii) two members selected by the three public utilities that paid the largest percent of the current regulatory fee; and

(iv) one member selected by the four appointed members.

(c) (i) The members of the Supplemental Levy Committee shall be selected within ten working days after the executive director of the Department of Commerce gives written notice to the Public Service Commission and the public utilities that a supplemental levy committee is needed.

5112 (ii) If the members of the Supplemental Levy Committee have not been appointed  
5113 within the time prescribed, the governor shall appoint the members of the Supplemental Levy  
5114 Committee.

5115 (d) (i) During any state fiscal year, the Supplemental Levy Committee, by a majority  
5116 vote and subject to audit by the state auditor, may impose a supplemental fee on the regulated  
5117 utilities for the purpose of defraying any increased cost of regulation.

5118 (ii) The supplemental fee imposed upon the utilities shall equal a percentage of their  
5119 gross operating revenue for the preceding calendar year.

5120 (iii) The aggregate of all fees, including any supplemental fees assessed, shall not  
5121 exceed .3% of the gross operating revenue of the utilities assessed for the preceding calendar  
5122 year.

5123 (iv) Payment of the supplemental fee is due within 30 days after receipt of the  
5124 assessment.

5125 (v) The utility may, within ten days after receipt of assessment, request a hearing  
5126 before the Public Service Commission if it questions the need for, or the reasonableness of, the  
5127 supplemental fee.

5128 (e) (i) Any supplemental fee collected to defray the cost of regulation shall be  
5129 transferred to the state treasurer as a departmental collection according to the provisions of  
5130 Section [~~63J-1-404~~] 63J-1-104.

5131 (ii) Supplemental fees are excess collections, credited according to the procedures of  
5132 Section [~~63J-1-404~~] 63J-1-104.

5133 (iii) Charges billed to the Department of Commerce by any other state department,  
5134 institution, or agency for services rendered in connection with regulation of a utility shall be  
5135 credited by the state treasurer from the special or supplemental fees collected to the  
5136 appropriations account of the entity providing that service according to the procedures provided  
5137 in Title 63J, Chapter 1, Budgetary Procedures Act.

5138 (6) (a) For purposes of this section, "electrical cooperative" means:

5139 (i) a distribution electrical cooperative; or

5140 (ii) a wholesale electrical cooperative.

5141 (b) Subject to Subsection (6)(c), if the regulation of one or more electrical cooperatives  
5142 causes unanticipated costs of regulation in a fiscal year, the commission may impose a

5143 supplemental fee on the one or more electrical cooperatives in this state responsible for the  
5144 increased cost of regulation.

5145 (c) The aggregate of all fees imposed under this section on an electrical cooperative in  
5146 a calendar year shall not exceed the greater of:

5147 (i) .3% of the electrical cooperative's gross operating revenues for the preceding  
5148 calendar year; or

5149 (ii) \$50.

5150 Section 132. Section **58-1-308** is amended to read:

5151 **58-1-308. Term of license -- Expiration of license -- Renewal of license --**  
5152 **Reinstatement of license -- Application procedures.**

5153 (1) (a) Each license issued under this title shall be issued in accordance with a two-year  
5154 renewal cycle established by rule.

5155 (b) A renewal period may be extended or shortened by as much as one year to maintain  
5156 established renewal cycles or to change an established renewal cycle.

5157 (2) (a) The expiration date of a license shall be shown on the license.

5158 (b) A license that is not renewed prior to the expiration date shown on the license  
5159 automatically expires.

5160 (c) A license automatically expires prior to the expiration date shown on the license  
5161 upon the death of a licensee who is a natural person, or upon the dissolution of a licensee that is  
5162 a partnership, corporation, or other business entity.

5163 (d) If the existence of a dissolved partnership, corporation, or other business entity is  
5164 reinstated prior to the expiration date shown upon the entity's expired license issued by the  
5165 division, the division shall, upon written application, reinstate the applicant's license, unless it  
5166 finds that the applicant no longer meets the qualifications for licensure.

5167 (e) Expiration of licensure is not an adjudicative proceeding under Title 63G, Chapter  
5168 4, Administrative Procedures Act.

5169 (3) (a) The division shall notify each licensee in accordance with procedures  
5170 established by rule that the licensee's license is due for renewal and that unless an application  
5171 for renewal is received by the division by the expiration date shown on the license, together  
5172 with the appropriate renewal fee and documentation showing completion of or compliance with  
5173 renewal qualifications, the license will not be renewed.

5174 (b) Examples of renewal qualifications which by statute or rule the division may  
5175 require the licensee to document completion of or compliance with include:

- 5176 (i) continuing education;  
5177 (ii) continuing competency;  
5178 (iii) quality assurance;  
5179 (iv) utilization plan and protocol;  
5180 (v) financial responsibility;  
5181 (vi) certification renewal; and  
5182 (vii) calibration of equipment.

5183 (4) (a) (i) An application for renewal that complies with Subsection (3) is complete.

5184 (ii) A renewed license shall be issued to applicants who submit a complete application,  
5185 unless it is apparent to the division that the applicant no longer meets the qualifications for  
5186 continued licensure.

5187 (b) (i) The division may evaluate or verify documentation showing completion of or  
5188 compliance with renewal requirements on an entire population or a random sample basis, and  
5189 may be assisted by advisory peer committees.

5190 (ii) If necessary, the division may complete its evaluation or verification subsequent to  
5191 renewal and, if appropriate, pursue action to suspend or revoke the license of a licensee who no  
5192 longer meets the qualifications for continued licensure.

5193 (c) The application procedures specified in Subsection 58-1-301(2), apply to renewal  
5194 applications to the extent they are not in conflict with this section.

5195 (5) (a) Any license that is not renewed may be reinstated at any time within two years  
5196 after nonrenewal upon submission of an application for reinstatement, payment of the renewal  
5197 fee together with a reinstatement fee determined by the department under Section ~~[63J-1-303]~~  
5198 63J-1-504, and upon submission of documentation showing completion of or compliance with  
5199 renewal qualifications.

5200 (b) The application procedures specified in Subsection 58-1-301(2) apply to the  
5201 reinstatement applications to the extent they are not in conflict with this section.

5202 (c) Except as otherwise provided by rule, a license that is reinstated no later than 120  
5203 days after it expires shall be retroactively reinstated to the date it expired.

5204 (6) (a) If not reinstated within two years, the holder may obtain a license only if the

5205 holder meets requirements provided by the division by rule or by statute for a new license.

5206 (b) Each licensee under this title who has been active in the licensed occupation or  
5207 profession while in the full-time employ of the United States government or under license to  
5208 practice that occupation or profession in any other state or territory of the United States may  
5209 reinstate the licensee's license without taking an examination by submitting an application for  
5210 reinstatement, paying the current annual renewal fee and the reinstatement fee, and submitting  
5211 documentation showing completion of or compliance with any renewal qualifications at any  
5212 time within six months after reestablishing domicile within Utah or terminating full-time  
5213 government service.

5214 Section 133. Section **58-3a-103** is amended to read:

5215 **58-3a-103. Education and enforcement fund.**

5216 (1) There is created a restricted special revenue fund known as the "Architects  
5217 Education and Enforcement Fund."

5218 (2) The fund consists of monies from:

5219 (a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under  
5220 this chapter in accordance with the following:

5221 (i) the surcharge fee shall be determined by the department in accordance with Section  
5222 ~~[63J-1-303]~~ 63J-1-504; and

5223 (ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or  
5224 reinstatement licensure fee; and

5225 (b) administrative penalties collected pursuant to this chapter.

5226 (3) The fund shall earn interest and all interest earned on fund monies shall be  
5227 deposited into the fund.

5228 (4) The director may, with concurrence of the board, make distributions from the fund  
5229 for the following purposes:

5230 (a) education and training of licensees under this chapter;

5231 (b) education and training of the public or other interested persons in matters  
5232 concerning architectural laws and practices; and

5233 (c) enforcement of this chapter by:

5234 (i) investigating unprofessional or unlawful conduct; and

5235 (ii) providing legal representation to the division when the division takes legal action

5236 against a person engaging in unprofessional or unlawful conduct.

5237 (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the  
5238 excess shall be transferred to the General Fund.

5239 (6) The division shall report annually to the appropriate appropriations subcommittee  
5240 of the Legislature concerning the fund.

5241 Section 134. Section **58-3a-302** is amended to read:

5242 **58-3a-302. Qualifications for licensure.**

5243 (1) Except as provided in Subsection (2), each applicant for licensure as an architect  
5244 shall:

5245 (a) submit an application in a form prescribed by the division;

5246 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5247 (c) provide satisfactory evidence of good moral character;

5248 (d) have graduated and received an earned bachelors or masters degree from an  
5249 architecture program meeting criteria established by rule by the division in collaboration with  
5250 the board;

5251 (e) have successfully completed a program of diversified practical experience  
5252 established by rule by the division in collaboration with the board;

5253 (f) have successfully passed examinations established by rule by the division in  
5254 collaboration with the board; and

5255 (g) meet with the board or representative of the division upon request for the purpose  
5256 of evaluating the applicant's qualifications for license.

5257 (2) Each applicant for licensure as an architect by endorsement shall:

5258 (a) submit an application in a form prescribed by the division;

5259 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5260 (c) provide satisfactory evidence of good moral character;

5261 (d) submit satisfactory evidence of:

5262 (i) current licensure in good standing in a jurisdiction recognized by rule by the  
5263 division in collaboration with the board; and

5264 (ii) current certification from the National Council of Architectural Registration  
5265 Boards; or

5266 (iii) current license in good standing in a jurisdiction recognized by rule by the division

5267 in collaboration with the board; and

5268 (iv) full-time employment as a licensed architect as a principal for at least five of the  
5269 last seven years immediately preceding the date of the application; [~~and~~]

5270 (e) have successfully passed any examination established by rule by the division in  
5271 collaboration with the board; and

5272 (f) meet with the board or representative of the division upon request for the purpose of  
5273 evaluating the applicant's qualifications for license.

5274 Section 135. Section **58-5a-302** is amended to read:

5275 **58-5a-302. Qualifications to practice podiatry.**

5276 An applicant for licensure to practice podiatry shall:

5277 (1) submit an application in a form as prescribed by the division;

5278 (2) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5279 (3) be of good moral character;

5280 (4) be a graduate of a college of podiatric medicine accredited by the Council of  
5281 Podiatric Education;

5282 (5) have completed one year of postgraduate training in a residency program  
5283 recognized by the board; and

5284 (6) pass examinations required by rule.

5285 Section 136. Section **58-9-302** is amended to read:

5286 **58-9-302. Qualifications for licensure.**

5287 (1) Each applicant for licensure as a funeral service director shall:

5288 (a) submit an application in a form prescribed by the division;

5289 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5290 (c) be of good moral character in that the applicant has not been convicted of:

5291 (i) a first or second degree felony;

5292 (ii) a misdemeanor involving moral turpitude; or

5293 (iii) any other crime that when considered with the duties and responsibilities of a

5294 funeral service director is considered by the division and the board to indicate that the best

5295 interests of the public are not served by granting the applicant a license;

5296 (d) have obtained a high school diploma or its equivalent or a higher education degree;

5297 (e) have obtained an associate degree, or its equivalent, in mortuary science from a

5298 school of funeral service accredited by the American Board of Funeral Service Education or  
5299 other accrediting body recognized by the U.S. Department of Education;

5300 (f) have completed not less than 2,000 hours and 50 embalmings, over a period of not  
5301 less than one year, of satisfactory performance in training as a licensed funeral service intern  
5302 under the supervision of a licensed funeral service director; and

5303 (g) obtain a passing score on examinations approved by the division in collaboration  
5304 with the board.

5305 (2) Each applicant for licensure as a funeral service intern shall:

5306 (a) submit an application in a form prescribed by the division;

5307 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5308 (c) be of good moral character in that the applicant has not been convicted of:

5309 (i) a first or second degree felony;

5310 (ii) a misdemeanor involving moral turpitude; or

5311 (iii) any other crime that when considered with the duties and responsibilities of a  
5312 funeral service intern is considered by the division and the board to indicate that the best  
5313 interests of the public are not served by granting the applicant a license;

5314 (d) have obtained a high school diploma or its equivalent or a higher education degree;  
5315 and

5316 (e) obtain a passing score on an examination approved by the division in collaboration  
5317 with the board.

5318 (3) Each applicant for licensure as a funeral service establishment and each funeral  
5319 service establishment licensee shall:

5320 (a) submit an application in a form prescribed by the division;

5321 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5322 (c) have in place:

5323 (i) an embalming room for preparing dead human bodies for burial or final disposition,  
5324 which may serve one or more facilities operated by the applicant;

5325 (ii) a refrigeration room that maintains a temperature of not more than 40 degrees  
5326 fahrenheit for preserving dead human bodies prior to burial or final disposition, which may  
5327 serve one or more facilities operated by the applicant; and

5328 (iii) maintain at all times a licensed funeral service director who is responsible for the

day-to-day operation of the funeral service establishment and who is personally available to perform the services for which the license is required;

(d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service director if the funeral service establishment sells preneed funeral arrangements;

(e) file with the completed application a copy of each form of contract or agreement the applicant will use in the sale of preneed funeral arrangements; and

(f) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product to be sold by the provider or the provider's sales agent.

(4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

(c) be of good moral character in that the applicant has not been convicted of:

(i) a first or second degree felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) any other crime that when considered with the duties and responsibilities of a preneed funeral sales agent is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;

(d) have obtained a high school diploma or its equivalent or a higher education degree;

(e) have obtained a passing score on an examination approved by the division in collaboration with the board;

(f) affiliate with a licensed funeral service establishment; and

(g) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product.

Section 137. Section **58-11a-302** is amended to read:

**58-11a-302. Qualifications for licensure.**

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

(c) be of good moral character;

- 5360 (d) provide satisfactory documentation of:
- 5361 (i) graduation from a licensed or recognized barber school whose curriculum consists
- 5362 of a minimum of 1,000 hours of instruction or the equivalent number of credit hours over a
- 5363 period of not less than six months;
- 5364 (ii) (A) having graduated from a recognized barber school whose curriculum consists
- 5365 of less than 1,000 hours of instruction or the equivalent number of credit hours; and
- 5366 (B) having practiced as a licensed barber for a period of not less than 2,000 hours; or
- 5367 (iii) having completed an approved barber apprenticeship; and
- 5368 (e) meet the examination requirement established by rule.
- 5369 (2) Each applicant for licensure as a barber instructor shall:
- 5370 (a) submit an application in a form prescribed by the division;
- 5371 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5372 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 5373 barber;
- 5374 (d) be of good moral character;
- 5375 (e) provide satisfactory documentation of completion of:
- 5376 (i) an instructor training program conducted by a barber school consisting of a
- 5377 minimum of 500 hours or the equivalent number of credit hours; or
- 5378 (ii) a minimum of 2,000 hours of experience as a barber; and
- 5379 (f) meet the examination requirement established by rule.
- 5380 (3) Each applicant for licensure as a barber school shall:
- 5381 (a) submit an application in a form prescribed by the division;
- 5382 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and
- 5383 (c) provide satisfactory documentation:
- 5384 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 5385 (ii) of business licensure from the city, town, or county in which the school is located;
- 5386 (iii) that the applicant's physical facilities comply with the requirements established by
- 5387 rule; and
- 5388 (iv) that the applicant meets the standards for barber schools, including staff and
- 5389 accreditation requirements, established by rule.
- 5390 (4) Each applicant for licensure as a cosmetologist/barber shall:

- 5391 (a) submit an application in a form prescribed by the division;  
5392 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
5393 (c) be of good moral character;  
5394 (d) provide satisfactory documentation of:  
5395 (i) graduation from a licensed or recognized cosmetology/barber school whose  
5396 curriculum consists of a minimum of 2,000 hours of instruction, with full flexibility within the  
5397 2,000 hours, or the equivalent number of credit hours over a period of not less than 12 months;  
5398 (ii) (A) having graduated from a recognized cosmetology/barber school whose  
5399 curriculum consists of less than 2,000 hours of instruction, with full flexibility within the 2,000  
5400 hours, or the equivalent number of credit hours; and  
5401 (B) having practiced as a licensed cosmetologist/barber for a period of not less than  
5402 4,000 hours; or  
5403 (iii) having completed an approved cosmetology/barber apprenticeship; and  
5404 (e) meet the examination requirement established by rule.  
5405 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:  
5406 (a) submit an application in a form prescribed by the division;  
5407 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
5408 (c) provide satisfactory documentation that the applicant is currently licensed as a  
5409 cosmetologist/barber;  
5410 (d) be of good moral character;  
5411 (e) provide satisfactory documentation of completion of:  
5412 (i) an instructor training program conducted by a cosmetology/barber school consisting  
5413 of a minimum of 1,000 hours or the equivalent number of credit hours; or  
5414 (ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and  
5415 (f) meet the examination requirement established by rule.  
5416 (6) Each applicant for licensure as a cosmetologist/barber school shall:  
5417 (a) submit an application in a form prescribed by the division;  
5418 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and  
5419 (c) provide satisfactory documentation:  
5420 (i) of appropriate registration with the Division of Corporations and Commercial Code;  
5421 (ii) of business licensure from the city, town, or county in which the school is located;

5422 (iii) that the applicant's physical facilities comply with the requirements established by  
5423 rule; and

5424 (iv) that the applicant meets the standards for cosmetology schools, including staff and  
5425 accreditation requirements, established by rule.

5426 (7) Each applicant for licensure as an electrologist shall:

5427 (a) submit an application in a form prescribed by the division;

5428 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5429 (c) be of good moral character;

5430 (d) provide satisfactory documentation of having graduated from a licensed or  
5431 recognized electrology school after completing a curriculum of 600 hours of instruction or the  
5432 equivalent number of credit hours; and

5433 (e) meet the examination requirement established by rule.

5434 (8) Each applicant for licensure as an electrologist instructor shall:

5435 (a) submit an application in a form prescribed by the division;

5436 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5437 (c) provide satisfactory documentation that the applicant is currently licensed as an  
5438 electrologist;

5439 (d) be of good moral character;

5440 (e) provide satisfactory documentation of completion of:

5441 (i) an instructor training program conducted by an electrology school consisting of a  
5442 minimum of 175 hours or the equivalent number of credit hours; or

5443 (ii) a minimum of 1,000 hours of experience as an electrologist; and

5444 (f) meet the examination requirement established by rule.

5445 (9) Each applicant for licensure as an electrologist school shall:

5446 (a) submit an application in a form prescribed by the division;

5447 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and

5448 (c) provide satisfactory documentation:

5449 (i) of appropriate registration with the Division of Corporations and Commercial Code;

5450 (ii) of business licensure from the city, town, or county in which the school is located;

5451 (iii) that the applicant's facilities comply with the requirements established by rule; and

5452 (iv) that the applicant meets the standards for electrologist schools, including staff,

- 5453 curriculum, and accreditation requirements, established by rule.
- 5454 (10) Each applicant for licensure as an esthetician shall:
- 5455 (a) submit an application in a form prescribed by the division;
- 5456 (b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;
- 5457 (c) be of good moral character; and
- 5458 (d) provide satisfactory documentation of one of the following:
- 5459 (i) (A) graduation from a licensed or recognized esthetic school whose curriculum
- 5460 consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the
- 5461 equivalent number of credit hours; and
- 5462 (B) having met the examination requirement established by division rule;
- 5463 (ii) (A) completion of an approved esthetician apprenticeship; and
- 5464 (B) having met the examination requirement established by division rule; or
- 5465 (iii) having met the examination requirement established by division rule prior to
- 5466 December 31, 2001.
- 5467 (11) Each applicant for licensure as a master esthetician shall:
- 5468 (a) submit an application in a form prescribed by the division;
- 5469 (b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;
- 5470 (c) be of good moral character; and
- 5471 (d) provide satisfactory documentation of one of the following:
- 5472 (i) (A) completion of 1,200 hours of training or the equivalent number of credit hours
- 5473 at a licensed or recognized esthetics school;
- 5474 (B) having met the examination requirement established by division rule; and
- 5475 (C) for practice of lymphatic massage, provide satisfactory documentation to show
- 5476 completion of 200 hours of training or equivalent number of credit hours in lymphatic
- 5477 massage;
- 5478 (ii) (A) completion of an approved master esthetician apprenticeship; and
- 5479 (B) having met the examination requirement established by division rule; or
- 5480 (iii) having met the examination requirement established by division rule prior to
- 5481 December 31, 2001.
- 5482 (12) Each applicant for licensure as an esthetician instructor shall:
- 5483 (a) submit an application in a form prescribed by the division;

- 5484 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5485 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 5486 master esthetician;
- 5487 (d) be of good moral character;
- 5488 (e) provide satisfactory documentation of completion of:
- 5489 (i) an instructor training program conducted by a licensed or recognized esthetics
- 5490 school consisting of a minimum of 300 hours or the equivalent number of credit hours; or
- 5491 (ii) a minimum of 1,000 hours of experience in esthetics; and
- 5492 (f) meet the examination requirement established by rule.
- 5493 (13) Each applicant for licensure as an esthetics school shall:
- 5494 (a) submit an application in a form prescribed by the division;
- 5495 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and
- 5496 (c) provide satisfactory documentation:
- 5497 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 5498 (ii) of business licensure from the city, town, or county in which the school is located;
- 5499 (iii) that the applicant's physical facilities comply with the requirements established by
- 5500 rule; and
- 5501 (iv) that the applicant meets the standards for esthetics schools, including staff,
- 5502 curriculum, and accreditation requirements, established by division rule made in collaboration
- 5503 with the board.
- 5504 (14) Each applicant for licensure as a nail technician shall:
- 5505 (a) submit an application in a form prescribed by the division;
- 5506 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5507 (c) be of good moral character; and
- 5508 (d) provide satisfactory documentation of one of the following:
- 5509 (i) (A) graduation from a licensed or recognized nail technology school whose
- 5510 curriculum consists of not less than 300 hours or the equivalent number of credit hours of not
- 5511 more than eight hours a day and six days a week during the program; and
- 5512 (B) having met the examination requirement established by division rule;
- 5513 (ii) (A) having completed an approved nail technician apprenticeship; and
- 5514 (B) having met the examination requirement established by division rule; or

5515 (iii) having met the examination requirement established by division rule prior to  
5516 December 31, 2001.

5517 (15) Each applicant for licensure as a nail technician instructor shall:

5518 (a) submit an application in a form prescribed by the division;

5519 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5520 (c) provide satisfactory documentation that the applicant is currently licensed as a nail  
5521 technician;

5522 (d) be of good moral character;

5523 (e) provide satisfactory documentation of completion of:

5524 (i) an instructor training program conducted by a licensed or recognized nail  
5525 technology school consisting of a minimum of 150 hours or the equivalent number of credit  
5526 hours; or

5527 (ii) a minimum of 600 hours of experience in nail technology; and

5528 (f) meet the examination requirement established by rule.

5529 (16) Each applicant for licensure as a nail technology school shall:

5530 (a) submit an application in a form prescribed by the division;

5531 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and

5532 (c) provide satisfactory documentation:

5533 (i) of appropriate registration with the Division of Corporations and Commercial Code;

5534 (ii) of business licensure from the city, town, or county in which the school is located;

5535 (iii) that the applicant's facilities comply with the requirements established by rule; and

5536 (iv) that the applicant meets the standards for nail technology schools, including staff,  
5537 curriculum, and accreditation requirements, established by rule.

5538 (17) Each applicant for licensure under this chapter whose education in the field for  
5539 which a license is sought was completed at a foreign school may satisfy the educational  
5540 requirement for licensure by demonstrating, to the satisfaction of the division, the educational  
5541 equivalency of the foreign school education with a licensed school under this chapter.

5542 Section 138. Section **58-15-4** is amended to read:

5543 **58-15-4. Licensure requirements.**

5544 (1) An applicant for a license under this chapter shall submit a written application to  
5545 the division, verified under oath, that the applicant is of good moral character as it relates to the

functions and responsibilities of the practice of administration of a health facility.

(2) After July 1, 1985, all new applicants are required to have, in addition to Subsection (1), the education or experience requirements as established by rule and as approved by the division.

(3) The applicant shall pay a fee to the Department of Commerce determined by it pursuant to Section [~~63J-1-303~~] 63J-1-504 for admission to the examination, for an initial license, and for a renewal license.

(4) The applicant shall pass a written examination in subjects determined by the board. Upon passing the examination and payment of the license fee, the board shall recommend issuance to the applicant of a license to practice as a health facility administrator.

(5) A temporary license may be issued without examination to a person who meets the requirements established by statute and by rule for an administrator. The temporary license may be issued only to fill a position of administrator that unexpectedly becomes vacant and may be issued for only a single period not to exceed six months.

(6) A license may be granted to an applicant who is a licensed nursing home administrator in another state if the standards for licensure in the other state are equivalent to those criteria set forth in Subsections (1) and (2), and if the applicant is otherwise qualified.

Section 139. Section **58-16a-302** is amended to read:

**58-16a-302. Qualifications for licensure.**

(1) Each applicant for licensure as an optometrist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the division under Section [~~63J-1-303~~] 63J-1-504;

(c) be of good moral character;

(d) (i) be a doctoral graduate of a recognized school of optometry accredited by:

(A) a regional accrediting body recognized by the Council on Post-Secondary Education; and

(B) the American Optometric Association's Council on Optometric Education; or

(ii) be a graduate of a school of optometry located outside the United States that meets the criteria that would qualify the school for accreditation under Subsection (1)(d)(i), as demonstrated by the applicant for licensure;

(e) if the applicant graduated from a recognized school of optometry prior to July 1,

5577 1996, have successfully completed a course of study satisfactory to the division, in consultation  
5578 with the board, in general and ocular pharmacology and emergency medical care;

5579 (f) have passed examinations approved by the division in consultation with the board  
5580 that include:

5581 (i) a standardized national optometry examination;

5582 (ii) a standardized clinical examination;

5583 (iii) a standardized national therapeutics examination; and

5584 (iv) the Utah Optometry Law Examination; and

5585 (g) meet with the board and representatives of the division, if requested by either party,  
5586 for the purpose of evaluating the applicant's qualifications for licensure.

5587 (2) An applicant for licensure as an optometrist qualifying under the endorsement  
5588 provision of Section 58-1-302 shall:

5589 (a) be currently licensed in good standing in any state of the United States; and

5590 (b) have been actively engaged in the legal practice of optometry for not less than  
5591 3,200 hours in the immediately preceding two years, in a manner that is consistent with the  
5592 legal practice of optometry in this state.

5593 Section 140. Section **58-17b-303** is amended to read:

5594 **58-17b-303. Qualifications for licensure as a pharmacist.**

5595 (1) Each applicant for licensure as a pharmacist shall:

5596 (a) submit an application in a form prescribed by the division;

5597 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5598 (c) produce satisfactory evidence of good moral character as it relates to the applicant's  
5599 ability to practice pharmacy;

5600 (d) complete a criminal background check and be free from criminal convictions as  
5601 required by Section 58-17b-307, or as described in Section 58-1-501;

5602 (e) have no physical or mental condition of a nature which prevents the applicant from  
5603 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
5604 public;

5605 (f) have graduated and received a professional entry degree from a school or college of  
5606 pharmacy which is accredited by the Accreditation Council on Pharmacy Education;

5607 (g) have completed an internship meeting standards established by division rule made

5608 in collaboration with the board; and

5609 (h) have successfully passed examinations required by division rule made in  
5610 collaboration with the board.

5611 (2) Each applicant for licensure as a pharmacist whose pharmacy education was  
5612 completed at a foreign pharmacy school shall, in addition to the requirements under  
5613 Subsections (1)(a) through (e), (g), and (h), obtain a certification of equivalency from a  
5614 credentialing agency required by division rule made in collaboration with the board.

5615 (3) Each applicant for a license by endorsement as a pharmacist under this section  
5616 shall:

5617 (a) submit a written application in the form prescribed by the division;

5618 (b) pay the fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5619 (c) be of good moral character as required of applicants for licensure as pharmacists  
5620 under Subsection (1);

5621 (d) complete a criminal background check and be free from criminal convictions as  
5622 required by Section 58-17b-307, or as otherwise described in Section 58-1-501;

5623 (e) have no physical or mental condition of a nature which prevents the applicant from  
5624 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
5625 public;

5626 (f) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in the  
5627 four years immediately preceding the date of application;

5628 (g) produce satisfactory evidence of completing the professional education required  
5629 under Subsection (1);

5630 (h) be currently licensed in good standing as a pharmacist in another state, territory, or  
5631 possession of the United States;

5632 (i) produce satisfactory evidence that the examination requirements are or were at the  
5633 time the license was issued, equal to those of this state; and

5634 (j) pass the jurisprudence examination prescribed by division rule made in  
5635 collaboration with the board.

5636 Section 141. Section **58-17b-304** is amended to read:

5637 **58-17b-304. Qualifications for licensure of pharmacy intern.**

5638 Each applicant for licensure as a pharmacy intern shall:

- 5639 (1) submit an application in a form prescribed by the division;  
5640 (2) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;  
5641 (3) produce satisfactory evidence of good moral character as it relates to the applicant's  
5642 ability to practice pharmacy;  
5643 (4) complete a criminal background check and be free from criminal convictions as  
5644 required by Section 58-17b-307, or as otherwise described in Section 58-1-501;  
5645 (5) have no physical or mental condition of a nature which prevents the applicant from  
5646 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
5647 public;  
5648 (6) meet the preliminary educational qualifications required by division rule made in  
5649 collaboration with the board; and  
5650 (7) meet one of the following educational criteria:  
5651 (a) be a current pharmacy student, a resident, or fellow in a program approved by  
5652 division rule made in collaboration with the board;  
5653 (b) have graduated and received a pharmacy degree from a school or college of  
5654 pharmacy which is accredited by the Accreditation Council on Pharmacy Education but not  
5655 completed the internship hours required by division rule for licensure as a pharmacist; or  
5656 (c) have graduated from a foreign pharmacy school and received certification of  
5657 equivalency from a credentialing agency approved by division rule made in collaboration with  
5658 the board.

5659 Section 142. Section **58-17b-305** is amended to read:

5660 **58-17b-305. Qualifications for licensure of pharmacy technician.**

- 5661 (1) Each applicant for licensure as a pharmacy technician shall:  
5662 (a) submit an application in a form prescribed by the division;  
5663 (b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;  
5664 (c) produce satisfactory evidence of good moral character as it relates to the applicant's  
5665 ability to practice pharmacy;  
5666 (d) complete a criminal background check and be free from criminal convictions as  
5667 required by Section 58-17b-307, or as otherwise permitted by Section 58-1-501;  
5668 (e) have no physical or mental condition of a nature which prevents the applicant from  
5669 engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to

5670 the public;

5671 (f) have completed a board approved program and curriculum of education and  
5672 training, meeting standards established by division rule made in collaboration with the board;  
5673 and

5674 (g) successfully complete the examinations requirement within the time periods  
5675 established by division rule made in collaboration with the board.

5676 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for  
5677 disciplinary purposes shall not be eligible to be a licensed pharmacy technician while on  
5678 probation with the division.

5679 Section 143. Section **58-17b-306** is amended to read:

5680 **58-17b-306. Qualifications for licensure as a pharmacy.**

5681 (1) Each applicant for licensure under this section, except for those applying for a class  
5682 D license, shall:

5683 (a) submit a written application in the form prescribed by the division;

5684 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5685 (c) satisfy the division that the applicant, and each owner, officer, or manager of the  
5686 applicant have not engaged in any act, practice, or omission, which when considered with the  
5687 duties and responsibilities of a licensee under this section indicates there is cause to believe  
5688 that issuing a license to the applicant is inconsistent with the interest of the public's health,  
5689 safety, or welfare;

5690 (d) demonstrate the licensee's operations will be in accordance with all federal, state,  
5691 and local laws relating to the type of activity engaged in by the licensee, including regulations  
5692 of the Federal Drug Enforcement Administration and Food and Drug Administration;

5693 (e) maintain operating standards established by division rule made in collaboration  
5694 with the board; and

5695 (f) acknowledge the division's authority to inspect the licensee's business premises  
5696 pursuant to Section 58-17b-103.

5697 (2) Each applicant applying for a class D license shall:

5698 (a) submit a written application in the form prescribed by the division;

5699 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5700 (c) present to the division verification of licensure in the state where physically located

5701 and verification that such license is in good standing;

5702 (d) provide a statement of the scope of pharmacy services that will be provided and a  
5703 detailed description of the protocol as described by rule by which pharmacy care will be  
5704 provided, including any collaborative practice arrangements with other health care  
5705 practitioners;

5706 (e) sign an affidavit attesting that any healthcare practitioners employed by the  
5707 applicant and physically located in Utah have the appropriate license issued by the division and  
5708 in good standing; and

5709 (f) sign an affidavit attesting that the applicant will abide by the pharmacy laws and  
5710 regulations of the jurisdiction in which the pharmacy is located.

5711 (3) Each license issued under this section shall be issued for a single, specific address,  
5712 and is not transferable or assignable.

5713 Section 144. Section **58-20a-302** is amended to read:

5714 **58-20a-302. Qualifications for licensure.**

5715 (1) Except as provided in Subsection (2), an applicant for licensure as an  
5716 environmental health scientist shall:

5717 (a) submit an application in a form prescribed by the division;

5718 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5719 (c) be of good moral character;

5720 (d) hold a bachelor's degree from an accredited program in a university or college,  
5721 which degree includes completion of specific coursework as defined by rule;

5722 (e) pass an examination as determined by division rule in collaboration with the board;  
5723 and

5724 (f) pass the Utah Law and Rules Examination for Environmental Health Scientists  
5725 administered by the division.

5726 (2) An applicant for licensure who is currently actively engaged in the practice of  
5727 environmental health science in Utah on July 1, 1995, and has been practicing in Utah for at  
5728 least three consecutive months immediately prior to July 1, 1995, shall:

5729 (a) submit an application in a form prescribed by the division;

5730 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5731 (c) be of good moral character;

(d) hold a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific coursework as defined by rule;

(e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

(f) submit an affidavit from the applicant's immediate supervisor in the applicant's employment, attesting to the applicant's competence to practice environmental health science.

(3) An applicant for licensure as an environmental health scientist-in-training shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

(c) be of good moral character;

(d) hold a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific coursework as defined by rule;

(e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

(f) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as an environmental health scientist-in-training only under the general supervision of a supervising environmental health scientist licensed under this chapter.

Section 145. Section **58-22-103** is amended to read:

**58-22-103. Education and enforcement fund.**

(1) There is created a restricted special revenue fund known as the "Professional Engineer, Professional Structural Engineer, and Professional Land Surveyor Education and Enforcement Fund."

(2) The fund consists of monies from:

(a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under this chapter in accordance with the following:

(i) the surcharge fee shall be established by the department in accordance with Section ~~[63J-1-303]~~ 63J-1-504; and

(ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or reinstatement licensure fee; and

(b) administrative penalties collected pursuant to this chapter.

(3) The fund shall earn interest and all interest earned on fund monies shall be

5763 deposited into the fund.

5764 (4) The director may, with concurrence of the board, make distributions from the fund  
5765 for the following purposes:

5766 (a) education and training of licensees under this chapter;

5767 (b) education and training of the public or other interested persons in matters  
5768 concerning engineering, structural engineering, and land surveying laws and practices; and

5769 (c) enforcement of this chapter by:

5770 (i) investigating unprofessional or unlawful conduct; and

5771 (ii) providing legal representation to the division when the division takes legal action  
5772 against a person engaging in unprofessional or unlawful conduct.

5773 (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the  
5774 excess shall be transferred to the General Fund.

5775 (6) The division shall report annually to the appropriate appropriations subcommittee  
5776 of the Legislature concerning the fund.

5777 Section 146. Section **58-22-302** is amended to read:

5778 **58-22-302. Qualifications for licensure.**

5779 (1) Each applicant for licensure as a professional engineer shall:

5780 (a) submit an application in a form prescribed by the division;

5781 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5782 (c) provide satisfactory evidence of good moral character;

5783 (d) (i) have graduated and received a bachelors or masters degree from an engineering  
5784 program meeting criteria established by rule by the division in collaboration with the board; or

5785 (ii) have completed the Transportation Engineering Technology and Fundamental  
5786 Engineering College Program prior to July 1, 1998, under the direction of the Utah Department  
5787 of Transportation and as certified by the Utah Department of Transportation;

5788 (e) have successfully completed a program of qualifying experience established by rule  
5789 by the division in collaboration with the board;

5790 (f) have successfully passed examinations established by rule by the division in  
5791 collaboration with the board; and

5792 (g) meet with the board or representative of the division upon request for the purpose  
5793 of evaluating the applicant's qualification for licensure.

- 5794 (2) Each applicant for licensure as a professional structural engineer shall:
- 5795 (a) submit an application in a form prescribed by the division;
- 5796 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5797 (c) provide satisfactory evidence of good moral character;
- 5798 (d) have graduated and received an earned bachelors or masters degree from an
- 5799 engineering program meeting criteria established by rule by the division in collaboration with
- 5800 the board;
- 5801 (e) have successfully completed three years of licensed professional engineering
- 5802 experience established by rule by the division in collaboration with the board, except that prior
- 5803 to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form
- 5804 prescribed by the division stating that the applicant is currently engaged in the practice of
- 5805 structural engineering;
- 5806 (f) have successfully passed examinations established by rule by the division in
- 5807 collaboration with the board, except that prior to January 1, 2009, an applicant for licensure
- 5808 may submit a signed affidavit in a form prescribed by the division stating that the applicant is
- 5809 currently engaged in the practice of structural engineering; and
- 5810 (g) meet with the board or representative of the division upon request for the purpose
- 5811 of evaluating the applicant's qualification for licensure.
- 5812 (3) Each applicant for licensure as a professional land surveyor shall:
- 5813 (a) submit an application in a form prescribed by the division;
- 5814 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5815 (c) provide satisfactory evidence of good moral character;
- 5816 (d) (i) have graduated and received an associates, bachelors, or masters degree from a
- 5817 land surveying program, or an equivalent land surveying program, such as a program offered by
- 5818 the Utah College of Applied Technology as approved by the State Board of Regents,
- 5819 established by rule by the division in collaboration with the board, and have successfully
- 5820 completed a program of qualifying experience in land surveying established by rule by the
- 5821 division in collaboration with the board; or
- 5822 (ii) have successfully completed a program of qualifying experience in land surveying
- 5823 prior to January 1, 2007, in accordance with rules established by the division in collaboration
- 5824 with the board;

(e) have successfully passed examinations established by rule by the division in collaboration with the board; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(4) Each applicant for licensure by endorsement shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(c) provide satisfactory evidence of good moral character;

(d) submit satisfactory evidence of:

(i) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board;

(ii) having successfully passed an examination established by rule by the division in collaboration with the board; and

(iii) full-time employment as a licensed professional engineer, professional structural engineer, or professional land surveyor as a principal for at least five of the last seven years immediately preceding the date of the application; and

(e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 147. Section **58-26a-302** is amended to read:

**58-26a-302. Qualifications for licensure and registration -- Licensure by endorsement.**

(1) Each applicant for licensure under this chapter as a certified public accountant shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(c) show evidence of good moral character;

(d) submit a certified transcript of credits from an accredited institution acceptable to the board showing:

(i) successful completion of a total of 150 semester hours or 225 quarter hours of

5856 collegiate level education with a concentration in accounting, auditing, and business;  
5857       (ii) a baccalaureate degree or its equivalent at a college or university approved by the  
5858 board; and  
5859       (iii) compliance with any other education requirements established by rule by the  
5860 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
5861 Administrative Rulemaking Act;  
5862       (e) submit evidence of one year of accounting experience in a form prescribed by the  
5863 division;  
5864       (f) submit evidence of having successfully completed the qualifying examinations in  
5865 accordance with Section 58-26a-306; and  
5866       (g) submit to an interview by the board, if requested, for the purpose of examining the  
5867 applicant's competence and qualifications for licensure.  
5868       (2) (a) The division may issue a license under this chapter to a person who holds a  
5869 license as a certified public accountant issued by any other jurisdiction of the United States of  
5870 America if the applicant for licensure by endorsement:  
5871       (i) submits an application in a form prescribed by the division;  
5872       (ii) pays a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;  
5873       (iii) shows evidence of good moral character;  
5874       (iv) submits to an interview by the board, if requested, for the purpose of examining  
5875 the applicant's competence and qualifications for licensure; and  
5876       (v) (A) (I) shows evidence of having passed the qualifying examinations; and  
5877       (II) (Aa) meets the requirements for licensure which were applicable in this state at the  
5878 time of the issuance of the applicant's license by the jurisdiction from which the original  
5879 licensure by satisfactorily passing the AICPA Uniform CPA Examination was issued; or  
5880       (Bb) had four years of professional experience after passing the AICPA Uniform CPA  
5881 Examination upon which the original license was based, within the ten years immediately  
5882 preceding the application for licensure by endorsement; or  
5883       (B) shows evidence that the applicant's education, examination record, and experience  
5884 are substantially equivalent to the requirements of Subsection (1), as provided by rule.  
5885       (b) This Subsection (2) applies only to a person seeking to obtain a license issued by  
5886 this state and does not apply to a person practicing as a certified public accountant in the state

5887 under Subsection 58-26a-305(1).

5888 (3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

5889 (i) submit an application in a form prescribed by the division;

5890 (ii) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5891 (iii) have, notwithstanding any other provision of law, a simple majority of the  
5892 ownership of the Certified Public Accountant firm, in terms of financial interests and voting  
5893 rights of all partners, officers, shareholders, members, or managers, held by individuals who  
5894 are certified public accountants, licensed under this chapter or another jurisdiction of the  
5895 United States of America, and the partners, officers, shareholders, members, or managers,  
5896 whose principal place of business is in this state, and who perform professional services in this  
5897 state hold a valid license issued under Subsection 58-26a-301(2) or the corresponding  
5898 provisions of prior law; and

5899 (iv) meet any other requirements established by rule by the division in collaboration  
5900 with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5901 (b) Each separate location of a qualified business entity within the state seeking  
5902 registration as a Certified Public Accountant firm shall register separately.

5903 (c) A Certified Public Accountant firm may include owners who are not licensed under  
5904 this chapter as outlined in Subsection (3)(a)(iii), provided that:

5905 (i) the firm designates a licensee of this state who is responsible for the proper  
5906 registration of the Certified Public Accountant firm and identifies that individual to the  
5907 division; and

5908 (ii) all nonlicensed owners are active individual participants in the CPA firm.

5909 Section 148. Section **58-26a-306** is amended to read:

5910 **58-26a-306. Examination requirements.**

5911 (1) Before taking the qualifying examinations, an applicant shall:

5912 (a) submit an application in a form approved by the division;

5913 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5914 (c) demonstrate completion of the education requirement in Subsection  
5915 58-26a-302(1)(d); and

5916 (d) be approved by the board to take the qualifying examinations.

5917 (2) A person must sit for and meet the conditioning requirements of the AICPA

5918 Uniform CPA Examination as established by the AICPA.

5919 Section 149. Section **58-26a-307** is amended to read:

5920 **58-26a-307. CPA emeritus status -- Renewal of license.**

5921 (1) A person currently licensed as a certified public accountant may, on any renewal  
5922 date of that license, apply for and obtain a transfer of that license to a status of CPA emeritus  
5923 registration if:

5924 (a) (i) the licensee is at least 60 years of age as of the date of renewal;

5925 (ii) the licensee is disabled; or

5926 (iii) the board finds other good cause for believing that the licensee will not return to  
5927 the practice of public accountancy;

5928 (b) the licensee makes an application for transfer of status and registration and pays a  
5929 registration fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5930 (c) the licensee, on application for transfer, certifies that the licensee will not engage in  
5931 the practice of public accountancy while in the status of CPA emeritus registration; and

5932 (d) the licensee is in good standing as a CPA and not subject to any order of  
5933 revocation, suspension, or probation.

5934 (2) Each CPA emeritus registration shall be issued in accordance with a two-year  
5935 renewal cycle established by rule.

5936 (3) CPA emeritus registrants may not engage in the practice of public accountancy.

5937 (4) CPA emeritus registrants are not required to fulfill the continuing professional  
5938 education or peer review provisions of this chapter.

5939 (5) Each CPA emeritus registrant is responsible for renewing the registration,  
5940 according to procedures that the division establishes by rule in collaboration with the board in  
5941 accordance with Section 58-1-308.

5942 (6) A CPA emeritus registrant may reinstate the CPA license by:

5943 (a) submitting an application in a form prescribed by the division;

5944 (b) paying a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5945 and

5946 (c) showing evidence of having completed the continuing professional education  
5947 requirement established by rule.

5948 Section 150. Section **58-28-302** is amended to read:

**58-28-302. License qualifications.**

(1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry shall:

(a) be of good moral character as it relates to the functions and duties of a licensed veterinarian;

(b) pass an examination approved by the board on the theory and practice of the science of veterinary medicine, surgery, dentistry, and other subjects determined by the board, knowledge of which is generally required of veterinarians;

(c) (i) graduate from a veterinary college accredited by the AVMA; or

(ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary Graduates issued by the AVMA;

(d) (i) have practiced under the supervision of a veterinarian licensed to practice in this state for a period of at least six months;

(ii) have participated in veterinary investigational, educational, or sanitary control work of a nature and duration as to be the equivalent of the experience of Subsection (1)(d)(i);

(iii) have practiced as a licensed veterinarian outside Utah for a period of at least six months; or

(iv) have practiced as a veterinarian while employed by the United States government, its agencies, or the state or its political subdivisions for a period of at least six months; and

(e) pay a fee to the Department of Commerce determined by it pursuant to Section ~~[63J-1-303]~~ 63J-1-504 for the examination, for an initial license, and for a renewal license.

(2) (a) An applicant for licensure as a veterinary intern shall comply with the provisions of Subsections (1)(a) and (c).

(b) An applicant's license as a veterinary intern is limited to the period of time necessary to complete clinical training as described in Subsection (1)(d) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a veterinarian, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training has been completed.

5980 Section 151. Section **58-31b-302** is amended to read:

5981 **58-31b-302. Qualifications for licensure or certification -- Criminal background**  
5982 **checks.**

5983 (1) An applicant for certification as a medication aide shall:

5984 (a) submit an application to the division on a form prescribed by the division;

5985 (b) pay a fee to the division as determined under Section [~~63J-1-303~~] 63J-1-504;

5986 (c) have a high school diploma or its equivalent;

5987 (d) have a current certification as a nurse aide, in good standing, from the Department  
5988 of Health;

5989 (e) have a minimum of 2,000 hours of experience within the two years prior to  
5990 application, working as a certified nurse aide in a long-term care facility;

5991 (f) obtain letters of recommendation from a long-term care facility administrator and  
5992 one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

5993 (g) be in a condition of physical and mental health that will permit the applicant to  
5994 practice safely as a medication aide certified;

5995 (h) have completed an approved education program or an equivalent as determined by  
5996 the division in collaboration with the board;

5997 (i) have passed the examinations as required by division rule made in collaboration  
5998 with the board; and

5999 (j) meet with the board, if requested, to determine the applicant's qualifications for  
6000 certification.

6001 (2) An applicant for licensure as a licensed practical nurse shall:

6002 (a) submit to the division an application in a form prescribed by the division;

6003 (b) pay to the division a fee determined under Section [~~63J-1-303~~] 63J-1-504;

6004 (c) have a high school diploma or its equivalent;

6005 (d) be in a condition of physical and mental health that will permit the applicant to  
6006 practice safely as a licensed practical nurse;

6007 (e) have completed an approved practical nursing education program or an equivalent  
6008 as determined by the board;

6009 (f) have passed the examinations as required by division rule made in collaboration  
6010 with the board; and

6011 (g) meet with the board, if requested, to determine the applicant's qualifications for  
6012 licensure.

6013 (3) An applicant for licensure as a registered nurse shall:

6014 (a) submit to the division an application form prescribed by the division;

6015 (b) pay to the division a fee determined under Section [~~63J-1-303~~] 63J-1-504;

6016 (c) have a high school diploma or its equivalent;

6017 (d) be in a condition of physical and mental health that will allow the applicant to  
6018 practice safely as a registered nurse;

6019 (e) have completed an approved registered nursing education program;

6020 (f) have passed the examinations as required by division rule made in collaboration  
6021 with the board; and

6022 (g) meet with the board, if requested, to determine the applicant's qualifications for  
6023 licensure.

6024 (4) Applicants for licensure as an advanced practice registered nurse shall:

6025 (a) submit to the division an application on a form prescribed by the division;

6026 (b) pay to the division a fee determined under Section [~~63J-1-303~~] 63J-1-504;

6027 (c) be in a condition of physical and mental health which will allow the applicant to  
6028 practice safely as an advanced practice registered nurse;

6029 (d) hold a current registered nurse license in good standing issued by the state or be  
6030 qualified at the time for licensure as a registered nurse;

6031 (e) (i) have earned a graduate degree in:

6032 (A) an advanced practice registered nurse nursing education program; or

6033 (B) a related area of specialized knowledge as determined appropriate by the division  
6034 in collaboration with the board; or

6035 (ii) have completed a nurse anesthesia program in accordance with Subsection

6036 (4)(f)(ii);

6037 (f) have completed:

6038 (i) course work in patient assessment, diagnosis and treatment, and

6039 pharmacotherapeutics from an education program approved by the division in collaboration  
6040 with the board; or

6041 (ii) a nurse anesthesia program which is approved by the Council on Accreditation of

6042 Nurse Anesthesia Educational Programs;

6043 (g) have successfully completed clinical practice in psychiatric and mental health  
6044 nursing, including psychotherapy as defined by division rule, after completion of the masters  
6045 degree required for licensure, to practice within the psychiatric and mental health nursing  
6046 specialty;

6047 (h) have passed the examinations as required by division rule made in collaboration  
6048 with the board;

6049 (i) be currently certified by a program approved by the division in collaboration with  
6050 the board and submit evidence satisfactory to the division of the certification; and

6051 (j) meet with the board, if requested, to determine the applicant's qualifications for  
6052 licensure.

6053 (5) For each applicant for licensure or certification under this chapter:

6054 (a) the applicant shall:

6055 (i) submit fingerprint cards in a form acceptable to the division at the time the  
6056 application is filed; and

6057 (ii) consent to a fingerprint background check by the Utah Bureau of Criminal  
6058 Identification and the Federal Bureau of Investigation regarding the application; and

6059 (b) the division shall request the Department of Public Safety to complete a Federal  
6060 Bureau of Investigation criminal background check through the national criminal history  
6061 system (NCIC) or any successor system.

6062 (6) For purposes of conducting the criminal background checks required in Subsection  
6063 (5), the division shall have direct access to criminal background information maintained  
6064 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

6065 (7) (a) (i) Any new nurse license or certification issued under this section shall be  
6066 conditional, pending completion of the criminal background check.

6067 (ii) If the criminal background check discloses the applicant has failed to accurately  
6068 disclose a criminal history, the license or certification shall be immediately and automatically  
6069 revoked.

6070 (b) (i) Any person whose conditional license or certification has been revoked under  
6071 Subsection (7)(a) shall be entitled to a postrevocation hearing to challenge the revocation.

6072 (ii) The hearing shall be conducted in accordance with Title 63G, Chapter 4,

6073 Administrative Procedures Act.

6074 (8) (a) If a person has been charged with a violent felony, as defined in Subsection  
6075 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of guilty or  
6076 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the  
6077 successful completion of probation:

6078 (i) the person is disqualified for licensure under this chapter; and

6079 (ii) (A) if the person is licensed under this chapter, the division:

6080 (I) shall act upon the license as required under Section 58-1-401; and

6081 (II) may not renew or subsequently issue a license to the person under this chapter; and

6082 (B) if the person is not licensed under this chapter, the division may not issue a license  
6083 to the person under this chapter.

6084 (b) If a person has been charged with a felony other than a violent felony, as defined in  
6085 Subsection 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of  
6086 guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance  
6087 pending the successful completion of probation:

6088 (i) if the person is licensed under this chapter, the division shall determine whether the  
6089 felony disqualifies the person for licensure under this chapter and act upon the license, as  
6090 required, in accordance with Section 58-1-401; and

6091 (ii) if the person is not licensed under this chapter, the person may not file an  
6092 application for licensure under this chapter any sooner than five years after having completed  
6093 the conditions of the sentence or plea agreement.

6094 Section 152. Section **58-31b-304** is amended to read:

6095 **58-31b-304. Qualifications for admission to the examinations.**

6096 (1) To be admitted to the examinations required for certification as a medication aide  
6097 certified, a person shall:

6098 (a) submit an application on a form prescribed by the division;

6099 (b) pay a fee as determined by the division under Section [~~63J-1-303~~] 63J-1-504; and

6100 (c) meet all requirements of Subsection 58-31b-302(1), except the passing of the  
6101 examination.

6102 (2) To be admitted to the examinations required for licensure as a practical nurse, a  
6103 person shall:

- 6104 (a) submit an application form prescribed by the division;  
6105 (b) pay a fee as determined by the division under Section ~~[63J-1-303]~~ 63J-1-504; and  
6106 (c) meet all requirements of Subsection 58-31b-302(2), except Subsection (2)(f).

6107 (3) To be admitted to the examinations required for licensure as a registered nurse, a  
6108 person shall:

- 6109 (a) submit an application form prescribed by the division;  
6110 (b) pay a fee as determined by the division under Section ~~[63J-1-303]~~ 63J-1-504; and  
6111 (c) meet all the requirements of Subsection 58-31b-302(3), except Subsection (3)(f).

6112 Section 153. Section **58-31b-305** is amended to read:

6113 **58-31b-305. Term of license -- Expiration -- Renewal.**

6114 (1) The division shall issue each license or certification under this chapter in  
6115 accordance with a two-year renewal cycle established by rule. The division may by rule extend  
6116 or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

6117 (2) At the time of renewal, the licensee or person certified under this chapter shall  
6118 show satisfactory evidence of each of the following renewal requirements:

6119 (a) complete and submit an application for renewal in a form prescribed by the division  
6120 and pay the renewal fee determined under Section ~~[63J-1-303]~~ 63J-1-504; and

6121 (b) meet continuing competency requirements as established by rule, which shall  
6122 include continuing education requirements for medication aide certified established by the  
6123 board and adopted by the division by rule.

6124 (3) In addition to the renewal requirements under Subsection (2), a person licensed as a  
6125 advanced practice registered nurse shall be currently certified by a program approved by the  
6126 division in collaboration with the board and submit evidence satisfactory to the division of that  
6127 qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

6128 (4) Each license or certification automatically expires on the expiration date shown on  
6129 the license or certification unless renewed in accordance with Section 58-1-308.

6130 Section 154. Section **58-37-6** is amended to read:

6131 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**  
6132 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**  
6133 **required -- Prescriptions.**

6134 (1) (a) The division may adopt rules relating to the licensing and control of the

6135 manufacture, distribution, production, prescription, administration, dispensing, conducting of  
6136 research with, and performing of laboratory analysis upon controlled substances within this  
6137 state.

6138 (b) The division may assess reasonable fees to defray the cost of issuing original and  
6139 renewal licenses under this chapter pursuant to Section [~~63J-1-303~~] 63J-1-504.

6140 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,  
6141 administers, conducts research with, or performs laboratory analysis upon any controlled  
6142 substance in Schedules II through V within this state, or who proposes to engage in  
6143 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting  
6144 research with, or performing laboratory analysis upon controlled substances included in  
6145 Schedules II through V within this state shall obtain a license issued by the division.

6146 (ii) The division shall issue each license under this chapter in accordance with a  
6147 two-year renewal cycle established by rule. The division may by rule extend or shorten a  
6148 renewal period by as much as one year to stagger the renewal cycles it administers.

6149 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,  
6150 administer, conduct research with, or perform laboratory analysis upon controlled substances in  
6151 Schedules II through V within this state may possess, manufacture, produce, distribute,  
6152 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon  
6153 those substances to the extent authorized by their license and in conformity with this chapter.

6154 (c) The following persons are not required to obtain a license and may lawfully possess  
6155 controlled substances under this section:

6156 (i) an agent or employee, except a sales representative, of any registered manufacturer,  
6157 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the  
6158 usual course of the person's business or employment; however, nothing in this subsection shall  
6159 be interpreted to permit an agent, employee, sales representative, or detail man to maintain an  
6160 inventory of controlled substances separate from the location of the person's employer's  
6161 registered and licensed place of business;

6162 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or  
6163 warehouseman, who possesses any controlled substance in the usual course of the person's  
6164 business or employment; and

6165 (iii) an ultimate user, or any person who possesses any controlled substance pursuant to

6166 a lawful order of a practitioner.

6167 (d) The division may enact rules waiving the license requirement for certain  
6168 manufacturers, producers, distributors, prescribers, dispensers, administrators, research  
6169 practitioners, or laboratories performing analysis if consistent with the public health and safety.

6170 (e) A separate license is required at each principal place of business or professional  
6171 practice where the applicant manufactures, produces, distributes, dispenses, conducts research  
6172 with, or performs laboratory analysis upon controlled substances.

6173 (f) The division may enact rules providing for the inspection of a licensee or applicant's  
6174 establishment, and may inspect the establishment according to those rules.

6175 (3) (a) Upon proper application, the division shall license a qualified applicant to  
6176 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon  
6177 controlled substances included in Schedules I through V, unless it determines that issuance of a  
6178 license is inconsistent with the public interest. The division shall not issue a license to any  
6179 person to prescribe, dispense, or administer a Schedule I controlled substance. In determining  
6180 public interest, the division shall consider whether or not the applicant has:

6181 (i) maintained effective controls against diversion of controlled substances and any  
6182 Schedule I or II substance compounded from any controlled substance into other than  
6183 legitimate medical, scientific, or industrial channels;

6184 (ii) complied with applicable state and local law;

6185 (iii) been convicted under federal or state laws relating to the manufacture, distribution,  
6186 or dispensing of substances;

6187 (iv) past experience in the manufacture of controlled dangerous substances;

6188 (v) established effective controls against diversion; and

6189 (vi) complied with any other factors that the division establishes that promote the  
6190 public health and safety.

6191 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,  
6192 produce, distribute, conduct research with, or perform laboratory analysis upon controlled  
6193 substances in Schedule I other than those specified in the license.

6194 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with  
6195 substances in Schedules II through V if they are authorized to administer, dispense, or conduct  
6196 research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this act in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon furnishing the division evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal license denied, suspended, or revoked by competent federal authority and is no longer authorized to engage in the manufacturing, distribution, or dispensing of

6228 controlled substances;

6229 (v) had the licensee's license suspended or revoked by competent authority of another  
6230 state for violation of laws or regulations comparable to those of this state relating to the  
6231 manufacture, distribution, or dispensing of controlled substances;

6232 (vi) violated any division rule that reflects adversely on the licensee's reliability and  
6233 integrity with respect to controlled substances;

6234 (vii) refused inspection of records required to be maintained under this chapter by a  
6235 person authorized to inspect them; or

6236 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the  
6237 purpose of manipulating human hormonal structure so as to:

6238 (A) increase muscle mass, strength, or weight without medical necessity and without a  
6239 written prescription by any practitioner in the course of the practitioner's professional practice;  
6240 or

6241 (B) improve performance in any form of human exercise, sport, or game.

6242 (b) The division may limit revocation or suspension of a license to a particular  
6243 controlled substance with respect to which grounds for revocation or suspension exist.

6244 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to  
6245 this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of  
6246 Occupational and Professional Licensing Act, and conducted in conjunction with the  
6247 appropriate representative committee designated by the director of the department.

6248 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and  
6249 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,  
6250 except where the division is designated by law to perform those functions, or, when not  
6251 designated by law, is designated by the executive director of the Department of Commerce to  
6252 conduct the proceedings.

6253 (d) (i) The division may suspend any license simultaneously with the institution of  
6254 proceedings under this section if it finds there is an imminent danger to the public health or  
6255 safety.

6256 (ii) Suspension shall continue in effect until the conclusion of proceedings, including  
6257 judicial review, unless withdrawn by the division or dissolved by a court of competent  
6258 jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) Every physician, dentist, veterinarian, practitioner, or other person who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by him and a record of all drugs administered, dispensed, or professionally used by him otherwise than by a prescription.

(ii) A person using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the person keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by him, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) A person may not write or authorize a prescription for a controlled substance unless the person is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) A person other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not

6290 dispense a controlled substance.

6291 (c) (i) A controlled substance may not be dispensed without the written prescription of  
6292 a practitioner, if the written prescription is required by the federal Controlled Substances Act.

6293 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in  
6294 conformity with Subsection (7)(d).

6295 (iii) In emergency situations, as defined by division rule, controlled substances may be  
6296 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms  
6297 designated by the division and filed by the pharmacy.

6298 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with  
6299 Subsection (7)(d).

6300 (d) Except for emergency situations designated by the division, a person may not issue,  
6301 fill, compound, or dispense a prescription for a controlled substance unless the prescription is  
6302 signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of  
6303 the prescriber as authorized by division rule, and contains the following information:

6304 (i) the name, address, and registry number of the prescriber;

6305 (ii) the name, address, and age of the person to whom or for whom the prescription is  
6306 issued;

6307 (iii) the date of issuance of the prescription; and

6308 (iv) the name, quantity, and specific directions for use by the ultimate user of the  
6309 controlled substance.

6310 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I  
6311 controlled substance.

6312 (f) Except when administered directly to an ultimate user by a licensed practitioner,  
6313 controlled substances are subject to the following restrictions:

6314 (i) (A) A prescription for a Schedule II substance may not be refilled.

6315 (B) A Schedule II controlled substance may not be filled in a quantity to exceed a  
6316 one-month's supply, as directed on the daily dosage rate of the prescriptions.

6317 (ii) A Schedule III or IV controlled substance may be filled only within six months of  
6318 issuance, and may not be refilled more than six months after the date of its original issuance or  
6319 be refilled more than five times after the date of the prescription unless renewed by the  
6320 practitioner.

(iii) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(iv) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(v) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply;

(C) a second or third prescription shall include the date of issuance and the date for dispensing; and

(D) unless the practitioner determines there is a valid medical reason to the contrary, the date for dispensing a second or third prescription may not be fewer than 30 days from the dispensing date of the previous prescription.

(vi) Each prescription for a controlled substance may contain only one controlled substance per prescription form and may not contain any other legend drug or prescription item.

(g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or

administering the order, and the patient's record reflects the quantity actually administered; and  
(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same meaning as defined in Section 78A-6-105, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(n) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

(o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a penalty not to exceed \$5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (7)(j) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (7)(o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

Section 155. Section **58-39a-5** is amended to read:

**58-39a-5. Qualifications for certification.**

Applicants for certification as an alternative dispute resolution provider shall:

(1) submit an application in a form as prescribed by the division;

(2) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(3) be of good moral character; and

(4) complete a program of education or training, or both, in ADR or have demonstrated sufficient experience in ADR, as determined by the division in collaboration with the board.

Section 156. Section **58-40a-302** is amended to read:

**58-40a-302. Qualifications for licensure.**

The division shall issue a license to practice as an athletic trainer to an applicant who:

(1) has obtained a bachelor's or advanced degree from an accredited four-year college or university and meets the minimum athletic training curriculum requirement established by the board by rule;

(2) has successfully completed the certification examination administered by the Board

6414 of Certification Inc. or equivalent examination approved or recognized by the board;  
6415 (3) is in good standing with and provides documentation of current certification by the  
6416 Board of Certification Inc. or a nationally recognized credentialing agency approved by the  
6417 board;

6418 (4) submits an application to the division on a form prescribed by the division; and

6419 (5) pays the required licensing fee as determined by the department under Section  
6420 ~~[63J-1-303]~~ 63J-1-504.

6421 Section 157. Section **58-41-5** is amended to read:

6422 **58-41-5. Licensure requirements.**

6423 To obtain and maintain a license as a speech-language pathologist or audiologist, the  
6424 applicant must:

6425 (1) submit a completed application in the form and content prescribed by the division  
6426 and pay a fee to the department in accordance with Section ~~[63J-1-303]~~ 63J-1-504;

6427 (2) be of good moral character;

6428 (3) provide the committee with verification:

6429 (a) from the educational institutions involved, that the applicant is the legal holder of a  
6430 doctor's or master's degree or its equivalent in the area of speech-language pathology, speech  
6431 science, or audiology, from an accredited university or college, based on a program of studies  
6432 primarily in the field of speech-language pathology, speech sciences, or audiology; and

6433 (b) that the applicant has had training and experience in treating and managing the  
6434 major communication disabilities identified in speech-language pathology or audiology;

6435 (4) be in compliance with the regulations of conduct and codes of ethics for the  
6436 profession of speech-language pathology and audiology;

6437 (5) submit to the board certified evidence of having completed at least one year of  
6438 professional experience (at least 30 hours per week for an academic year) of direct clinical  
6439 experience in treatment and management of patients. That treatment and management shall be  
6440 supervised and attested by one holding a license under this chapter, the CCC, or their full  
6441 equivalent;

6442 (6) submit transcripts to the board from the educational institutions involved,  
6443 indicating a doctor's or master's degree from an accredited program or satisfactory completion  
6444 of at least 90 quarter hours in speech or hearing disorders, of which at least 50 shall be for

graduate level credit. No less than nine and no more than 12 quarter hours shall be in basic and clinical audiology for persons applying for the license in speech-language pathology. No less than nine and no more than 12 quarter hours shall be in basic and functional speech-language pathology for persons applying for a license in audiology. No more than three-quarter hours shall be in thesis or student research; and

(7) pass a nationally standardized examination in speech-language pathology or audiology which is the same as or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to current ASHA standards. The board may, in its discretion, require an applicant to pass an acceptable practical demonstration of clinical skills to an examining committee of licensed speech-language pathologists appointed by the board.

Section 158. Section **58-41-13** is amended to read:

**58-41-13. Fees.**

The department shall set fees in cooperation with the board and in accordance with Section [~~63J-1-303~~] 63J-1-504 and shall collect all fees.

Section 159. Section **58-42a-302** is amended to read:

**58-42a-302. Qualifications for licensure.**

(1) All applicants for licensure as an occupational therapist shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;

(d) graduate with a bachelors or graduate degree in occupational therapy from a program accredited by the Accreditation Council for Occupational Therapy Education; and

(e) be certified by the National Board for Certification in Occupational Therapy as an occupational therapist registered.

(2) All applicants for licensure as an occupational therapist assistant shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(c) be of good moral character as it relates to the functions and responsibilities of the practice of occupational therapy;

(d) graduate with a two-year associate degree in occupational therapy from a program

6476 accredited by the Accreditation Council for Occupational Therapy Education; and

6477 (e) be certified by the National Board for Certification in Occupational Therapy as a  
6478 certified occupational therapist assistant.

6479 Section 160. Section **58-44a-302** is amended to read:

6480 **58-44a-302. Qualifications for licensure.**

6481 (1) An applicant for licensure as a nurse midwife shall:

6482 (a) submit an application in a form as prescribed by the division;

6483 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6484 (c) be of good moral character;

6485 (d) at the time of application for licensure hold a license in good standing as a  
6486 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under  
6487 Title 58, Chapter 31b, Nurse Practice Act;

6488 (e) have completed:

6489 (i) a certified nurse midwifery education program accredited by the American College  
6490 of Nurse Midwives and approved by the division; or

6491 (ii) a nurse midwifery education program located outside of the United States which is  
6492 approved by the division and is equivalent to a program accredited by the American College of  
6493 Nurse Midwives, as demonstrated by a graduate's being accepted to sit for the national  
6494 certifying examination administered by the American College of Nurse Midwives or its  
6495 designee; and

6496 (f) have passed examinations established by the division rule in collaboration with the  
6497 board within two years after completion of the approved education program required under  
6498 Subsection (1)(e).

6499 (2) For purposes of Subsection (1)(e), as of January 1, 2010, the accredited education  
6500 program or it's equivalent must grant a graduate degree, including post-master's certificate, in  
6501 nurse midwifery.

6502 Section 161. Section **58-46a-302** is amended to read:

6503 **58-46a-302. Qualifications for licensure.**

6504 (1) Each applicant for licensure as a hearing instrument specialist shall:

6505 (a) submit to the division an application in a form prescribed by the division;

6506 (b) pay a fee as determined by the division pursuant to Section [~~63J-1-303~~] 63J-1-504;

- 6507 (c) be of good moral character;
- 6508 (d) (i) have successfully completed 4,000 hours of practice as a hearing instrument
- 6509 intern within the state under supervision by a supervising hearing instrument specialist in
- 6510 accordance with Section 58-46a-302.5 or an equivalent as approved by the division; or
- 6511 (ii) demonstrate successful practice for the equivalent of two years of full-time practice
- 6512 as a licensed hearing instrument specialist in another state requiring licensure and practice in
- 6513 conformity with defined lawful and professional standards of practice;
- 6514 (e) have qualified for and currently hold board certification by the National Board for
- 6515 Certification - Hearing Instrument Sciences, or an equivalent certification approved by the
- 6516 division in collaboration with the board;
- 6517 (f) have passed the Utah Law and Rules Examination for Hearing Instrument
- 6518 Specialists; and
- 6519 (g) if the applicant holds a hearing instrument intern license, surrender the hearing
- 6520 instrument intern license at the time of licensure as a hearing instrument specialist.
- 6521 (2) Each applicant for licensure as a hearing instrument intern shall:
- 6522 (a) submit to the division an application in a form prescribed by the division;
- 6523 (b) pay a fee as determined by the division pursuant to Section [~~63J-1-303~~] 63J-1-504;
- 6524 (c) be of good moral character;
- 6525 (d) have passed the Utah Law and Rules Examination for Hearing Instrument
- 6526 Specialists; and
- 6527 (e) present evidence acceptable to the division and the board that the applicant, when
- 6528 licensed, will practice as a hearing instrument intern only under supervision of a supervising
- 6529 hearing instrument specialist as required under Subsection (1)(d).
- 6530 Section 162. Section **58-47b-302** is amended to read:
- 6531 **58-47b-302. License classifications -- Qualifications for licensure.**
- 6532 (1) The division shall issue licenses under this chapter in the classifications of:
- 6533 (a) massage therapist; and
- 6534 (b) massage apprentice.
- 6535 (2) Each applicant for licensure as a massage therapist shall:
- 6536 (a) submit an application in a form prescribed by the division;
- 6537 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6538 (c) be of good moral character;  
6539 (d) be 18 years of age or older;  
6540 (e) have either:  
6541 (i) (A) graduated from a school of massage having a curriculum which meets standards  
6542 established by division rule made in collaboration with the board; or  
6543 (B) completed equivalent education and training in compliance with division rule; or  
6544 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000  
6545 hours of supervised training over a minimum of 12 months and in accordance with standards  
6546 established by the division by rule made in collaboration with the board; and  
6547 (f) pass examinations established by rule by the division in collaboration with the  
6548 board.

6549 (3) Each applicant for licensure as a massage apprentice shall:  
6550 (a) submit an application in a form prescribed by the division;  
6551 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
6552 (c) be of good moral character;  
6553 (d) be 18 years of age or older;  
6554 (e) provide satisfactory evidence to the division that the individual will practice as a  
6555 massage apprentice only under the direct supervision of a licensed massage therapist in good  
6556 standing and who has engaged in the lawful practice of massage therapy as a licensed massage  
6557 therapist for not less than 6,000 hours; and  
6558 (f) successfully complete an examination as required by division rule.

6559 (4) (a) Any new massage therapist or massage apprentice applicant shall submit  
6560 fingerprint cards in a form acceptable to the division at the time the license application is filed  
6561 and shall consent to a fingerprint background check by the Utah Bureau of Criminal  
6562 Identification and the Federal Bureau of Investigation regarding the application.

6563 (b) The division shall request the Department of Public Safety to complete a Federal  
6564 Bureau of Investigation criminal background check for each new massage therapist or  
6565 apprentice applicant through the national criminal history system (NCIC) or any successor  
6566 system.

6567 (c) The cost of the background check and the fingerprinting shall be borne by the  
6568 applicant.

(5) (a) Any new massage therapist or massage apprentice license issued under this section shall be conditional, pending completion of the criminal background check. If the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license shall be immediately and automatically revoked.

(b) Any person whose conditional license has been revoked under Subsection (5)(a) shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(6) An applicant who successfully completes a fingerprint background check under Subsection (4) may not be required by any other state or local government body to submit to a second fingerprint background check as a condition of lawfully practicing massage therapy in this state.

Section 163. Section **58-53-103** is amended to read:

**58-53-103. Education and enforcement fund.**

(1) There is created a restricted special revenue fund known as the "Landscape Architects Education and Enforcement Fund."

(2) The fund consists of monies from:

(a) a surcharge placed on application fees for initial, renewal, and reinstatement licensure under this chapter, in an amount established by the division with the collaboration of the board in accordance with Section [~~63J-1-303~~] 63J-1-504, not to exceed 50% of the respective fee; and

(b) administrative penalties collected pursuant to this chapter.

(3) The fund shall earn interest, and all interest earned on fund monies shall be deposited into the fund.

(4) The director may, with concurrence of the board, make distributions from the fund for the following purposes:

(a) education and training of licensees under this chapter;

(b) education and training of the public or other interested persons in matters concerning landscape architectural laws and practices; and

(c) enforcement of this chapter by:

(i) investigating unprofessional or unlawful conduct; and

(ii) providing legal representation to the division when the division takes legal action

6600 against a person engaging in unprofessional or unlawful conduct.

6601 (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the  
6602 excess shall be transferred to the General Fund.

6603 (6) The division shall report annually to the appropriate appropriations subcommittee  
6604 of the Legislature concerning the fund.

6605 Section 164. Section **58-53-302** is amended to read:

6606 **58-53-302. Qualifications for licensure.**

6607 (1) Each applicant for licensure as a landscape architect shall:

6608 (a) submit an application in a form prescribed by the division;

6609 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6610 (c) provide satisfactory evidence of good moral character;

6611 (d) (i) have graduated and received an earned bachelors or masters degree from a  
6612 landscape architecture program meeting criteria established by rule by the division in  
6613 collaboration with the board; or

6614 (ii) have completed not less than eight years of supervised practical experience in  
6615 landscape architecture which meets the requirements established by rule by the division in  
6616 collaboration with the board; and

6617 (e) have successfully passed examinations established by rule by the division in  
6618 collaboration with the board.

6619 (2) Satisfactory completion of each year of a landscape architectural program described  
6620 in Subsection (1)(d)(i) is equivalent to one year of experience for purposes of Subsection  
6621 (1)(d)(ii).

6622 Section 165. Section **58-54-5** is amended to read:

6623 **58-54-5. Requirements for licensure.**

6624 (1) Each applicant for licensure as a radiology technologist or radiology practical  
6625 technician shall:

6626 (a) submit an application in a form prescribed by the division in collaboration with the  
6627 board;

6628 (b) pay a fee as determined by the department pursuant to Section [~~63J-1-303~~]  
6629 63J-1-504; and

6630 (c) be of good moral character.

6631 (2) Each applicant for licensure as a radiology technologist shall, in addition to the  
6632 requirements of Subsection (1):

6633 (a) be a graduate of an accredited educational program in radiology technology or  
6634 certified by the American Registry of Radiologic Technologists or any equivalent educational  
6635 program approved by the division in collaboration with the board; and

6636 (b) have passed an examination approved by the division in collaboration with the  
6637 board.

6638 (3) Each applicant for licensure as a radiology practical technician shall, in addition to  
6639 the requirements of Subsection (1), have passed a basic examination and one or more specialty  
6640 examinations that are competency based, using a task analysis of the scope of practice of  
6641 radiology practical technicians in the state. The basic examination and the speciality  
6642 examination shall be approved by the division in collaboration with the board and the licensing  
6643 board of the profession within which the radiology practical technician will be practicing.

6644 (4) The division shall provide for administration of the radiology practical technician  
6645 examination not less than monthly at offices designated by the division and located:

6646 (a) in Salt Lake City; and

6647 (b) within each local health department jurisdictional area.

6648 Section 166. Section **58-55-103** is amended to read:

6649 **58-55-103. Construction Services Commission created -- Functions --**

6650 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**

6651 **Meetings.**

6652 (1) (a) There is created within the division the Construction Services Commission.

6653 (b) The commission shall:

6654 (i) with the concurrence of the director, make reasonable rules under Title 63G,  
6655 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which  
6656 are consistent with this chapter including:

6657 (A) licensing of various licensees;

6658 (B) examination requirements and administration of the examinations, to include  
6659 approving and establishing a passing score for applicant examinations;

6660 (C) standards of supervision for students or persons in training to become qualified to  
6661 obtain a license in the trade they represent; and

6662 (D) standards of conduct for various licensees;  
6663 (ii) approve or disapprove fees adopted by the division under Section ~~[63J-1-303]~~  
6664 63J-1-504;  
6665 (iii) except where the boards conduct them, conduct all administrative hearings not  
6666 delegated to an administrative law judge relating to the licensing of any applicant;  
6667 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the  
6668 concurrence of the director, impose sanctions against licensees and certificate holders with the  
6669 same authority as the division under Section 58-1-401;  
6670 (v) advise the director on the administration and enforcement of any matters affecting  
6671 the division and the construction industry;  
6672 (vi) advise the director on matters affecting the division budget;  
6673 (vii) advise and assist trade associations in conducting construction trade seminars and  
6674 industry education and promotion; and  
6675 (viii) perform other duties as provided by this chapter.  
6676 (2) (a) Initially the commission shall be comprised of the five members of the  
6677 Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing  
6678 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.  
6679 (b) The terms of office of the commission members who are serving on the Contractors  
6680 Licensing Board shall continue as they serve on the commission.  
6681 (c) Beginning July 1, 2004, the commission shall be comprised of nine members  
6682 appointed by the executive director with the approval of the governor from the following  
6683 groups:  
6684 (i) one member shall be a licensed general engineering contractor;  
6685 (ii) one member shall be a licensed general building contractor;  
6686 (iii) two members shall be licensed residential and small commercial contractors;  
6687 (iv) three members shall be the three chair persons from the Plumbers Licensing Board,  
6688 the Alarm System Security and Licensing Board, and the Electricians Licensing Board; and  
6689 (v) two members shall be from the general public, provided, however that the certified  
6690 public accountant on the Contractors Licensing Board will continue to serve until the current  
6691 term expires, after which both members under this Subsection (2)(c)(v) shall be appointed from  
6692 the general public.

6693 (3) (a) Except as required by Subsection (3)(b), as terms of current commission  
6694 members expire, the executive director with the approval of the governor shall appoint each  
6695 new member or reappointed member to a four-year term ending June 30.

6696 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with  
6697 the approval of the governor shall, at the time of appointment or reappointment, adjust the  
6698 length of terms to stagger the terms of commission members so that approximately 1/2 of the  
6699 commission members are appointed every two years.

6700 (c) A commission member may not serve more than two consecutive terms.

6701 (4) The commission shall elect annually one of its members as chair, for a term of one  
6702 year.

6703 (5) When a vacancy occurs in the membership for any reason, the replacement shall be  
6704 appointed for the unexpired term.

6705 (6) (a) Members may not receive compensation or benefits for their services, but may  
6706 receive per diem and expenses incurred in the performance of the members' official duties at  
6707 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

6708 (b) Members may decline to receive per diem and expenses for their service.

6709 (7) (a) The commission shall meet at least monthly unless the director determines  
6710 otherwise.

6711 (b) The director may call additional meetings at the director's discretion, upon the  
6712 request of the chair, or upon the written request of four or more commission members.

6713 (8) (a) Five members constitute a quorum for the transaction of business.

6714 (b) If a quorum is present when a vote is taken, the affirmative vote of commission  
6715 members present is the act of the commission.

6716 (9) The commission shall comply with the procedures and requirements of Title 13,  
6717 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures  
6718 Act, in all of its adjudicative proceedings.

6719 Section 167. Section **58-55-302** is amended to read:

6720 **58-55-302. Qualifications for licensure.**

6721 (1) Each applicant for a license under this chapter shall:

6722 (a) submit an application prescribed by the division;

6723 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6724 (c) (i) meet the examination requirements established by rule by the commission with  
6725 the concurrence of the director, except for the classifications of apprentice plumber and  
6726 apprentice electrician for whom no examination is required; or

6727 (ii) if required in Section 58-55-304, the individual qualifier must pass the required  
6728 examination if the applicant is a business entity;

6729 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

6730 (e) if an applicant for a contractor's license:

6731 (i) produce satisfactory evidence of financial responsibility, except for a construction  
6732 trades instructor for whom evidence of financial responsibility is not required;

6733 (ii) produce satisfactory evidence of knowledge and experience in the construction  
6734 industry and knowledge of the principles of the conduct of business as a contractor, reasonably  
6735 necessary for the protection of the public health, safety, and welfare; and

6736 (iii) be a licensed master electrician if an applicant for an electrical contractor's license  
6737 or a licensed master residential electrician if an applicant for a residential electrical contractor's  
6738 license; or

6739 (iv) be a licensed master plumber if an applicant for a plumbing contractor's license or  
6740 a licensed master residential plumber if an applicant for a residential plumbing contractor's  
6741 license; and

6742 (f) if an applicant for a construction trades instructor license, satisfy any additional  
6743 requirements established by rule.

6744 (2) After approval of an applicant for a contractor's license by the applicable board and  
6745 the division, the applicant shall file the following with the division before the division issues  
6746 the license:

6747 (a) proof of workers' compensation insurance which covers employees of the applicant  
6748 in accordance with applicable Utah law;

6749 (b) proof of public liability insurance in coverage amounts and form established by rule  
6750 except for a construction trades instructor for whom public liability insurance is not required;  
6751 and

6752 (c) proof of registration as required by applicable law with the:

6753 (i) Utah Department of Commerce;

6754 (ii) Division of Corporations and Commercial Code;

6755 (iii) Unemployment Insurance Division in the Department of Workforce Services, for  
6756 purposes of Title 35A, Chapter 4, Employment Security Act;

6757 (iv) State Tax Commission; and

6758 (v) Internal Revenue Service.

6759 (3) In addition to the general requirements for each applicant in Subsection (1),  
6760 applicants shall comply with the following requirements to be licensed in the following  
6761 classifications:

6762 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

6763 (A) has been a licensed journeyman plumber for at least two years and had two years of  
6764 supervisory experience as a licensed journeyman plumber in accordance with division rule;

6765 (B) has received at least an associate of applied science degree or similar degree  
6766 following the completion of a course of study approved by the division and had one year of  
6767 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

6768 (C) meets the qualifications determined by the division in collaboration with the board  
6769 to be equivalent to Subsection (3)(a)(i)(A) or (B).

6770 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at  
6771 least four years of practical experience as a licensed apprentice under the supervision of a  
6772 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect  
6773 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current  
6774 master plumber license under this chapter, and satisfies the requirements of this Subsection  
6775 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

6776 (iii) An individual holding a valid plumbing contractor's license or residential  
6777 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,  
6778 2008:

6779 (A) considered to hold a current master plumber license under this chapter if licensed  
6780 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this  
6781 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section  
6782 58-55-303; and

6783 (B) considered to hold a current residential master plumber license under this chapter if  
6784 licensed as a residential plumbing contractor and a residential journeyman plumber, and  
6785 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of

6786 that license under Section 58-55-303.

6787 (b) A master residential plumber applicant shall produce satisfactory evidence that the  
6788 applicant:

6789 (i) has been a licensed residential journeyman plumber for at least two years and had  
6790 two years of supervisory experience as a licensed residential journeyman plumber in  
6791 accordance with division rule; or

6792 (ii) meets the qualifications determined by the division in collaboration with the board  
6793 to be equivalent to Subsection (3)(b)(i).

6794 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

6795 (i) successful completion of the equivalent of at least four years of full-time training  
6796 and instruction as a licensed apprentice plumber under supervision of a licensed master  
6797 plumber or journeyman plumber and in accordance with a planned program of training  
6798 approved by the division;

6799 (ii) at least eight years of full-time experience approved by the division in collaboration  
6800 with the Plumbers Licensing Board; or

6801 (iii) satisfactory evidence of meeting the qualifications determined by the board to be  
6802 equivalent to Subsection (3)(c)(i) or (c)(ii).

6803 (d) A residential journeyman plumber shall produce satisfactory evidence of:

6804 (i) completion of the equivalent of at least three years of full-time training and  
6805 instruction as a licensed apprentice plumber under the supervision of a licensed residential  
6806 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in  
6807 accordance with a planned program of training approved by the division;

6808 (ii) completion of at least six years of full-time experience in a maintenance or repair  
6809 trade involving substantial plumbing work; or

6810 (iii) meeting the qualifications determined by the board to be equivalent to Subsection  
6811 (3)(d)(i) or (d)(ii).

6812 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be  
6813 in accordance with the following:

6814 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be  
6815 under the immediate supervision of a licensed master plumber, licensed residential master  
6816 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

6817 (ii) a licensed apprentice plumber in the fourth through tenth year of training may work  
6818 without supervision for a period not to exceed eight hours in any 24-hour period, but if the  
6819 apprentice does not become a licensed journeyman plumber or licensed residential journeyman  
6820 plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer  
6821 applies.

6822 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

6823 (i) is a graduate electrical engineer of an accredited college or university approved by  
6824 the division and has one year of practical electrical experience as a licensed apprentice  
6825 electrician;

6826 (ii) is a graduate of an electrical trade school, having received an associate of applied  
6827 sciences degree following successful completion of a course of study approved by the division,  
6828 and has two years of practical experience as a licensed journeyman electrician;

6829 (iii) has four years of practical experience as a journeyman electrician; or

6830 (iv) meets the qualifications determined by the board to be equivalent to Subsection  
6831 (3)(f)(i), (ii), or (iii).

6832 (g) A master residential electrician applicant shall produce satisfactory evidence that  
6833 the applicant:

6834 (i) has at least two years of practical experience as a residential journeyman electrician;  
6835 or

6836 (ii) meets the qualifications determined by the board to be equivalent to this practical  
6837 experience.

6838 (h) A journeyman electrician applicant shall produce satisfactory evidence that the  
6839 applicant:

6840 (i) has successfully completed at least four years of full-time training and instruction as  
6841 a licensed apprentice electrician under the supervision of a master electrician or journeyman  
6842 electrician and in accordance with a planned training program approved by the division;

6843 (ii) has at least eight years of full-time experience approved by the division in  
6844 collaboration with the Electricians Licensing Board; or

6845 (iii) meets the qualifications determined by the board to be equivalent to Subsection  
6846 (3)(h)(i) or (ii).

6847 (i) A residential journeyman electrician applicant shall produce satisfactory evidence

6848 that the applicant:

6849 (i) has successfully completed two years of training in an electrical training program  
6850 approved by the division;

6851 (ii) has four years of practical experience in wiring, installing, and repairing electrical  
6852 apparatus and equipment for light, heat, and power under the supervision of a licensed master,  
6853 journeyman, residential master, or residential journeyman electrician; or

6854 (iii) meets the qualifications determined by the division and applicable board to be  
6855 equivalent to Subsection (3)(i)(i) or (ii).

6856 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall  
6857 be in accordance with the following:

6858 (i) A licensed apprentice electrician shall be under the immediate supervision of a  
6859 licensed master, journeyman, residential master, or residential journeyman electrician. An  
6860 apprentice in the fourth year of training may work without supervision for a period not to  
6861 exceed eight hours in any 24-hour period.

6862 (ii) A licensed master, journeyman, residential master, or residential journeyman  
6863 electrician may have under immediate supervision on a residential project up to three licensed  
6864 apprentice electricians.

6865 (iii) A licensed master or journeyman electrician may have under immediate  
6866 supervision on nonresidential projects only one licensed apprentice electrician.

6867 (k) An alarm company applicant shall:

6868 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of  
6869 the applicant who:

6870 (A) demonstrates 6,000 hours of experience in the alarm company business;

6871 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm  
6872 company business or in a construction business; and

6873 (C) passes an examination component established by rule by the commission with the  
6874 concurrence of the director;

6875 (ii) if a corporation, provide:

6876 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards  
6877 of all corporate officers, directors, and those responsible management personnel employed  
6878 within the state or having direct responsibility for managing operations of the applicant within

6879 the state; and

6880 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards  
6881 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this  
6882 shall not be required if the stock is publicly listed and traded;

6883 (iii) if a limited liability company, provide:

6884 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards  
6885 of all company officers, and those responsible management personnel employed within the  
6886 state or having direct responsibility for managing operations of the applicant within the state;  
6887 and

6888 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards  
6889 of all individuals owning 5% or more of the equity of the company;

6890 (iv) if a partnership, the names, addresses, dates of birth, Social Security numbers, and  
6891 fingerprint cards of all general partners, and those responsible management personnel  
6892 employed within the state or having direct responsibility for managing operations of the  
6893 applicant within the state;

6894 (v) if a proprietorship, the names, addresses, dates of birth, Social Security numbers,  
6895 and fingerprint cards of the proprietor, and those responsible management personnel employed  
6896 within the state or having direct responsibility for managing operations of the applicant within  
6897 the state;

6898 (vi) be of good moral character in that officers, directors, shareholders described in  
6899 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel have not  
6900 been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that  
6901 when considered with the duties and responsibilities of an alarm company is considered by the  
6902 board to indicate that the best interests of the public are served by granting the applicant a  
6903 license;

6904 (vii) document that none of the applicant's officers, directors, shareholders described in  
6905 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel have  
6906 been declared by any court of competent jurisdiction incompetent by reason of mental defect or  
6907 disease and not been restored;

6908 (viii) document that none of the applicant's officers, directors, shareholders described  
6909 in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are

6910 currently suffering from habitual drunkenness or from drug addiction or dependence;  
6911 (ix) file and maintain with the division evidence of:  
6912 (A) comprehensive general liability insurance in form and in amounts to be established  
6913 by rule by the commission with the concurrence of the director;  
6914 (B) workers' compensation insurance that covers employees of the applicant in  
6915 accordance with applicable Utah law; and  
6916 (C) registration as is required by applicable law with the:  
6917 (I) Division of Corporations and Commercial Code;  
6918 (II) Unemployment Insurance Division in the Department of Workforce Services, for  
6919 purposes of Title 35A, Chapter 4, Employment Security Act;  
6920 (III) State Tax Commission; and  
6921 (IV) Internal Revenue Service; and  
6922 (x) meet with the division and board.  
6923 (l) Each applicant for licensure as an alarm company agent shall:  
6924 (i) submit an application in a form prescribed by the division accompanied by  
6925 fingerprint cards;  
6926 (ii) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
6927 (iii) be of good moral character in that the applicant has not been convicted of a felony,  
6928 a misdemeanor involving moral turpitude, or any other crime that when considered with the  
6929 duties and responsibilities of an alarm company agent is considered by the board to indicate  
6930 that the best interests of the public are served by granting the applicant a license;  
6931 (iv) not have been declared by any court of competent jurisdiction incompetent by  
6932 reason of mental defect or disease and not been restored;  
6933 (v) not be currently suffering from habitual drunkenness or from drug addiction or  
6934 dependence; and  
6935 (vi) meet with the division and board if requested by the division or the board.  
6936 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6937 division may make rules establishing when Federal Bureau of Investigation records shall be  
6938 checked for applicants as an alarm company or alarm company agent.  
6939 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vi) and  
6940 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the

6941 Department of Public Safety with the division's request to:

6942 (a) conduct a search of records of the Department of Public Safety for criminal history  
6943 information relating to each applicant for licensure as an alarm company or alarm company  
6944 agent and each applicant's officers, directors, shareholders described in Subsection

6945 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

6946 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
6947 requiring a check of records of the F.B.I. for criminal history information under this section.

6948 (6) The Department of Public Safety shall send to the division:

6949 (a) a written record of criminal history, or certification of no criminal history record, as  
6950 contained in the records of the Department of Public Safety in a timely manner after receipt of  
6951 a fingerprint card from the division and a request for review of Department of Public Safety  
6952 records; and

6953 (b) the results of the F.B.I. review concerning an applicant in a timely manner after  
6954 receipt of information from the F.B.I.

6955 (7) (a) The division shall charge each applicant for licensure as an alarm company or  
6956 alarm company agent a fee, in accordance with Section [~~63J-1-303~~] 63J-1-504, equal to the  
6957 cost of performing the records reviews under this section.

6958 (b) The division shall pay the Department of Public Safety the costs of all records  
6959 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
6960 under this section.

6961 (8) Information obtained by the division from the reviews of criminal history records of  
6962 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division  
6963 only for the purpose of determining if an applicant for licensure as an alarm company or alarm  
6964 company agent is qualified for licensure.

6965 (9) (a) An application for licensure under this chapter shall be denied if:

6966 (i) the applicant has had a previous license, which was issued under this chapter,  
6967 suspended or revoked within one year prior to the date of the applicant's application;

6968 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

6969 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the  
6970 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
6971 status, performing similar functions, or directly or indirectly controlling the applicant has

served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within one year prior to the date of the applicant's application.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than one year prior to the date of the applicant's application.

Section 168. Section **58-56-16** is amended to read:

**58-56-16. Registration of dealers -- Bonding requirements -- Renewal -- Exemptions -- Discipline.**

(1) Each person engaged in the sale of factory built housing in the state, except as provided in Subsection (4), shall register with the division as a dealer.

(2) Each applicant for registration under this section shall:

(a) submit an application in a form prescribed by the division;

7003 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and  
7004 (c) provide the division with a registration bond in accordance with rules established  
7005 by the division.

7006 (3) (a) The division shall issue each registration under this section in accordance with a  
7007 two-year renewal cycle established by rule.

7008 (b) The division may by rule extend or shorten a renewal cycle by as much as one year  
7009 to stagger the renewal cycles it administers.

7010 (c) Each registration under this section automatically expires on the expiration date on  
7011 the certificate of registration unless the registrant renews it in accordance with Section  
7012 58-1-308.

7013 (4) Subsection (1) does not apply to:

7014 (a) a person not regularly engaged in the sale of factory built housing who is selling a  
7015 unit the person owns for the person's own account;

7016 (b) a principal broker licensed under Title 61, Chapter 2, Division of Real Estate; or

7017 (c) a sales agent or associate broker licensed under Title 61, Chapter 2, Division of  
7018 Real Estate, who sells factory built housing as an agent for, and under the supervision of, the  
7019 licensed principal broker with whom the sales agent or associate broker is affiliated.

7020 (5) Grounds for refusing to issue a registration, for refusing to renew a registration, for  
7021 revoking, suspending, restricting, or placing on probation a registration, for issuing a public or  
7022 private reprimand to a registrant, and for issuing a cease and desist order shall be in accordance  
7023 with Section 58-1-401.

7024 Section 169. Section ~~58-57-4~~ is amended to read:

7025 **58-57-4. Qualifications for a license.**

7026 (1) The division shall issue a respiratory care practitioner license to an applicant who  
7027 meets the requirements specified in this section.

7028 (2) An applicant seeking licensure as a respiratory care practitioner shall:

7029 (a) submit an application on a form prescribed by the division;

7030 (b) pay a fee as determined by the department pursuant to Section [~~63J-1-303~~]  
7031 63J-1-504;

7032 (c) show evidence of good moral character;

7033 (d) possess a high school education or its equivalent, as determined by the division in

7034 collaboration with the board;

7035 (e) have completed a respiratory care practitioner educational program that is  
7036 accredited by a nationally accredited organization acceptable to the division as defined by rule;  
7037 and

7038 (f) pass an examination approved by the division in collaboration with the board.

7039 Section 170. Section **58-60-115** is amended to read:

7040 **58-60-115. License by endorsement.**

7041 The division shall issue a license by endorsement under this chapter to a person who:

7042 (1) submits an application on a form provided by the division;

7043 (2) pays a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

7044 (3) provides documentation of current licensure in good standing in any state, district,  
7045 or territory of the United States to practice in the profession in which licensure is being sought;

7046 (4) provides documentation of having been actively engaged in the legal practice of the  
7047 person's profession, including, but not limited to, mental health therapy, for not less than 4,000  
7048 hours during the three years immediately preceding the date of application for licensure in  
7049 Utah;

7050 (5) has passed the profession specific jurisprudence examination if required of a new  
7051 applicant; and

7052 (6) is of good moral character and professional standing, and has no disciplinary action  
7053 pending or in effect against the applicant's license in any jurisdiction.

7054 Section 171. Section **58-60-117** is amended to read:

7055 **58-60-117. Externship licenses.**

7056 (1) The division shall issue a temporary license under Part 2, ~~[3, or 4]~~ Social Worker  
7057 Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Professional  
7058 Counselor Licensing Act, of this chapter to a person who:

7059 (a) submits an application for licensure under Part 2, ~~[3, or 4]~~ Social Worker Licensing  
7060 Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Professional Counselor  
7061 Licensing Act;

7062 (b) pays a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

7063 (c) holds an earned doctoral degree or master's degree in a discipline that is a  
7064 prerequisite for practice as a mental health therapist;

(d) has one or more deficiencies in course work, experience, or training;

(e) provides mental health therapy as an employee of a public or private organization, which provides mental health therapy, while under the supervision of a person licensed under this chapter; and

(f) is of good moral character and has no disciplinary action pending or in effect against the applicant in connection with the practice of mental health therapy, in any jurisdiction.

(2) A temporary license issued under this section shall expire upon the earlier of:

(a) issuance of the license applied for; or

(b) three years from the date the temporary license was issued.

(3) The temporary license issued under this section is an externship license.

Section 172. Section **58-60-205** is amended to read:

**58-60-205. Qualifications for licensure or certification as a clinical or certified social worker, certified social worker intern, and social service worker.**

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and earned degree as follows:

(i) an earned master's degree in social work resulting from completion of an education program accredited by the Council on Social Work Education; or

(ii) an earned doctoral degree in social work that results from successful completion of a clinical concentration and practicum approved by the division and defined by rule under Section 58-1-203;

(e) have completed a minimum of 4,000 hours of clinical social work training as defined by division rule under Section 58-1-203 in not less than two years and under the supervision of a clinical social worker supervisor approved by the division in collaboration with the board;

(f) document successful completion of not less than 1,000 hours of supervised training

7096 in mental health therapy obtained after completion of the education requirement in Subsection  
7097 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection  
7098 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were  
7099 obtained under the direct personal face to face supervision of a clinical social worker approved  
7100 by the division in collaboration with the board;

7101 (g) have completed a case work, group work, or family treatment course sequence with  
7102 a clinical practicum in content as defined by rule under Section 58-1-203; and

7103 (h) pass the examination requirement established by rule under Section 58-1-203.

7104 (2) An applicant for licensure as a certified social worker shall:

7105 (a) submit an application on a form provided by the division;

7106 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7107 (c) be of good moral character;

7108 (d) produce certified transcripts from an accredited institution of higher education  
7109 recognized by the division in collaboration with the Social Worker Licensing Board verifying  
7110 satisfactory completion of an education and an earned degree as follows:

7111 (i) a social work education program accredited by the Council on Social Work  
7112 Education and an earned master's degree resulting from completion of that program; or

7113 (ii) an education program that contains approved clinical social work concentration and  
7114 practicum in content as defined by rule under Section 58-1-203 and an earned doctorate  
7115 resulting from completion of that program; and

7116 (e) pass the examination requirement established by rule under Section 58-1-203.

7117 (3) (a) An applicant for certification as a certified social worker intern shall meet the  
7118 requirements of Subsections (2)(a), (b), (c), and (d).

7119 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the  
7120 examination required under Subsection (2)(e) or six months, whichever occurs first.

7121 (c) A certified social worker intern may provide mental health therapy under the  
7122 general supervision of a clinical social worker.

7123 (4) An applicant for licensure as a social service worker shall:

7124 (a) submit an application on a form provided by the division;

7125 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7126 (c) be of good moral character;

7127 (d) produce certified transcripts from an accredited institution of higher education  
7128 recognized by the division in collaboration with the Social Worker Licensing Board verifying  
7129 satisfactory completion of an earned degree resulting from education as follows:

7130 (i) a bachelor's degree in a social work program accredited by the Council on Social  
7131 Work Education;

7132 (ii) a master's degree in a field approved by the division in collaboration with the social  
7133 worker board; [or]

7134 (iii) a bachelor's degree in sociology, psychology, family sciences, or other field  
7135 approved by the division in collaboration with the Social Worker Licensing Board and also  
7136 documentation of 2,000 hours of supervised social work activity approved by the division in  
7137 collaboration with the board, which is performed after completing bachelor's degree  
7138 requirements under this Subsection (4);

7139 (iv) a bachelor's degree in any field, if the applicant has completed:

7140 (A) the equivalent of three credit hours of course work or other approved training in  
7141 full-life human growth behavior, abnormal psychology, social work values and ethics, social  
7142 welfare, or social welfare policy;

7143 (B) an approved social work practice methods course; and

7144 (C) one year of qualifying experience under the supervision of a licensed certified or  
7145 clinical social worker, which experience is approved by the division in collaboration with the  
7146 Social Worker Licensing Board, and which is performed after completion of the requirements  
7147 to obtain the bachelor's degree required under this Subsection (4); or

7148 (v) successful completion of the first academic year of a Council on Social Work  
7149 Education approved master's of social work curriculum and practicum; and

7150 (e) pass the examination requirement established by rule under Section 58-1-203.

7151 Section 173. Section **58-60-305** is amended to read:

7152 **58-60-305. Qualifications for licensure.**

7153 (1) All applicants for licensure as marriage and family therapists shall:

7154 (a) submit an application on a form provided by the division;

7155 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7156 (c) be of good moral character;

7157 (d) produce certified transcripts evidencing completion of a masters or doctorate degree

7158 in marriage and family therapy from:

7159 (i) a program accredited by the Commission on Accreditation for Marriage and Family  
7160 Therapy Education; or

7161 (ii) an accredited institution meeting criteria for approval established by rule under  
7162 Section 58-1-203;

7163 (e) have completed a minimum of 4,000 hours of marriage and family therapy training  
7164 as defined by division rule under Section 58-1-203, in not less than two years, under the  
7165 supervision of a marriage and family therapist supervisor who meets the requirements of  
7166 Section 58-60-307, and obtained after completion of the education requirement in Subsection  
7167 (1)(d);

7168 (f) document successful completion of not less than 1,000 hours of supervised training  
7169 in mental health therapy obtained after completion of the education requirement described in  
7170 Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of  
7171 training described in Subsection (1)(e), and of which documented evidence demonstrates not  
7172 less than 100 of the supervised hours were obtained during direct, personal, face-to-face  
7173 supervision by a marriage and family therapist supervisor qualified under Section 58-60-307;  
7174 and

7175 (g) pass the examination requirement established by division rule under Section  
7176 58-1-203.

7177 (2) (a) All applicants for certification as a marriage and family therapist intern shall  
7178 comply with the provisions of Subsections (1)(a), (b), (c), and (d).

7179 (b) An individual's certification as a marriage and family therapist intern is limited to  
7180 the period of time necessary to complete clinical training as described in Subsections (1)(e) and  
7181 (f) and extends not more than one year from the date the minimum requirement for training is  
7182 completed, unless the individual presents satisfactory evidence to the division and the  
7183 appropriate board that the individual is making reasonable progress toward passing of the  
7184 qualifying examination for that profession or is otherwise on a course reasonably expected to  
7185 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years  
7186 past the date the minimum supervised clinical training requirement has been completed.

7187 Section 174. Section **58-60-305.5** is amended to read:

7188 **58-60-305.5. Qualification for licensure before May 1, 2000.**

(1) A person who was licensed under this chapter as of May 1, 2000, may apply for renewal of licensure without being required to fulfill the educational requirements described in Subsection ~~[58-60-305(4)]~~ 58-60-305(1)(d).

(2) A person who seeks licensure under this chapter before July 1, 2002, need comply only with the licensure requirements in effect before May 1, 2000.

Section 175. Section **58-60-308** is amended to read:

**58-60-308. Scope of practice -- Limitations.**

(1) A licensed marriage and family therapist may engage in all acts and practices defined as the practice of marriage and family therapy without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(2) (a) To the extent an individual has completed the educational requirements of ~~[Subsections 58-60-305(1)(a) through (1)(d)]~~ Subsection 58-60-305(1)(d), a certified marriage and family therapist intern may engage in all acts and practices defined as the practice of marriage and family therapy if the practice is:

(i) within the scope of employment as a certified marriage and family therapist intern with a public agency or a private clinic as defined by division rule; and

(ii) under the supervision of a licensed marriage and family therapist who is qualified as a supervisor under Section 58-60-307.

(b) A certified marriage and family therapy intern may not engage in the independent practice of marriage and family therapy.

Section 176. Section **58-60-405** is amended to read:

**58-60-405. Qualifications for licensure.**

(1) All applicants for licensure as a professional counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

(c) be of good moral character;

(d) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of:

(i) an education and degree in an education program in counseling with a core curriculum defined by division rule under Section 58-1-203 preparing one to competently

engage in mental health therapy; and

(ii) an earned doctoral or master's degree resulting from that education program;

(e) have completed a minimum of 4,000 hours of professional counselor training as defined by division rule under Section 58-1-203, in not less than two years, under the supervision of a professional counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board, and obtained after completion of the education requirement in Subsection (1)(d);

(f) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(d), which training may be included as part of the 4,000 hours of training in Subsection (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct personal face to face supervision of a mental health therapist approved by the division in collaboration with the board; and

(g) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) All applicants for certification as a professional counselor intern shall comply with the provisions of Subsections (1)(a), (b), (c), and (d).

(b) An individual's certification as a professional counselor intern is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section 177. Section **58-60-407** is amended to read:

**58-60-407. Scope of practice -- Limitations.**

(1) A licensed professional counselor may engage in all acts and practices defined as the practice of professional counseling without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training,

and competence.

(2) (a) To the extent an individual has completed the educational requirements of ~~Subsections 58-60-405(1)(a) through (1)(d)]~~ Subsection 58-60-305(1)(d), a certified professional counseling intern may engage in all acts and practices defined as the practice of professional counseling if the practice is:

(i) within the scope of employment as a certified professional counselor with a public agency or private clinic as defined by division rule; and

(ii) under supervision of a qualified licensed mental health therapist as defined in Subsection 58-60-102(5).

(b) A certified professional counselor intern may not engage in the independent practice of professional counseling.

Section 178. Section **58-60-506** is amended to read:

**58-60-506. Qualifications for licensure on and after July 1, 2007.**

(1) An applicant for licensure under this part on and after July 1, 2007, must meet the following qualifications:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

(c) be of good moral character;

(d) satisfy the requirements of Subsection (2), (3), (4), or (5) respectively; and

(e) except for licensure as a certified substance abuse counselor intern, satisfy the examination requirement established by rule under Section 58-1-203.

(2) An applicant for licensure as a licensed substance abuse counselor shall meet one of the following:

(a) The applicant shall produce:

(i) certified transcripts from an accredited institution of higher education meeting standards established by the division by rule in collaboration with the board verifying satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;

(ii) documentation of the applicant's completion of a substance abuse education program; and

(iii) documentation of the applicant's completion of 2,000 hours of supervised experience in substance abuse treatment:

7282 (A) meeting standards established by the division in collaboration with the board; and  
7283 (B) performed within a two-year period after the applicant's completion of the  
7284 substance abuse education program described in Subsection (2)(a)(ii).

7285 (b) The applicant shall produce:

7286 (i) certified transcripts from an accredited institution meeting standards established by  
7287 the division by rule in collaboration with the board verifying satisfactory completion of a  
7288 baccalaureate or graduate degree or a high school diploma or equivalent;

7289 (ii) documentation of the applicant's completion of a substance abuse education  
7290 program; and

7291 (iii) documentation of the applicant's completion of 4,000 hours of supervised  
7292 experience in substance abuse treatment:

7293 (A) meeting standards established by the division in collaboration with the board; and

7294 (B) performed within a four-year period after the applicant's completion of the  
7295 substance abuse education program described in Subsection (2)(b)(ii).

7296 (c) Before January 1, 2009, the applicant shall produce:

7297 (i) certified transcripts from an accredited institution of higher education meeting  
7298 standards established by the division by rule in collaboration with the board verifying  
7299 satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;  
7300 and

7301 (ii) documentation of the applicant's completion of 4,000 hours of supervised  
7302 experience in substance abuse treatment:

7303 (A) meeting standards established by the division in collaboration with the board; and

7304 (B) performed within a four-year period.

7305 (d) Before January 1, 2009, the applicant shall produce:

7306 (i) certified transcripts from an accredited institution meeting standards established by  
7307 the division by rule in collaboration with the board verifying satisfactory completion of a  
7308 baccalaureate or graduate degree or a high school diploma or equivalent; and

7309 (ii) documentation of the applicant's completion of 6,000 hours of supervised  
7310 experience in substance abuse treatment:

7311 (A) meeting standards established by the division in collaboration with the board; and

7312 (B) performed within a six-year period.

7313 (3) An applicant for licensure as a certified substance abuse counselor shall meet one  
7314 of the following:

7315 (a) The applicant shall produce:

7316 (i) certified transcripts from an accredited institution of higher education meeting  
7317 standards established by the division by rule in collaboration with the board verifying  
7318 satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;  
7319 and

7320 (ii) documentation of the applicant's completion of a substance abuse education  
7321 program.

7322 (b) The applicant shall produce:

7323 (i) certified transcripts from an accredited institution meeting standards established by  
7324 the division by rule in collaboration with the board verifying satisfactory completion of a  
7325 baccalaureate or graduate degree or a high school diploma or equivalent; and

7326 (ii) documentation of the applicant's completion of a substance abuse education  
7327 program.

7328 (c) Before January 1, 2009, the applicant shall produce certified transcripts from an  
7329 accredited institution of higher education meeting standards established by the division by rule  
7330 in collaboration with the board verifying satisfactory completion of a baccalaureate or graduate  
7331 degree in behavioral or social sciences.

7332 (d) Before January 1, 2009, the applicant shall produce certified transcripts from an  
7333 accredited institution meeting standards established by the division by rule in collaboration  
7334 with the board verifying satisfactory completion of a baccalaureate or graduate degree or a high  
7335 school diploma or equivalent.

7336 (4) (a) An applicant for licensure as a certified substance abuse counselor intern shall  
7337 meet the requirements for licensure as a certified substance abuse counselor under Subsection  
7338 (3).

7339 (b) A certified substance abuse counselor intern license expires at the earlier of:

7340 (i) the licensee passing the examination required for licensure as a certified substance  
7341 abuse counselor; or

7342 (ii) six months after the certified substance abuse counselor intern license is issued.

7343 (5) (a) An applicant for licensure as a certified substance abuse counselor extern shall

7344 meet the requirements of Subsection (2)(a)(iii) or (2)(b)(iii).

7345 (b) A certified substance abuse counselor extern license is valid for two years from the  
7346 day on which it is issued or until January 1, 2010, whichever comes first.

7347 (c) A certified substance abuse counselor extern whose license expires before the  
7348 licensee completes a substance abuse education program under Subsection (2)(a)(ii) or  
7349 (2)(b)(ii) may not practice under this part until the licensee meets the requirements of  
7350 Subsection (2) or (3).

7351 Section 179. Section **58-61-304** is amended to read:

7352 **58-61-304. Qualifications for licensure by examination or endorsement.**

7353 (1) An applicant for licensure as a psychologist based upon education, clinical training,  
7354 and examination shall:

7355 (a) submit an application on a form provided by the division;

7356 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7357 (c) be of good moral character;

7358 (d) produce certified transcripts of credit verifying satisfactory completion of a doctoral  
7359 degree in psychology that includes specific core course work established by division rule under  
7360 Section 58-1-203, from an institution of higher education whose doctoral program, at the time  
7361 the applicant received the doctoral degree, met approval criteria established by division rule  
7362 made in consultation with the board;

7363 (e) have completed a minimum of 4,000 hours of psychology training as defined by  
7364 division rule under Section 58-1-203 in not less than two years and under the supervision of a  
7365 psychologist supervisor approved by the division in collaboration with the board;

7366 (f) to be qualified to engage in mental health therapy, document successful completion  
7367 of not less than 1,000 hours of supervised training in mental health therapy obtained after  
7368 completion of a master's level of education in psychology, which training may be included as  
7369 part of the 4,000 hours of training required in Subsection (1)(e), and for which documented  
7370 evidence demonstrates not less than one hour of supervision for each 40 hours of supervised  
7371 training was obtained under the direct personal face to face supervision of a psychologist  
7372 approved by the division in collaboration with the board;

7373 (g) pass the examination requirement established by division rule under Section  
7374 58-1-203; and

7375 (h) meet with the board, upon request for good cause, for the purpose of evaluating the  
7376 applicant's qualifications for licensure.

7377 (2) An applicant for licensure as a psychologist by endorsement based upon licensure  
7378 in another jurisdiction shall:

7379 (a) submit an application on a form provided by the division;

7380 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7381 (c) be of good moral character and professional standing, and not have any disciplinary  
7382 action pending or in effect against the applicant's psychologist license in any jurisdiction;

7383 (d) have passed the Utah Psychologist Law and Ethics Examination established by  
7384 division rule;

7385 (e) provide satisfactory evidence the applicant is currently licensed in another state,  
7386 district, or territory of the United States, or in any other jurisdiction approved by the division in  
7387 collaboration with the board;

7388 (f) provide satisfactory evidence the applicant has actively practiced psychology in that  
7389 jurisdiction for not less than 2,000 hours or one year, whichever is greater;

7390 (g) provide satisfactory evidence that:

7391 (i) the education, supervised experience, examination, and all other requirements for  
7392 licensure in that jurisdiction at the time the applicant obtained licensure were substantially  
7393 equivalent to the licensure requirements for a psychologist in Utah at the time the applicant  
7394 obtained licensure in the other jurisdiction; or

7395 (ii) the applicant is:

7396 (A) a current holder of diplomate status in good standing from the American Board of  
7397 Professional Psychology;

7398 (B) currently credentialed as a health service provider in psychology by the National  
7399 Register of Health Service Providers in Psychology; or

7400 (C) currently holds a Certificate of Professional Qualification (CPQ) granted by the  
7401 Association of State and Provincial Psychology Boards; and

7402 (h) meet with the board, upon request for good cause, for the purpose of evaluating the  
7403 applicant's qualifications for licensure.

7404 (3) (a) An applicant for certification as a psychology resident shall comply with the  
7405 provisions of Subsections (1)(a), (b), (c), (d), and (h).

(b) (i) An individual's certification as a psychology resident is limited to the period of time necessary to complete clinical training as described in Subsections (1)(e) and (f) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the Psychologist Licensing Board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a psychologist.

(ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section 180. Section **58-63-302** is amended to read:

**58-63-302. Qualifications for licensure.**

(1) Each applicant for licensure as an armored car company or a contract security company shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(c) have a qualifying agent who:

(i) (A) is a resident of the state and an officer, director, partner, proprietor, or manager of the applicant; and

(B) passes an examination component established by rule by the division in collaboration with the board; and

(ii) (A) demonstrates 6,000 hours of experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or

(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;

(d) if a corporation, provide:

(i) the names, addresses, dates of birth, and Social Security numbers of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, and Social Security numbers, of all shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by

7437 the division if the stock is publicly listed and traded;

7438 (e) if a limited liability company, provide:

7439 (i) the names, addresses, dates of birth, and Social Security numbers of all company

7440 officers, and those responsible management personnel employed within the state or having

7441 direct responsibility for managing operations of the applicant within the state; and

7442 (ii) the names, addresses, dates of birth, and Social Security numbers of all individuals

7443 owning 5% or more of the equity of the company;

7444 (f) if a partnership, the names, addresses, dates of birth, and Social Security numbers of

7445 all general partners, and those responsible management personnel employed within the state or

7446 having direct responsibility for managing operations of the applicant within the state;

7447 (g) if a proprietorship, the names, addresses, dates of birth, and Social Security

7448 numbers of the proprietor, and those responsible management personnel employed within the

7449 state or having direct responsibility for managing operations of the applicant within the state;

7450 (h) have good moral character in that officers, directors, shareholders described in

7451 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not

7452 been convicted of:

7453 (i) a felony;

7454 (ii) a misdemeanor involving moral turpitude; or

7455 (iii) a crime that when considered with the duties and responsibilities of a contract

7456 security company or an armored car company by the division and the board indicates that the

7457 best interests of the public are not served by granting the applicant a license;

7458 (i) document that none of the applicant's officers, directors, shareholders described in

7459 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

7460 (i) have been declared by a court of competent jurisdiction incompetent by reason of

7461 mental defect or disease and not been restored; and

7462 (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

7463 (j) file and maintain with the division evidence of:

7464 (i) comprehensive general liability insurance in a form and in amounts established by

7465 rule by the division in collaboration with the board;

7466 (ii) workers' compensation insurance that covers employees of the applicant in

7467 accordance with applicable Utah law;

7468 (iii) registration with the Division of Corporations and Commercial Code; and  
7469 (iv) registration as required by applicable law with the:  
7470 (A) Unemployment Insurance Division in the Department of Workforce Services, for  
7471 purposes of Title 35A, Chapter 4, Employment Security Act;  
7472 (B) State Tax Commission; and  
7473 (C) Internal Revenue Service; and  
7474 (k) meet with the division and board if requested by the division or board.  
7475 (2) Each applicant for licensure as an armed private security officer shall:  
7476 (a) submit an application in a form prescribed by the division;  
7477 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
7478 (c) have good moral character in that the applicant has not been convicted of:  
7479 (i) a felony;  
7480 (ii) a misdemeanor involving moral turpitude; or  
7481 (iii) a crime that when considered with the duties and responsibilities of an armed  
7482 private security officer by the division and the board indicates that the best interests of the  
7483 public are not served by granting the applicant a license;  
7484 (d) not have been declared incompetent by a court of competent jurisdiction by reason  
7485 of mental defect or disease and not been restored;  
7486 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
7487 dependence;  
7488 (f) successfully complete basic education and training requirements established by rule  
7489 by the division in collaboration with the board;  
7490 (g) successfully complete firearms training requirements established by rule by the  
7491 division in collaboration with the board;  
7492 (h) pass the examination requirement established by rule by the division in  
7493 collaboration with the board; and  
7494 (i) meet with the division and board if requested by the division or the board.  
7495 (3) Each applicant for licensure as an unarmed private security officer shall:  
7496 (a) submit an application in a form prescribed by the division;  
7497 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
7498 (c) have good moral character in that the applicant has not been convicted of:

7499 (i) a felony;  
7500 (ii) a misdemeanor involving moral turpitude; or  
7501 (iii) a crime that when considered with the duties and responsibilities of an unarmed  
7502 private security officer by the division and the board indicates that the best interests of the  
7503 public are not served by granting the applicant a license;  
7504 (d) not have been declared incompetent by a court of competent jurisdiction by reason  
7505 of mental defect or disease and not been restored;  
7506 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
7507 dependence;  
7508 (f) successfully complete basic education and training requirements established by rule  
7509 by the division in collaboration with the board;  
7510 (g) pass the examination requirement established by rule by the division in  
7511 collaboration with the board; and  
7512 (h) meet with the division and board if requested by the division or board.  
7513 (4) Each applicant for licensure as an armored car security officer shall:  
7514 (a) submit an application in a form prescribed by the division;  
7515 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
7516 (c) have good moral character in that the applicant has not been convicted of:  
7517 (i) a felony;  
7518 (ii) a misdemeanor involving moral turpitude; or  
7519 (iii) a crime that when considered with the duties and responsibilities of an armored car  
7520 security officer by the division and the board indicates that the best interests of the public are  
7521 not served by granting the applicant a license;  
7522 (d) not have been declared incompetent by a court of competent jurisdiction by reason  
7523 of mental defect or disease and not been restored;  
7524 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
7525 dependence;  
7526 (f) successfully complete basic education and training requirements established by rule  
7527 by the division in collaboration with the board;  
7528 (g) successfully complete firearms training requirements established by rule by the  
7529 division in collaboration with the board;

7530 (h) pass the examination requirements established by rule by the division in  
7531 collaboration with the board; and

7532 (i) meet with the division and board if requested by the division or the board.

7533 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7534 division may make a rule establishing when the division shall request a Federal Bureau of  
7535 Investigation records' review for an applicant.

7536 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),  
7537 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint  
7538 cards to the Department of Public Safety with the division's request to:

7539 (a) conduct a search of records of the Department of Public Safety for criminal history  
7540 information relating to each applicant for licensure under this chapter and each applicant's  
7541 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and  
7542 responsible management personnel; and

7543 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
7544 requiring a check of records of the F.B.I. for criminal history information under this section.

7545 (7) The Department of Public Safety shall send the division:

7546 (a) a written record of criminal history, or certification of no criminal history record, as  
7547 contained in the records of the Department of Public Safety in a timely manner after receipt of  
7548 a fingerprint card from the division and a request for review of Department of Public Safety  
7549 records; and

7550 (b) the results of the F.B.I. review concerning an applicant in a timely manner after  
7551 receipt of information from the F.B.I.

7552 (8) (a) The division shall charge each applicant a fee, in accordance with Section  
7553 ~~[63J-1-303]~~ 63J-1-504, equal to the cost of performing the records reviews under this section.

7554 (b) The division shall pay the Department of Public Safety the costs of all records  
7555 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
7556 under this chapter.

7557 (9) The division shall use or disseminate the information it obtains from the reviews of  
7558 criminal history records of the Department of Public Safety and the F.B.I. only to determine if  
7559 an applicant for licensure under this chapter is qualified for licensure.

7560 Section 181. Section **58-64-302** is amended to read:

**58-64-302. Qualifications for licensure.**

(1) Each applicant for licensure as a deception detection examiner shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(c) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime which when considered with the duties and responsibilities of a deception detection examiner is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

(g) have successfully completed a training program in detection deception meeting criteria established by rule by the division in collaboration with the board; and

(h) have performed satisfactorily as a licensed deception detection intern for a period of not less than one year and shall have satisfactorily conducted not less than 100 deception detection examinations under the supervision of a licensed deception detection examiner.

(2) Each applicant for licensure as a deception detection intern shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

(c) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime which when considered with the

duties and responsibilities of a deception detection intern is considered by the division and the board to indicate that the best interests of the public will not be served by granting the applicant a license;

(d) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) may not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) have completed one of the following:

(i) have earned a bachelor's degree from a four year university or college meeting standards established by the division by rule in collaboration with the board;

(ii) have completed not less than 8,000 hours of investigation experience approved by the division in collaboration with the board; or

(iii) have completed a combination of university or college education and investigation experience, as defined by rule by the division in collaboration with the board as being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

(g) have successfully completed a training program in detection deception meeting criteria established by rule by the division in collaboration with the board; and

(h) provide the division with an intern supervision agreement in a form prescribed by the division under which:

(i) a licensed deception detection examiner agrees to supervise the intern; and

(ii) the applicant agrees to be supervised by that licensed deception detection examiner.

(3) To determine if an applicant meets the qualifications of Subsection (1)(c) or (2)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.

(4) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of

a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.

(5) (a) The division shall charge each applicant a fee, in accordance with Section ~~[63J-1-303]~~ 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.

(6) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.

Section 182. Section **58-67-302** is amended to read:

**58-67-302. Qualifications for licensure.**

(1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:

(a) submit an application in a form prescribed by the division, which may include:

(i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant; and

(ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant;

(b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

(c) be of good moral character;

(d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by having received an earned degree of doctor of medicine from:

(i) an LCME accredited medical school or college; or

(ii) a medical school or college located outside of the United States or its jurisdictions which at the time of the applicant's graduation, met criteria for LCME accreditation;

(e) hold a current certification by the Educational Commission for Foreign Medical

7654 Graduates or any successor organization approved by the division in collaboration with the  
7655 board, if the applicant graduated from a medical school or college located outside of the United  
7656 States or its jurisdictions;

7657 (f) satisfy the division and board that the applicant:

7658 (i) has successfully completed 24 months of progressive resident training in a program  
7659 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of  
7660 Family Physicians of Canada, or any similar body in the United States or Canada approved by  
7661 the division in collaboration with the board; or

7662 (ii) (A) has successfully completed 12 months of resident training in an ACGME  
7663 approved program after receiving a degree of doctor of medicine as required under Subsection  
7664 (1)(d);

7665 (B) has been accepted in and is successfully participating in progressive resident  
7666 training in an ACGME approved program within Utah, in the applicant's second or third year  
7667 of postgraduate training; and

7668 (C) has agreed to surrender to the division the applicant's license as a physician and  
7669 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,  
7670 and has agreed the applicant's license as a physician and surgeon will be automatically revoked  
7671 by the division if the applicant fails to continue in good standing in an ACGME approved  
7672 progressive resident training program within the state;

7673 (g) pass the licensing examination sequence required by division rule made in  
7674 collaboration with the board;

7675 (h) be able to read, write, speak, understand, and be understood in the English language  
7676 and demonstrate proficiency to the satisfaction of the board if requested by the board;

7677 (i) meet with the board and representatives of the division, if requested, for the purpose  
7678 of evaluating the applicant's qualifications for licensure;

7679 (j) designate:

7680 (i) a contact person for access to medical records in accordance with the federal Health  
7681 Insurance Portability and Accountability Act; and

7682 (ii) an alternate contact person for access to medical records, in the event the original  
7683 contact person is unable or unwilling to serve as the contact person for access to medical  
7684 records; and

7685 (k) establish a method for notifying patients of the identity and location of the contact  
7686 person and alternate contact person, if the applicant will practice in a location with no other  
7687 persons licensed under this chapter.

7688 (2) An applicant for licensure as a physician and surgeon by endorsement shall:

7689 (a) be currently licensed with a full unrestricted license in good standing in any state,  
7690 district, or territory of the United States;

7691 (b) have been actively engaged in the legal practice of medicine in any state, district, or  
7692 territory of the United States for not less than 6,000 hours during the five years immediately  
7693 preceding the date of application for licensure in Utah;

7694 (c) not have any action pending against the applicant's license;

7695 (d) not have a license that was suspended or revoked in any state, unless the license  
7696 was subsequently reinstated as a full unrestricted license in good standing; and

7697 (e) produce satisfactory evidence of the applicant's qualifications, identity, and good  
7698 standing to the satisfaction of the division in collaboration with the board.

7699 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
7700 under a temporary license while the applicant's application for licensure is being processed by  
7701 the division, provided:

7702 (a) the applicant submits a complete application required for temporary licensure to the  
7703 division;

7704 (b) the applicant submits a written document to the division from:

7705 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
7706 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the  
7707 health care facility; or

7708 (ii) two individuals licensed under this chapter, whose license is in good standing and  
7709 who practice in the same clinical location, both stating that:

7710 (A) the applicant is practicing under the invitation of the individual; and

7711 (B) the applicant will practice at the same clinical location as the individual;

7712 (c) the applicant submits a signed certification to the division that the applicant meets  
7713 the requirements of Subsection (2);

7714 (d) the applicant does not engage in the practice of medicine until the division has  
7715 issued a temporary license;

7716 (e) the temporary license is only issued for and may not be extended beyond the  
7717 duration of one year from issuance; and

7718 (f) the temporary license expires immediately and prior to the expiration of one year  
7719 from issuance, upon notification from the division that the applicant's application for licensure  
7720 by endorsement is denied.

7721 (4) The division shall issue a temporary license under Subsection (3) within 15  
7722 business days after the applicant satisfies the requirements of Subsection (3).

7723 Section 183. Section **58-68-302** is amended to read:

7724 **58-68-302. Qualifications for licensure.**

7725 (1) An applicant for licensure as an osteopathic physician and surgeon, except as set  
7726 forth in Subsection (2) or (3), shall:

7727 (a) submit an application in a form prescribed by the division, which may include:

7728 (i) submissions by the applicant of information maintained by practitioner data banks,  
7729 as designated by division rule, with respect to the applicant; and

7730 (ii) a record of professional liability claims made against the applicant and settlements  
7731 paid by or on behalf of the applicant;

7732 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7733 (c) be of good moral character;

7734 (d) provide satisfactory documentation of having successfully completed a program of  
7735 professional education preparing an individual as an osteopathic physician and surgeon, as  
7736 evidenced by having received an earned degree of doctor of osteopathic medicine from:

7737 (i) an AOA approved medical school or college; or

7738 (ii) an osteopathic medical school or college located outside of the United States or its  
7739 jurisdictions which at the time of the applicant's graduation, met criteria for accreditation by the  
7740 AOA;

7741 (e) hold a current certification by the Educational Commission for Foreign Medical  
7742 Graduates or any successor organization approved by the division in collaboration with the  
7743 board, if the applicant graduated from a medical school or college located outside of the United  
7744 States or its jurisdictions;

7745 (f) satisfy the division and board that the applicant:

7746 (i) has successfully completed 24 months of progressive resident training in an

7747 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine  
7748 required under Subsection (1)(d); or

7749 (ii) (A) has successfully completed 12 months of resident training in an ACGME or  
7750 AOA approved program after receiving a degree of doctor of osteopathic medicine as required  
7751 under Subsection (1)(d);

7752 (B) has been accepted in and is successfully participating in progressive resident  
7753 training in an ACGME or AOA approved program within Utah, in the applicant's second or  
7754 third year of postgraduate training; and

7755 (C) has agreed to surrender to the division the applicant's license as an osteopathic  
7756 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative  
7757 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon  
7758 will be automatically revoked by the division if the applicant fails to continue in good standing  
7759 in an ACGME or AOA approved progressive resident training program within the state;

7760 (g) pass the licensing examination sequence required by division rule, as made in  
7761 collaboration with the board;

7762 (h) be able to read, write, speak, understand, and be understood in the English language  
7763 and demonstrate proficiency to the satisfaction of the board, if requested by the board;

7764 (i) meet with the board and representatives of the division, if requested for the purpose  
7765 of evaluating the applicant's qualifications for licensure;

7766 (j) designate:

7767 (i) a contact person for access to medical records in accordance with the federal Health  
7768 Insurance Portability and Accountability Act; and

7769 (ii) an alternate contact person for access to medical records, in the event the original  
7770 contact person is unable or unwilling to serve as the contact person; and

7771 (k) establish a method for notifying patients of the identity and location of the contact  
7772 person and alternate contact person, if the applicant will practice in a location with no other  
7773 persons licensed under this chapter.

7774 (2) An applicant for licensure as an osteopathic physician and surgeon qualifying under  
7775 the endorsement provision of Section 58-1-302 shall:

7776 (a) be currently licensed in good standing in another jurisdiction as set forth in Section  
7777 58-1-302;

(b) (i) document having met all requirements for licensure under Subsection (1) except, if an applicant received licensure in another state or jurisdiction based upon only 12 months residency training after graduation from medical school, the applicant may qualify for licensure in Utah by endorsement only if licensed in the other state prior to July 1, 1996; or

(ii) document having obtained licensure in another state or jurisdiction whose licensure requirements were at the time of obtaining licensure equal to licensure requirements at that time in Utah;

(c) have passed the SPEX examination within 12 months preceding the date of application for licensure in Utah if the date on which the applicant passed qualifying examinations for licensure is greater than five years prior to the date of the application for licensure in Utah, or meet medical specialty certification requirements which may be established by division rule made in collaboration with the board;

(d) have been actively engaged in the practice as an osteopathic physician and surgeon for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;

(e) meet with the board and representatives of the division, if requested for the purpose of evaluating the applicant's qualifications for licensure; and

(f) not have a license that was suspended or revoked in any state, unless the license was subsequently reinstated as a full unrestricted license in good standing.

(3) An applicant for licensure as an osteopathic physician and surgeon, who has been licensed as an osteopathic physician in Utah, who has allowed the applicant's license in Utah to expire for nonpayment of license fees, and who is currently licensed in good standing in another state or jurisdiction of the United States shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

(c) be of good moral character;

(d) have passed the SPEX examination within 12 months preceding the date of application for licensure in Utah if the date on which the applicant passed qualifying examinations for licensure is greater than five years prior to the date of the application for licensure in Utah;

(e) have been actively engaged in the practice as an osteopathic physician for not fewer

7809 than 6,000 hours during the five years immediately preceding the date of application for  
7810 licensure; and

7811 (f) meet with the board and representatives of the division, if requested for the purpose  
7812 of evaluating the applicant's qualifications for licensure.

7813 (4) An applicant for licensure by endorsement may engage in the practice of medicine  
7814 under a temporary license while the applicant's application for licensure is being processed by  
7815 the division, provided:

7816 (a) the applicant submits a complete application required for temporary licensure to the  
7817 division;

7818 (b) the applicant submits a written document to the division from:

7819 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
7820 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the  
7821 health care facility; or

7822 (ii) two individuals licensed under this chapter, whose license is in good standing and  
7823 who practice in the same clinical location, both stating that:

7824 (A) the applicant is practicing under the invitation of the individual; and

7825 (B) the applicant will practice at the same clinical location as the individual;

7826 (c) the applicant submits a signed certification to the division that the applicant meets  
7827 the requirements of Subsection (2);

7828 (d) the applicant does not engage in the practice of medicine until the division has  
7829 issued a temporary license;

7830 (e) the temporary license is only issued for and may not be extended beyond the  
7831 duration of one year from issuance; and

7832 (f) the temporary license expires immediately and prior to the expiration of one year  
7833 from issuance, upon notification from the division that the applicant's application for licensure  
7834 by endorsement is denied.

7835 (5) The division shall issue a temporary license under Subsection (4) within 15  
7836 business days after the applicant satisfies the requirements of Subsection (4).

7837 Section 184. Section **58-69-302** is amended to read:

7838 **58-69-302. Qualifications for licensure.**

7839 (1) An applicant for licensure as a dentist, except as set forth in Subsection (2), shall:

- 7840 (a) submit an application in a form as prescribed by the division;
- 7841 (b) pay a fee as determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;
- 7842 (c) be of good moral character;
- 7843 (d) provide satisfactory documentation of having successfully completed a program of
- 7844 professional education preparing an individual as a dentist as evidenced by having received an
- 7845 earned doctor's degree in dentistry from a dental school accredited by the Commission on
- 7846 Dental Accreditation of the American Dental Association;
- 7847 (e) pass the National Board Dental Examinations as administered by the Joint
- 7848 Commission on National Dental Examinations of the American Dental Association;
- 7849 (f) pass any one of the regional dental clinical licensure examinations unless the
- 7850 division, in collaboration with the board, determines that:
- 7851 (i) the examination is clearly inferior to the Western Regional Examination Board; and
- 7852 (ii) reliance upon the examination poses an unjustifiable threat to public health and
- 7853 safety;
- 7854 (g) pass any other examinations regarding applicable law, rules, or ethics as established
- 7855 by division rule made in collaboration with the board;
- 7856 (h) be able to read, write, speak, understand, and be understood in the English language
- 7857 and demonstrate proficiency to the satisfaction of the board if requested by the board; and
- 7858 (i) meet with the board if requested by the board or division for the purpose of
- 7859 examining the applicant's qualifications for licensure.
- 7860 (2) An applicant for licensure as a dentist qualifying under the endorsement provision
- 7861 of Section 58-1-302 shall:
- 7862 (a) be currently licensed in good standing in another jurisdiction set forth in Section
- 7863 58-1-302;
- 7864 (b) (i) document having met all requirements for licensure under Subsection (1) except,
- 7865 an applicant having received licensure in another state or jurisdiction prior to the year when the
- 7866 National Board Dental Examinations were first administered, shall document having passed a
- 7867 state administered examination acceptable to the division in collaboration with the board; or
- 7868 (ii) document having obtained licensure in another state or jurisdiction upon which
- 7869 licensure by endorsement is based by meeting requirements which were equal to licensure
- 7870 requirements in Utah at the time the applicant obtained licensure in the other state or

7871 jurisdiction; and

7872 (c) document having been successfully engaged in practice as a dentist for not less than  
7873 6,000 hours in the five years immediately preceding the date of application for licensure.

7874 (3) An applicant for licensure as a dental hygienist, except as set forth in Subsection

7875 (4), shall:

7876 (a) submit an application in a form as prescribed by the division;

7877 (b) pay a fee as determined by the department pursuant to Section [~~63J-1-303~~]

7878 63J-1-504;

7879 (c) be of good moral character;

7880 (d) be a graduate holding a certificate or degree in dental hygiene from a school  
7881 accredited by the Commission on Dental Accreditation of the American Dental Association;

7882 (e) pass the National Board Dental Hygiene Examination as administered by the Joint  
7883 Commission on National Dental Examinations of the American Dental Association;

7884 (f) pass an examination consisting of practical demonstrations in the practice of dental  
7885 hygiene and written or oral examination in the theory and practice of dental hygiene as  
7886 established by division rule made in collaboration with the board;

7887 (g) pass any other examinations regarding applicable law, rules, and ethics as  
7888 established by rule by division rule made in collaboration with the board;

7889 (h) be able to read, write, speak, understand, and be understood in the English language  
7890 and demonstrate proficiency to the satisfaction of the board if requested by the board; and

7891 (i) meet with the board if requested by the board or division for the purpose of  
7892 examining the applicant's qualifications for licensure.

7893 (4) An applicant for licensure as a dental hygienist qualifying under the endorsement  
7894 provision of Section 58-1-302 shall:

7895 (a) be currently licensed in another jurisdiction set forth in Section 58-1-302;

7896 (b) (i) document having met all requirements for licensure under Subsection (3) except,  
7897 an applicant having received licensure in another state or jurisdiction prior to 1962, the year  
7898 when the National Board Dental Hygiene Examinations were first administered, shall  
7899 document having passed a state administered examination acceptable to the division in  
7900 collaboration with the board; or

7901 (ii) document having obtained licensure in another state or jurisdiction upon which

7902 licensure by endorsement is based by meeting requirements which were equal to licensure  
7903 requirements in Utah at the time the applicant obtained licensure in the other state or  
7904 jurisdiction; and

7905 (c) document having been successfully engaged in practice as a dental hygienist for not  
7906 less than 2,000 hours in the two years immediately preceding the date of application for  
7907 licensure.

7908 Section 185. Section **58-70a-302** is amended to read:

7909 **58-70a-302. Qualifications for licensure.**

7910 Each applicant for licensure as a physician assistant shall:

- 7911 (1) submit an application in a form prescribed by the division;  
7912 (2) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
7913 (3) be of good moral character;  
7914 (4) have successfully completed a physician assistant program accredited by the  
7915 Commission on Accreditation of Allied Health Education Programs;

7916 (5) have passed the licensing examinations required by division rule made in  
7917 collaboration with the board;

7918 (6) meet with the board and representatives of the division, if requested, for the  
7919 purpose of evaluating the applicant's qualifications for licensure; and

7920 (7) (a) if the applicant desires to practice in Utah, complete a form provided by the  
7921 division indicating:

7922 (i) the applicant has completed a delegation of services agreement signed by the  
7923 physician assistant, supervising physician, and substitute supervising physicians; and

7924 (ii) the agreement is on file at the Utah practice sites; or

7925 (b) complete a form provided by the division indicating the applicant is not practicing  
7926 in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection  
7927 (7)(a).

7928 Section 186. Section **58-71-302** is amended to read:

7929 **58-71-302. Qualifications for licensure.**

7930 (1) An applicant for licensure as a naturopathic physician, except as set forth in  
7931 Subsection (2), shall:

7932 (a) submit an application in a form prescribed by the division, which may include:

7933 (i) submissions by the applicant of information maintained by practitioner data banks,  
7934 as designated by division rule, with respect to the applicant; and

7935 (ii) a record of professional liability claims made against the applicant and settlements  
7936 paid by or in behalf of the applicant;

7937 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7938 (c) be of good moral character;

7939 (d) provide satisfactory documentation of having successfully completed a program of  
7940 professional education preparing an individual as a naturopathic physician, as evidenced by  
7941 having received an earned degree of doctor of naturopathic medicine from:

7942 (i) a naturopathic medical school or college accredited by the Council of Naturopathic  
7943 Medical Education or its successor organization approved by the division;

7944 (ii) a naturopathic medical school or college that is a candidate for accreditation by the  
7945 Council of Naturopathic Medical Education or its successor organization, and is approved by  
7946 the division in collaboration with the board, upon a finding there is reasonable expectation the  
7947 school or college will be accredited; or

7948 (iii) a naturopathic medical school or college which, at the time of the applicant's  
7949 graduation, met current criteria for accreditation by the Council of Naturopathic Medical  
7950 Education or its successor organization approved by the division;

7951 (e) provide satisfactory documentation of having successfully completed, after  
7952 successful completion of the education requirements set forth in Subsection (1)(d), 12 months  
7953 of clinical experience in naturopathic medicine in a residency program recognized by the  
7954 division and associated with an accredited school or college of naturopathic medicine, and  
7955 under the preceptorship of a licensed naturopathic physician, physician and surgeon, or  
7956 osteopathic physician;

7957 (f) pass the licensing examination sequence required by division rule established in  
7958 collaboration with the board;

7959 (g) be able to read, write, speak, understand, and be understood in the English language  
7960 and demonstrate proficiency to the satisfaction of the board if requested by the board; and

7961 (h) meet with the board and representatives of the division, if requested, for the  
7962 purpose of evaluating the applicant's qualifications for licensure.

7963 (2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a naturopathic

7964 physician under the endorsement provision of Section 58-1-302 shall:

7965 (i) meet the requirements of Section 58-1-302;

7966 (ii) document having met all requirements for licensure under Subsection (1) except  
7967 the clinical experience requirement of Subsection (1)(e);

7968 (iii) have passed the examination requirements established under Subsection (1)(f)  
7969 which:

7970 (A) the applicant has not passed in connection with licensure in another state or  
7971 jurisdiction; and

7972 (B) are available to the applicant to take without requiring additional professional  
7973 education;

7974 (iv) have been actively engaged in the practice of a naturopathic physician for not less  
7975 than 6,000 hours during the five years immediately preceding the date of application for  
7976 licensure in Utah; and

7977 (v) meet with the board and representatives of the division for the purpose of  
7978 evaluating the applicant's qualifications for licensure.

7979 (b) The division may rely, either wholly or in part, on one or more credentialing  
7980 associations designated by division rule, made in collaboration with the board, to document  
7981 and certify in writing to the satisfaction of the division that an applicant has met each of the  
7982 requirements of this Subsection (2), including the requirements of Section 58-1-302 that:

7983 (i) the applicant holds a current license;

7984 (ii) the education, experience, and examination requirements of the foreign country or  
7985 the state, district, or territory of the United States that issued the applicant's license are, or were  
7986 at the time the license was issued, equal to those of this state for licensure as a naturopathic  
7987 physician; and

7988 (iii) the applicant has produced evidence satisfactory to the division of the applicant's  
7989 qualifications, identity, and good standing as a naturopathic physician.

7990 Section 187. Section **58-72-302** is amended to read:

7991 **58-72-302. Qualification for licensure.**

7992 Notwithstanding Section 58-1-302, an applicant for licensure as a licensed  
7993 acupuncturist shall:

7994 (1) submit an application in a form prescribed by the division;

7995 (2) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
7996 (3) be of good moral character;  
7997 (4) meet the requirements for current active certification in acupuncture under  
7998 guidelines established by the National Commission for the Certification of Acupuncture and  
7999 Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other  
8000 appropriate documentation;

8001 (5) pass the examination required by the division by rule;

8002 (6) establish procedures, as defined by rule, which shall enable patients to give  
8003 informed consent to treatment; and

8004 (7) meet with the board, if requested, for the purpose of evaluating the applicant's  
8005 qualifications for licensure.

8006 Section 188. Section **58-73-302** is amended to read:

8007 **58-73-302. Qualifications for licensure.**

8008 (1) Each applicant for licensure as a chiropractic physician, other than those applying  
8009 for a license based on licensure as a chiropractor or chiropractic physician in another  
8010 jurisdiction, shall:

8011 (a) submit an application in a form prescribed by the division;

8012 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

8013 (c) be of good moral character;

8014 (d) demonstrate satisfactory completion of at least two years of general study in a  
8015 college or university;

8016 (e) demonstrate having earned a degree of doctor of chiropractic from a chiropractic  
8017 college or university that at the time the degree was conferred was accredited by the Council on  
8018 Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the  
8019 United States Department of Education and by the division rule made in collaboration with the  
8020 board;

8021 (f) demonstrate successful completion of:

8022 (i) the National Chiropractic Boards:

8023 (A) Parts I and II;

8024 (B) Written Clinical Competency Examination; and

8025 (C) Physical Therapy;

8026 (ii) the Utah Chiropractic Law and Rules Examination; and  
8027 (iii) a practical examination approved by the division in collaboration with the board;  
8028 and

8029 (g) meet with the board, if requested, for the purpose of reviewing the applicant's  
8030 qualifications for licensure.

8031 (2) Each applicant for licensure as a chiropractic physician based on licensure as a  
8032 chiropractor or chiropractic physician in another jurisdiction shall:

8033 (a) submit an application in the form prescribed by the division;

8034 (b) pay a fee determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;

8035 (c) be of good moral character;

8036 (d) demonstrate having obtained licensure as a chiropractor or chiropractic physician in  
8037 another state under education requirements which were equivalent to the education  
8038 requirements in this state to obtain a chiropractor or chiropractic physician license at the time  
8039 the applicant obtained the license in the other state;

8040 (e) demonstrate successful completion of:

8041 (i) the Utah Chiropractic Law and Rules Examination; and

8042 (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board  
8043 of Chiropractic Examiners;

8044 (f) have been actively engaged in the practice of chiropractic for not less than two years  
8045 immediately preceding application for licensure in this state; and

8046 (g) meet with the board, if requested, for the purpose of reviewing the applicant's  
8047 qualifications for licensure.

8048 Section 189. Section **58-74-302** is amended to read:

8049 **58-74-302. Qualifications for licensure.**

8050 (1) Each applicant for licensure as a certified court reporter under this chapter shall:

8051 (a) be at least 18 years of age;

8052 (b) be a citizen of the United States;

8053 (c) submit an application in a form prescribed by the division;

8054 (d) pay a fee determined by the department under ~~[Subsection 63J-1-301(2)]~~ Section  
8055 63J-1-504;

8056 (e) possess a high degree of skill and ability in the art of court reporting;

8057 (f) produce satisfactory evidence of good moral character; and  
8058 (g) submit evidence that they have completed and passed the Registered Professional  
8059 Reporter Examination of the National Court Reporters Association or the Certified Verbatim  
8060 Reporter Examination of the National Verbatim Reporters Association.

8061 (2) Any person granted a certificate to practice as a certified shorthand reporter may  
8062 use the abbreviation "C.S.R." as long as the person's certificate is current and valid.

8063 (3) Any person granted a certificate to practice as a certified voice reporter may use the  
8064 abbreviation "C.V.R." as long as the person's certificate is current and valid.

8065 Section 190. Section **58-75-302** is amended to read:

8066 **58-75-302. Qualifications for licensure -- Temporary license.**

8067 (1) Except as provided in Subsection (2), each applicant for licensure as a genetic  
8068 counselor under this chapter shall:

8069 (a) submit an application in a form prescribed by the division;

8070 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

8071 (c) be of good moral character;

8072 (d) provide satisfactory documentation of having earned:

8073 (i) a master's degree from a genetic counseling training program that is accredited by  
8074 the American Board of Genetic Counseling or an equivalent as determined by the division; or

8075 (ii) a doctoral degree from a medical genetics training program that is accredited by the  
8076 American Board of Medical Genetics or an equivalent as determined by the division; and

8077 (e) meet the examination requirement for certification as:

8078 (i) a genetic counselor by the American Board of Genetic Counseling or the American  
8079 Board of Medical Genetics; or

8080 (ii) a medical geneticist by the American Board of Medical Genetics.

8081 (2) The division may issue a temporary license, in accordance with Section 58-1-303  
8082 and any other conditions established by rule, to an applicant who meets all of the requirements  
8083 for licensure except the examination requirement of Subsection (1)(e).

8084 Section 191. Section **58-76-103** is amended to read:

8085 **58-76-103. Education and enforcement fund.**

8086 (1) There is created within the General Fund a restricted account known as the  
8087 "Professional Geologist Education and Enforcement Fund."

- 8088 (2) The account shall be nonlapsing and consist of monies from:
- 8089 (a) a surcharge fee established by the department in accordance with Section
- 8090 ~~[63J-1-303]~~ 63J-1-504, placed on initial, renewal, and reinstatement licensure fees under this
- 8091 chapter not to exceed 50% of the respective initial, renewal, or reinstatement licensure fee;
- 8092 (b) administrative penalties collected pursuant to this chapter; and
- 8093 (c) interest earned on monies in the account.
- 8094 (3) Monies in the account may be appropriated by the Legislature for the following
- 8095 purposes:
- 8096 (a) education and training of licensees under this chapter;
- 8097 (b) education and training of the public or other interested persons in matters
- 8098 concerning geology laws and practices;
- 8099 (c) enforcement of this chapter by:
- 8100 (i) investigating unprofessional or unlawful conduct;
- 8101 (ii) providing legal representation to the division when legal action is taken against a
- 8102 person engaging in unprofessional or unlawful conduct; and
- 8103 (iii) monitoring compliance of renewal requirements; and
- 8104 (d) education and training of board members.
- 8105 Section 192. Section **58-76-302** is amended to read:
- 8106 **58-76-302. Qualifications for licensure.**
- 8107 Each applicant for licensure as a professional geologist shall:
- 8108 (1) submit an application in a form as prescribed by the division;
- 8109 (2) pay a fee as determined by the department under Section ~~[63J-1-303]~~ 63J-1-504;
- 8110 (3) be of good moral character;
- 8111 (4) provide satisfactory evidence of:
- 8112 (a) a bachelors or graduate degree in the geosciences granted through an institution of
- 8113 higher education that is accredited by a regional or national accrediting agency with a minimum
- 8114 of 30 semester or 45 quarter hours of course work in the geosciences; or
- 8115 (b) completion of other equivalent educational requirements as determined by the
- 8116 division in collaboration with the board;
- 8117 (5) provide satisfactory evidence of:
- 8118 (a) with a bachelors degree, a specific record of five years of active professional

8119 practice in geological work of a character satisfactory to the division, indicating the applicant is  
8120 competent to be placed in a responsible charge of the work;

8121 (b) with a masters degree, a specific record of three years of active professional  
8122 practice in geological work of a character satisfactory to the division, indicating the applicant is  
8123 competent to be placed in a responsible charge of the work; or

8124 (c) with a doctorate degree, a specific record of one year of active professional practice  
8125 in geological work of a character satisfactory to the division, indicating the applicant is  
8126 competent to be placed in a responsible charge of the work; and

8127 (6) after January 1, 2004, meet the examination requirement established by rule by the  
8128 division in collaboration with the board.

8129 Section 193. Section **58-77-302** is amended to read:

8130 **58-77-302. Qualifications for licensure.**

8131 Each applicant for licensure as a licensed Direct-entry midwife shall:

8132 (1) submit an application in a form prescribed by the division;

8133 (2) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

8134 (3) be of good moral character;

8135 (4) hold a Certified Professional Midwife certificate in good standing with the North  
8136 American Registry of Midwives or equivalent certification approved by the division in  
8137 collaboration with the board;

8138 (5) hold current adult and infant CPR and newborn resuscitation certifications through  
8139 an organization approved by the division in collaboration with the board; and

8140 (6) provide documentation of successful completion of an approved pharmacology  
8141 course as defined by division rule.

8142 Section 194. Section **59-1-305** is amended to read:

8143 **59-1-305. Convenience fee to cover the costs of electronic payments.**

8144 (1) As used in this section:

8145 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

8146 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

8147 (2) The commission may collect a convenience electronic payment fee established in  
8148 accordance with the procedures and requirements of Section [~~63J-1-303~~] 63J-1-504 to cover  
8149 the costs of electronic payments of taxes and fees administered by the commission.

(3) Notwithstanding any other provisions of this title, the commission shall use a fee imposed under this section as a dedicated credit to cover the costs of electronic payments.

Section 195. Section **59-19-105** is amended to read:

**59-19-105. Stamps to be affixed to marihuana and controlled substance -- Anonymity provided when purchasing stamps -- Collection and distribution of tax -- Property in kind.**

(1) When a dealer purchases, acquires, transports, or imports into this state marihuana or controlled substances, the dealer shall permanently affix the official indicia on the marihuana or controlled substances evidencing the payment of the tax required under this chapter. A stamp or other official indicia may not be used more than once.

(2) Taxes imposed upon marihuana or controlled substances by this chapter are due and payable immediately upon acquisition or possession in this state by a dealer.

(3) Payments required by this chapter shall be made to the commission on forms provided by the commission.

(4) (a) A dealer is not required to give the dealer's name, address, Social Security number, or other identifying information on the form.

(b) The commission or its employees may not reveal any facts contained in any report, form, or return required by this chapter or any information obtained from a dealer.

(c) None of the information contained in a report, form, or return or otherwise obtained from a dealer in connection with this section may be used against the dealer in any criminal proceeding unless it is independently obtained, except in connection with a proceeding involving taxes due under this chapter from the dealer making the return. This Subsection (4)(c) supersedes any provision to the contrary.

(d) A person who discloses information in violation of this Subsection (4) is guilty of a class A misdemeanor.

(5) This section does not prohibit the commission from publishing statistics that do not disclose the identity of a dealer or the actual contents of any reports, forms, or returns.

(6) (a) The commission shall collect all taxes imposed under this chapter. Amounts collected under this chapter, whether characterized as taxes, interest, or penalties, shall be deposited in the Drug Stamp Tax Fund as a dedicated credit and shall be applied and distributed under Section ~~[63J-1-404]~~ 63J-1-104 of the Budgetary Procedures Act as follows:

8181 (i) [~~forty percent~~] 40% to the commission for administrative costs of recovery; and  
8182 (ii) [~~sixty percent~~] 60% to the law enforcement agency conducting the controlled  
8183 substance investigation, to be used and applied by the agency in the continued enforcement of  
8184 controlled substance laws.

8185 (b) If there is more than one participating law enforcement agency, the 60% under  
8186 Subsection (6)(a)(ii) shall be divided equitably and distributed among the agencies by the  
8187 administrative law judge conducting the hearing to determine taxpayer liability. The  
8188 distribution shall be based upon the extent of agency participation as appears from evidence  
8189 submitted by each agency relative to actual time and expense incurred in the investigation.

8190 (c) If no law enforcement agency is involved in the collection of a specific amount  
8191 under this chapter, the entire amount collected shall be applied under Subsection (6)(a)(i) to  
8192 administrative costs of recovery.

8193 (7) (a) If property in kind obtained from the taxpayer is of use or benefit to the  
8194 commission in the enforcement of this chapter or is of use or benefit to the participating law  
8195 enforcement agency in the continued enforcement of controlled substance laws, either the  
8196 commission or the law enforcement agency may apply to the administrative law judge for the  
8197 award of the property. If the administrative law judge finds the property is of use or benefit  
8198 either to the commission or the law enforcement agency, the property shall be awarded  
8199 accordingly.

8200 (b) Before an award under this subsection is ordered, the property shall be appraised by  
8201 a court-appointed appraiser and the appraised value shall be credited to the taxpayer. If the  
8202 taxpayer objects to the results of the court-appointed appraisal, the taxpayer may obtain the  
8203 taxpayer's own appraisal at the taxpayer's own expense within ten days of the court-appointed  
8204 appraisal. The decision of the administrative law judge as to value is controlling.

8205 (c) The value of any property in kind awarded to the commission or to the participating  
8206 law enforcement agency shall be counted as a portion of its percentage share under Subsection  
8207 (6).

8208 (8) Property of the taxpayer otherwise subject to forfeiture under Section 58-37-13 is  
8209 not affected by this chapter if there is compliance with Section 58-37-13 regarding the  
8210 forfeiture and the proceeds and property seized and forfeited are accordingly divided and  
8211 distributed.

8212 Section 196. Section **61-1-18.4** is amended to read:

8213 **61-1-18.4. Fees collected by division.**

8214 The Division of Securities shall establish, charge, and collect fees pursuant to Section  
8215 ~~[63J-1-303]~~ 63J-1-504, except when it can be demonstrated that the fee amount should be  
8216 based on factors other than cost, for the following:

8217 (1) the fair and reasonable cost of any examination, audit, or investigation authorized  
8218 or required by this chapter or other state law;

8219 (2) certificate of serving and mailing process served upon the division in any action or  
8220 proceeding commenced or prosecuted in this state against any person who has appointed the  
8221 division its agent as provided in Subsection 61-1-26(7); and

8222 (3) copies and authentication of all papers, publications, data, and other records  
8223 available to the public or issued under the division's authority.

8224 Section 197. Section **61-2-7.1** is amended to read:

8225 **61-2-7.1. Change of information -- Failure to notify -- Notification to an**  
8226 **applicant, licensee, or certificate holder.**

8227 (1) An applicant, licensee, or certificate holder shall send the division a signed  
8228 statement in the form required by the division notifying the division within ten business days of  
8229 any change of:

8230 (a) principal broker;

8231 (b) principal business location;

8232 (c) mailing address;

8233 (d) home street address;

8234 (e) an individual's name; or

8235 (f) business name.

8236 (2) The division may charge a fee established in accordance with Section ~~[63J-1-303]~~  
8237 63J-1-504 for processing any notification of change submitted by an applicant, licensee, or  
8238 certificate holder.

8239 (3) (a) When providing the division a business location or home street address, a  
8240 physical location or street address must be provided.

8241 (b) When providing a mailing address, an applicant, licensee, or certificate holder may  
8242 provide a post office box or other mail drop location.

(4) Failure to notify the division of a change described in Subsection (1) is separate grounds for disciplinary action against the applicant, licensee, or certificate holder.

(5) An applicant, licensee, or certificate holder is considered to have received any notification that has been sent to the last address furnished to the division by the applicant, licensee, or certificate holder.

Section 198. Section **61-2-9** is amended to read:

**61-2-9. Examination and license fees -- Criminal background check -- Renewal of licenses -- Education requirements -- Activation of inactive licenses -- Recertification -- Licenses of firm, partnership, or association -- Miscellaneous fees.**

(1) (a) Upon filing an application for a principal broker, associate broker, or sales agent license examination, the applicant shall pay a nonrefundable fee as determined by the commission with the concurrence of the division under Section [~~63J-1-303~~] 63J-1-504 for admission to the examination.

(b) A principal broker, associate broker, or sales agent applicant shall pay a nonrefundable fee as determined by the commission with the concurrence of the division under Section [~~63J-1-303~~] 63J-1-504 for issuance of an initial license or license renewal.

(c) Each license issued under this Subsection (1) shall be issued for a period of not less than two years as determined by the division with the concurrence of the commission.

(d) (i) Any of the following applicants shall comply with this Subsection (1)(d):

(A) a new sales agent applicant; or

(B) an out-of-state broker applicant.

(ii) An applicant described in this Subsection (1)(d) shall:

(A) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(B) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(iii) The division shall request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check for each applicant described in this Subsection (1)(d) through the national criminal history system or any successor system.

(iv) The cost of the criminal background check and the fingerprinting shall be borne by the applicant.

8274 (v) Funds paid to the division by an applicant for the cost of the criminal background  
8275 check shall be nonlapsing.

8276 (e) (i) Any license issued under Subsection (1)(d) shall be conditional, pending  
8277 completion of the criminal background check. If the criminal background check discloses the  
8278 applicant has failed to accurately disclose a criminal history, the license shall be immediately  
8279 and automatically revoked.

8280 (ii) Any person whose conditional license has been revoked under Subsection (1)(e)(i)  
8281 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be  
8282 conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

8283 (iii) The division director shall designate one of the following to act as the presiding  
8284 officer in a postrevocation hearing described in this Subsection (1)(e):

8285 (A) the division; or

8286 (B) the division with the concurrence of the commission.

8287 (iv) The decision on whether relief from the revocation of a license under this  
8288 Subsection (1)(e) will be granted shall be made by the presiding officer.

8289 (v) Relief from a revocation under this Subsection (1)(e) may be granted only if:

8290 (A) the criminal history upon which the division based the revocation:

8291 (I) did not occur; or

8292 (II) is the criminal history of another person;

8293 (B) (I) the revocation is based on a failure to accurately disclose a criminal history; and

8294 (II) the applicant had a reasonable good faith belief at the time of application that there  
8295 was no criminal history to be disclosed; or

8296 (C) the division failed to follow the prescribed procedure for the revocation.

8297 (vi) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a  
8298 post-revocation hearing, the person may not apply for a new license until at least 12 months  
8299 after the day on which the license is revoked.

8300 (2) (a) (i) A license expires if it is not renewed on or before its expiration date.

8301 (ii) As a condition of renewal, each active licensee shall demonstrate competence:

8302 (A) by viewing an approved real estate education video program and completing a  
8303 supplementary workbook; or

8304 (B) by completing 12 hours of professional education approved by the division and

8305 commission within each two-year renewal period.

8306 (iii) The division with the concurrence of the commission shall certify education which  
8307 may include:

8308 (A) state conventions;

8309 (B) home study courses;

8310 (C) video courses; and

8311 (D) closed circuit television courses.

8312 (iv) The commission with concurrence of the division may exempt a licensee from the  
8313 education requirement of this Subsection (2)(a) for a period not to exceed four years:

8314 (A) upon a finding of reasonable cause, including military service; and

8315 (B) under conditions established by rule made in accordance with Title 63G, Chapter 3,  
8316 Utah Administrative Rulemaking Act.

8317 (b) For a period of 30 days after the expiration date of a license, the license may be  
8318 reinstated upon:

8319 (i) payment of a renewal fee and a late fee determined by the commission with the  
8320 concurrence of the division under Section [~~63J-1-303~~] 63J-1-504; and

8321 (ii) providing proof acceptable to the division and the commission of the licensee  
8322 having completed the hours of education or demonstrated competence as required under  
8323 Subsection (2)(a).

8324 (c) After the 30-day period described in Subsection (2)(b), and until six months after  
8325 the expiration date, the license may be reinstated by:

8326 (i) paying a renewal fee and a late fee determined by the commission with the  
8327 concurrence of the division under Section [~~63J-1-303~~] 63J-1-504;

8328 (ii) providing to the division proof of satisfactory completion of 12 hours of continuing  
8329 education:

8330 (A) in addition to the requirements for a timely renewal; and

8331 (B) on a subject determined by the commission by rule made in accordance with Title  
8332 63G, Chapter 3, Utah Administrative Rulemaking Act; and

8333 (iii) providing proof acceptable to the division and the commission of the licensee  
8334 having:

8335 (A) completed the hours of education; or

8336 (B) demonstrated competence as required under Subsection (2)(a).

8337 (d) A person who does not renew that person's license within six months after the  
8338 expiration date shall be relicensed as prescribed for an original application.

8339 (3) (a) As a condition for the activation of an inactive license that was in an inactive  
8340 status at the time of the licensee's most recent renewal, the licensee shall supply the division  
8341 with proof of:

8342 (i) successful completion of the respective sales agent or broker licensing examination  
8343 within six months prior to applying to activate the license; or

8344 (ii) the successful completion of 12 hours of continuing education that the licensee  
8345 would have been required to complete under Subsection (2)(a) if the license had been on active  
8346 status at the time of the licensee's most recent renewal.

8347 (b) The commission may, in accordance with Title 63G, Chapter 3, Utah  
8348 Administrative Rulemaking Act, establish by rule:

8349 (i) the nature or type of continuing education required for reactivation of a license; and

8350 (ii) how long prior to reactivation the continuing education must have been completed.

8351 (4) (a) A principal broker license may be granted to a corporation, partnership, or  
8352 association if the corporation, partnership, or association has affiliated with it an individual  
8353 who:

8354 (i) has qualified as a principal broker under the terms of this chapter; and

8355 (ii) serves in the capacity of a principal broker.

8356 (b) Application for the license described in Subsection (4)(a) shall be made in  
8357 accordance with the rules adopted by the division with the concurrence of the commission.

8358 (5) The division may charge and collect reasonable fees determined by the commission  
8359 with the concurrence of the division under Section [~~63J-1-303~~] 63J-1-504 to cover the costs  
8360 for:

8361 (a) issuance of a new or duplicate license;

8362 (b) license histories or certifications;

8363 (c) certified copies of official documents, orders, and other papers and transcripts;

8364 (d) certifying real estate schools, courses, and instructors, the fees for which shall,  
8365 notwithstanding Section 13-1-2, be deposited in the Real Estate Education, Research, and  
8366 Recovery Fund; and

8367 (e) other duties required by this chapter.

8368 (6) If a licensee submits or causes to be submitted a check, draft, or other negotiable  
8369 instrument to the division for payment of fees, and the check, draft, or other negotiable  
8370 instrument is dishonored, the transaction for which the payment was submitted is void and will  
8371 be reversed by the division if payment of the applicable fee is not received in full.

8372 (7) (a) The fees under this chapter and the additional license fee for the Real Estate  
8373 Education, Research, and Recovery Fund under Section 61-2a-4 are in lieu of all other license  
8374 fees or assessments that might otherwise be imposed or charged by the state or any of its  
8375 political subdivisions, upon, or as a condition of, the privilege of conducting the business  
8376 regulated by this chapter, except that a political subdivision within the state may charge a  
8377 business license fee on a principal broker if the principal broker maintains a place of business  
8378 within the jurisdiction of the political subdivision.

8379 (b) Unless otherwise exempt, each licensee under this chapter is subject to all taxes  
8380 imposed under Title 59, Revenue and Taxation.

8381 Section 199. Section **61-2b-6** is amended to read:

8382 **61-2b-6. Duties and powers of division.**

8383 (1) The division has the powers and duties listed in this Subsection (1).

8384 (a) The division shall:

8385 (i) receive an application for licensing, certification, or registration;

8386 (ii) establish appropriate administrative procedures for the processing of an application  
8387 for licensure, certification, or registration;

8388 (iii) issue a license or certification to a qualified applicant pursuant to this chapter; and

8389 (iv) register an individual who applies for registration as a trainee under this chapter.

8390 (b) (i) The division shall require an individual to register as a trainee with the division  
8391 before the individual acts in the capacity of a trainee earning experience for licensure.

8392 (ii) The board shall adopt rules in accordance with Title 63G, Chapter 3, Utah  
8393 Administrative Rulemaking Act, for the trainee registration required by this Subsection (1)(b).

8394 (c) The division shall hold public hearings under the direction of the board.

8395 (d) The division may:

8396 (i) solicit bids and enter into contracts with one or more educational testing services or  
8397 organizations for the preparation of a bank of questions and answers approved by the board for

8398 licensing and certification examinations; and

8399 (ii) administer or contract for the administration of licensing and certification  
8400 examinations as may be required to carry out the division's responsibilities under this chapter.

8401 (e) The division shall provide administrative assistance to the board by providing to the  
8402 board the facilities, equipment, supplies, and personnel that are required to enable the board to  
8403 carry out the board's responsibilities under this chapter.

8404 (f) The division shall assist the board in upgrading and improving the quality of the  
8405 education and examinations required under this chapter.

8406 (g) The division shall assist the board in improving the quality of the continuing  
8407 education available to a person licensed and certified under this chapter.

8408 (h) The division shall assist the board with respect to the proper interpretation or  
8409 explanation of the Uniform Standards of Professional Appraisal Practice as required by Section  
8410 61-2b-27 when an interpretation or explanation becomes necessary in the enforcement of this  
8411 chapter.

8412 (i) The division shall establish fees in accordance with Section [~~63J-1-303~~] 63J-1-504:

8413 (i) for processing:

8414 (A) a trainee registration;

8415 (B) an application for licensing and certification; and

8416 (C) approval of an expert witness; and

8417 (ii) for all other functions required or permitted by this chapter.

8418 (j) The division may:

8419 (i) investigate a complaint against:

8420 (A) a trainee;

8421 (B) a person licensed or certified under this chapter; or

8422 (C) a person required to be licensed, certified, or registered under this chapter;

8423 (ii) subpoena a witness;

8424 (iii) subpoena the production of a book, document, record, or other paper;

8425 (iv) administer an oath; and

8426 (v) take testimony and receive evidence concerning a matter within the division's  
8427 jurisdiction.

8428 (k) The division may:

8429 (i) promote research and conduct studies relating to the profession of real estate  
8430 appraising; and

8431 (ii) sponsor real estate appraisal educational activities.

8432 (l) The division shall adopt, with the concurrence of the board, rules for the  
8433 administration of this chapter pursuant to Title 63G, Chapter 3, Utah Administrative  
8434 Rulemaking Act, that are not inconsistent with this chapter or the constitution and laws of this  
8435 state or of the United States.

8436 (m) The division shall employ an appropriate staff to investigate allegations that a  
8437 person required to be licensed, certified, or registered under this chapter fails to comply with  
8438 this chapter.

8439 (n) The division may employ other professional, clerical, and technical staff as may be  
8440 necessary to properly administer the work of the division under this chapter.

8441 (o) The division may make available, at a reasonable cost determined by the division, a  
8442 list of the names and addresses of all persons licensed or certified by the division under this  
8443 chapter to the extent the information is a public record under Title 63G, Chapter 2,  
8444 Government Records Access and Management Act.

8445 (2) (a) The division shall approve an expert witness who is not otherwise licensed or  
8446 certified under this chapter to appear in an administrative or judicial tax proceeding to provide  
8447 evidence related to the valuation of real property that is assessed by the tax commission,  
8448 provided that the:

8449 (i) approval is limited to a specific proceeding;

8450 (ii) approval is valid until the proceeding becomes final;

8451 (iii) applicant pays an approval fee to the division;

8452 (iv) applicant provides the applicant's name, address, occupation, and professional  
8453 credentials; and

8454 (v) applicant provides a notarized statement that:

8455 (A) the applicant is competent to render an appraisal and to testify as an expert witness  
8456 in the proceeding; and

8457 (B) the appraisal and testimony to be offered shall be in accordance with the Uniform  
8458 Standards of Professional Appraisal Practice adopted by the board.

8459 (b) Subsection (2)(a) is effective for an administrative or judicial property tax

proceeding related to the valuation of real property that is assessed by the tax commission, including those filed but which are not final as of May 3, 1994.

(3) (a) If the conditions of Subsection (3)(b) are met, the division is immune from any civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act of, or participating in a disciplinary proceeding concerning:

(i) a person required to be licensed, certified, or registered pursuant to this chapter; or

(ii) a person approved as an expert witness pursuant to this chapter.

(b) This Subsection (3) applies if the division takes the action:

(i) without malicious intent; and

(ii) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.

Section 200. Section **61-2b-18** is amended to read:

**61-2b-18. Application for licensure, certification, or registration -- Approval as an expert witness.**

(1) An application for the following shall be sent to the division on a form approved by the division:

(a) original certification, licensure, or registration;

(b) approval as an expert witness; and

(c) renewal of certification or licensure.

(2) The payment of the appropriate fee, as fixed by the division with the concurrence of the board in accordance with Section [~~63J-1-303~~] 63J-1-504, must accompany an application for:

(a) approval as an expert witness;

(b) original certification, licensure, or registration; and

(c) renewal of certification or licensure.

(3) At the time of filing an application described in Subsection (1), an applicant shall:

(a) sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice and the ethical rules to be observed by an appraiser that are established under Section 61-2b-27 for:

(i) a certified or licensed appraiser;

(ii) a trainee; or

8491 (iii) an expert witness approved under this chapter; and  
8492 (b) certify that the applicant understands the types of misconduct, as set forth in this  
8493 chapter, for which a disciplinary proceeding may be initiated against a person certified,  
8494 licensed, or registered under this chapter.

8495 Section 201. Section **61-2b-37** is amended to read:

8496 **61-2b-37. Division service fees -- Federal registry fees.**

8497 (1) The division, with the concurrence of the board, shall establish and collect fees in  
8498 accordance with Section [~~63J-1-303~~] 63J-1-504 for its services under this chapter.

8499 (2) The division shall collect the annual registry fee established by the Federal  
8500 Financial Institutions Examinations Council from those certificate holders who seek to perform  
8501 appraisals in federally related transactions. The division shall transmit the fees to the federal  
8502 Appraisal Subcommittee at least annually.

8503 Section 202. Section **61-2c-103** is amended to read:

8504 **61-2c-103. Powers and duties of the division.**

8505 (1) The division shall administer this chapter.

8506 (2) In addition to any power or duty expressly provided in this chapter, the division  
8507 may:

8508 (a) receive and act on a complaint including:

8509 (i) taking action designed to obtain voluntary compliance with this chapter; or

8510 (ii) commencing an administrative or judicial proceeding on the division's own  
8511 initiative;

8512 (b) establish one or more programs for the education of consumers with respect to  
8513 residential mortgage loans;

8514 (c) (i) make one or more studies appropriate to effectuate the purposes and policies of  
8515 this chapter; and

8516 (ii) make the results of the studies described in Subsection (2)(c)(i) available to the  
8517 public;

8518 (d) visit and investigate an entity licensed under this chapter, regardless of whether the  
8519 entity is located in Utah; and

8520 (e) employ one or more necessary hearing examiners, investigators, clerks, and other  
8521 employees and agents.

(3) The division shall make rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including:

(a) licensure procedures for:

(i) an individual or entity required by this chapter to obtain a license with the division; and

(ii) the establishment of a branch office by an entity;

(b) proper handling of funds received by a licensee;

(c) record-keeping requirements by a licensee; and

(d) standards of conduct for a licensee.

(4) The division may make available to the public a list of the names and mailing addresses of all licensees:

(a) either directly or through a third party; and

(b) at a reasonable cost.

(5) The division shall:

(a) certify an education provider who offers:

(i) prelicensing education to candidates for licensure under this chapter; or

(ii) continuing education to individuals licensed under this chapter; and

(b) make available to the public, licensees, and candidates for licensure a list of the names and addresses of all education providers certified under this Subsection (5).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) certification criteria and procedures for a provider of prelicensing education and continuing education; and

(b) standards of conduct for a certified education provider.

(7) The division may charge a fee established in accordance with Section ~~63J-1-303~~ 63J-1-504 for processing a change that a licensee is required by Section 61-2c-205 to report to the division.

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this Subsection (8), the division shall make rules establishing a licensure procedure for obtaining both a principal lending manager license and an entity license at the same time that applies if the principal lending manager is the only individual that transacts the business of

8553 residential mortgage loans on behalf of the entity, including as an employee or agent of the  
8554 entity.

8555 (b) A rule made under this Subsection (8) shall require that to obtain or renew both a  
8556 principal lending manager license and an entity license, an individual described in Subsection  
8557 (8)(a) is required to only:

8558 (i) complete one licensing process for the term of a license; and

8559 (ii) pay one licensing fee for the term of a license.

8560 Section 203. Section **61-2c-201** is amended to read:

8561 **61-2c-201. Licensure required of individuals and entities engaged in the business**  
8562 **of residential mortgage loans -- Mortgage officer -- Principal lending manager.**

8563 (1) Unless exempt from this chapter under Section 61-2c-105, an individual or entity  
8564 may not transact the business of residential mortgage loans, as defined in Section 61-2c-102,  
8565 without obtaining a license under this chapter.

8566 (2) For purposes of this chapter, an individual or entity transacts business in this state  
8567 if:

8568 (a) (i) the individual or entity engages in an act that constitutes the business of  
8569 residential mortgage loans; and

8570 (ii) (A) the act described in Subsection (2)(a)(i) is directed to or received in this state;  
8571 and

8572 (B) the real property that is the subject of the act described in Subsection (2)(a)(i) is  
8573 located in this state; or

8574 (b) a representation is made by the individual or entity that the individual or entity  
8575 transacts the business of residential mortgage loans in this state.

8576 (3) An individual who has an ownership interest in an entity required to be licensed  
8577 under this chapter is not required to obtain an individual license under this chapter unless the  
8578 individual transacts the business of residential mortgage loans.

8579 (4) Unless otherwise exempted under this chapter, licensure under this chapter is  
8580 required of both:

8581 (a) the individual who directly transacts the business of residential mortgage loans; and

8582 (b) if the individual transacts business as an employee or agent of an entity or  
8583 individual, the entity or individual for whom the employee or agent transacts the business of

8584 residential mortgage loans.

8585 (5) (a) An individual licensed under this chapter may not engage in the business of  
8586 residential mortgage loans on behalf of more than one entity at the same time.

8587 (b) This Subsection (5) does not restrict the number of:

8588 (i) different lenders an individual or entity may use as a funding source for residential  
8589 mortgage loans; or

8590 (ii) entities in which an individual may have an ownership interest, regardless of  
8591 whether the entities are:

8592 (A) licensed under this chapter; or

8593 (B) exempt under Section 61-2c-105.

8594 (6) An individual licensed under this chapter may not transact the business of  
8595 residential mortgage loans for the following at the same time:

8596 (a) an entity licensed under this chapter; and

8597 (b) an entity that is exempt from licensure under Section 61-2c-105.

8598 (7) A mortgage officer may not receive consideration for transacting the business of  
8599 residential mortgage loans from any person or entity except the principal lending manager with  
8600 whom the mortgage officer is licensed.

8601 (8) A mortgage officer shall conduct all business of residential mortgage loans:

8602 (a) through the principal lending manager with which the individual is licensed; and

8603 (b) in the business name under which the principal lending manager is authorized by  
8604 the division to do business.

8605 (9) (a) (i) This Subsection (9)(a) does not apply to an individual who transacts the  
8606 business of residential mortgage loans as an employee or agent of another individual or entity.

8607 (ii) If an entity that is authorized by this chapter to transact the business of residential  
8608 mortgage loans transacts the business of residential mortgage loans under an assumed business  
8609 name, the entity shall:

8610 (A) register the assumed name with the division; and

8611 (B) furnish the division proof that the assumed business name has been filed with the  
8612 Division of Corporations and Commercial Code pursuant to Title 42, Chapter 2, Conducting  
8613 Business Under Assumed Name.

8614 (b) The division may charge a fee established in accordance with Section ~~[63J-1-303]~~

8615 63J-1-504 for registering an assumed name pursuant to this Subsection (9).

8616 (10) A licensee whose license is in inactive status may not transact the business of  
8617 residential mortgage loans.

8618 Section 204. Section **61-2c-202** is amended to read:

8619 **61-2c-202. Licensure procedures.**

8620 (1) To apply for licensure under this chapter an applicant shall:

8621 (a) submit to the division a licensure statement that:

8622 (i) lists any name under which the individual or entity will transact business in this  
8623 state;

8624 (ii) lists the address of the principal business location of the applicant;

8625 (iii) if the applicant is an entity:

8626 (A) lists the principal lending manager of the entity; and

8627 (B) contains the signature of the principal lending manager;

8628 (iv) demonstrates that the applicant meets the qualifications listed in Section  
8629 61-2c-203;

8630 (v) if the applicant is an entity, lists:

8631 (A) all jurisdictions in which the entity is registered, licensed, or otherwise regulated in  
8632 the business of residential mortgage loans; and

8633 (B) the history of any disciplinary action or adverse administrative action taken against  
8634 the entity by any regulatory agency within the ten years preceding the application; and

8635 (vi) includes any information required by the division by rule;

8636 (b) pay to the division:

8637 (i) an application fee established by the division in accordance with Section  
8638 [~~63J-1-303~~] 63J-1-504; and

8639 (ii) the reasonable expenses incurred in processing the application for licensure,  
8640 including the costs incurred by the division under Subsection (4); and

8641 (c) comply with Subsection (4).

8642 (2) (a) The division shall issue a license to an applicant if the division, with the  
8643 concurrence of the commission, finds that the applicant:

8644 (i) meets the qualifications of Section 61-2c-203; and

8645 (ii) complies with this section.

- 8646 (b) The commission may delegate to the division the authority to:
- 8647 (i) review a class or category of application for an initial or renewed license;
- 8648 (ii) determine whether an applicant meets the licensing criteria in Section 61-2c-203;
- 8649 (iii) conduct a necessary hearing on an application; and
- 8650 (iv) approve or deny a license application without concurrence by the commission.
- 8651 (c) If the commission delegates to the division the authority to approve or deny an
- 8652 application without concurrence by the commission and the division denies an application for
- 8653 licensure, the applicant who is denied licensure may petition the commission for review of the
- 8654 denial.
- 8655 (d) An applicant who is denied licensure under Subsection (2)(b) may seek agency
- 8656 review by the executive director only after the commission reviews the division's denial of the
- 8657 applicant's application.
- 8658 (3) Subject to Subsection (2)(d) and in accordance with Title 63G, Chapter 4,
- 8659 Administrative Procedures Act, an applicant who is denied licensure under this chapter may
- 8660 submit a request for agency review to the executive director within 30 days following the day
- 8661 on which the commission order denying the licensure is issued.
- 8662 (4) (a) An individual applying for a license under this chapter shall:
- 8663 (i) submit a fingerprint card in a form acceptable to the division at the time the
- 8664 licensure statement is filed;
- 8665 (ii) consent to a criminal background check by:
- 8666 (A) the Utah Bureau of Criminal Identification; and
- 8667 (B) the Federal Bureau of Investigation;
- 8668 (iii) provide proof using a method approved by the division of having successfully
- 8669 completed approved prelicensing education required by the commission under Section
- 8670 61-2c-104:
- 8671 (A) before taking the examination required by Subsection (4)(a)(iv); and
- 8672 (B) in the number of hours, not to exceed 90 hours, required by rule made by the
- 8673 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- 8674 (iv) provide proof using a method approved by the division of having successfully
- 8675 passed an examination approved by the commission under Section 61-2c-104.
- 8676 (b) The division shall request the Department of Public Safety to complete a Federal

8677 Bureau of Investigation criminal background check for an applicant through a national criminal  
8678 history system.

8679 (c) The applicant shall pay the cost of:

8680 (i) the fingerprinting required by this section; and

8681 (ii) the criminal background check required by this section.

8682 (d) (i) A license under this chapter is conditional pending completion of the criminal  
8683 background check required by this Subsection (4).

8684 (ii) If a criminal background check discloses that an applicant fails to accurately  
8685 disclose a criminal history, the license shall be immediately and automatically revoked.

8686 (iii) An individual or entity whose conditional license is revoked under Subsection  
8687 (4)(d)(ii) may appeal the revocation in a hearing conducted by the commission:

8688 (A) after the revocation; and

8689 (B) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

8690 (iv) The commission may delegate to the division or an administrative law judge the  
8691 authority to conduct a hearing described in Subsection (4)(d)(iii).

8692 (v) Relief from a revocation may be granted only if:

8693 (A) the criminal history upon which the division based the revocation:

8694 (I) did not occur; or

8695 (II) is the criminal history of another person;

8696 (B) (I) the revocation is based on a failure to accurately disclose a criminal history; and

8697 (II) the applicant had a reasonable good faith belief at the time of application that there  
8698 was no criminal history to be disclosed; or

8699 (C) the division fails to follow the prescribed procedure for the revocation.

8700 (e) If a license is revoked or a revocation is upheld after a hearing described in  
8701 Subsection (4)(d)(iii), the person may not apply for a new license for a period of 12 months  
8702 after the day on which the license is revoked.

8703 (f) The funds paid by an applicant for the cost of the criminal background check shall  
8704 be nonlapsing.

8705 (g) The commission may delegate to the division the authority to make a decision on  
8706 whether relief from a revocation should be granted.

8707 Section 205. Section **61-2c-205** is amended to read:

8708 **61-2c-205. Term of licensure -- Renewal -- Reporting of changes.**

8709 (1) (a) A license under this chapter is valid for a two-year period.

8710 (b) Notwithstanding Subsection (1)(a), the time period of a license may be extended or  
8711 shortened by as much as one year to maintain or change a renewal cycle established by rule by  
8712 the division.

8713 (2) To renew a license, no later than the date the license expires, a licensee shall:

8714 (a) (i) file the renewal form required by the division; and

8715 (ii) furnish the information required by Subsection 61-2c-202(1);

8716 (b) pay a fee to the division established by the division in accordance with Section  
8717 ~~[63J-1-303]~~ 63J-1-504; and8718 (c) if the licensee is an individual and the individual's license is in active status at the  
8719 time of application for renewal, submit proof using forms approved by the division of having  
8720 completed during the two years prior to application the continuing education required by the  
8721 commission under Section 61-2c-104.8722 (3) (a) A licensee under this chapter shall notify the division using the form required by  
8723 the division within ten days of the date on which there is a change in:8724 (i) a name under which the licensee transacts the business of residential mortgage loans  
8725 in this state;

8726 (ii) (A) if the licensee is an entity, the business location of the licensee; or

8727 (B) if the licensee is an individual, the home and business addresses of the individual;

8728 (iii) the principal lending manager of the entity;

8729 (iv) the entity with which an individual licensee is licensed to conduct the business of  
8730 residential mortgage loans; or

8731 (v) any other information that is defined as material by rule made by the division.

8732 (b) Failure to notify the division of a change described in Subsection (3)(a) is separate  
8733 grounds for disciplinary action against a licensee.8734 (4) A licensee shall notify the division by sending the division a signed statement  
8735 within ten business days of:

8736 (a) (i) a conviction of any criminal offense;

8737 (ii) the entry of a plea in abeyance to any criminal offense; or

8738 (iii) the potential resolution of any criminal case by:

8739 (A) a diversion agreement; or  
8740 (B) any other agreement under which criminal charges are held in suspense for a period  
8741 of time;

8742 (b) filing a personal bankruptcy or bankruptcy of a business that transacts the business  
8743 of residential mortgage loans;

8744 (c) the suspension, revocation, surrender, cancellation, or denial of a professional  
8745 license or professional registration of the licensee, whether the license or registration is issued  
8746 by this state or another jurisdiction; or

8747 (d) the entry of a cease and desist order or a temporary or permanent injunction:  
8748 (i) against the licensee by a court or licensing agency; and  
8749 (ii) based on:

8750 (A) conduct or a practice involving the business of residential mortgage loans; or  
8751 (B) conduct involving fraud, misrepresentation, or deceit.

8752 (5) (a) A license under this chapter expires if the licensee does not apply to renew the  
8753 license on or before the expiration date of the license.

8754 (b) Within 30 calendar days after the expiration date, a licensee whose license has  
8755 expired may apply to reinstate the expired license upon:

8756 (i) payment of a renewal fee and a late fee determined by the division under Section  
8757 ~~[63J-1-303]~~ 63J-1-504; and

8758 (ii) if the licensee is an individual and is applying to reinstate a license to active status,  
8759 providing proof using forms approved by the division of having completed, during the two  
8760 years prior to application, the continuing education required by the commission under Section  
8761 61-2c-104.

8762 (c) After the 30 calendar days described in Subsection (5)(b) and within six months  
8763 after the expiration date, a licensee whose license has expired may apply to reinstate an expired  
8764 license upon:

8765 (i) payment of a renewal fee and a late fee determined by the division under Section  
8766 ~~[63J-1-303]~~ 63J-1-504;

8767 (ii) if the licensee is an individual and is applying to reinstate a license to active status,  
8768 providing proof using forms approved by the division of having completed, during the two  
8769 years prior to application, the continuing education required by the commission under Section

8770 61-2c-104; and

8771 (iii) in addition to the continuing education required for a timely renewal, completing  
8772 an additional 12 hours of continuing education approved by the commission under Section  
8773 61-2c-104.

8774 (d) A licensee whose license has been expired for more than six months shall be  
8775 relicensed as prescribed for an original application under Section 61-2c-202.

8776 Section 206. Section **61-2c-206** is amended to read:

8777 **61-2c-206. Principal lending manager licenses.**

8778 (1) To qualify as a principal lending manager under this chapter, an individual shall, in  
8779 addition to meeting the standards in Section 61-2c-203:

8780 (a) submit an application on a form approved by the division;

8781 (b) pay a fee determined by the division under Section [~~63J-1-303~~] 63J-1-504;

8782 (c) submit proof of having successfully completed 40 hours of prelicensing education  
8783 approved by the commission under Section 61-2c-104;

8784 (d) submit proof of having successfully completed the principal lending manager  
8785 examination approved by the commission under Section 61-2c-104;

8786 (e) submit proof on a form approved by the division of three years of full-time active  
8787 experience as a mortgage officer in the five years preceding the day on which the application is  
8788 submitted, or its equivalent as approved by the commission; and

8789 (f) if the individual is not licensed under this chapter at the time of application, submit  
8790 to the criminal background check required by Subsection 61-2c-202(4).

8791 (2) A principal lending manager may not engage in the business of residential  
8792 mortgage loans on behalf of more than one entity at the same time.

8793 Section 207. Section **61-2c-208** is amended to read:

8794 **61-2c-208. Activation and inactivation of license.**

8795 (1) (a) A licensee may request that the division place the license on inactive status by  
8796 submitting an inactivation form approved by the division.

8797 (b) The license of a mortgage officer or mortgage entity not affiliated with an active  
8798 license of a principal lending manager automatically converts to inactive status on the day on  
8799 which the mortgage officer or mortgage entity is not affiliated with the active license of the  
8800 principal lending manager.

8801 (c) A licensee whose license is in inactive status may not transact the business of  
8802 residential mortgage loans.

8803 (2) To activate a license that has been placed on inactive status, a licensee shall:

8804 (a) submit an activation form:

8805 (i) approved by the division; and

8806 (ii) signed by the principal lending manager with whom the licensee is affiliating;

8807 (b) pay an activation fee established by the division under Section [~~63J-1-303~~]

8808 63J-1-504; and

8809 (c) if the licensee is an individual whose license was in inactive status at the time of the  
8810 previous renewal, the licensee shall supply the division with proof of the successful completion  
8811 of the number of hours of continuing education that the licensee would have been required to  
8812 complete under Subsection 61-2c-205(2)(c) if the licensee's license had been on active status,  
8813 up to a maximum of the number of hours required for two licensing periods.

8814 Section 208. Section **62A-2-105** is amended to read:

8815 **62A-2-105. Licensing board responsibilities.**

8816 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8817 licensing board shall review and approve rules regarding:

8818 (a) approving, denying, suspending, and revoking licenses;

8819 (b) conditional licenses, variances from department rule, and exclusions;

8820 (c) the protection of the basic health and safety of clients;

8821 (d) licensing of all persons and human services programs that are required to be  
8822 licensed under this chapter; and

8823 (e) notification to providers and subproviders of rights and responsibilities including  
8824 who to contact within the department when filing a complaint against a licensee or human  
8825 services program, and the responsibility of the department to follow up once contacted.

8826 (2) The licensing board shall:

8827 (a) define information that shall be submitted to the department with an application for  
8828 a license;

8829 (b) review and approve fees, in accordance with Section [~~63J-1-303~~] 63J-1-504, for  
8830 licenses issued under this chapter;

8831 (c) represent the community and licensees; and

(d) advise the department as requested, concerning enforcement of rules established under this chapter.

Section 209. Section **62A-14-106** is amended to read:

**62A-14-106. Board of Public Guardian Services.**

(1) The Board of Public Guardian Services, created in accordance with this section and Section 62A-1-105, is responsible for establishing the policy of the office in accordance with this chapter and seeing that the legislative purposes for the office are carried out.

(2) The executive director shall appoint nine members to the Board of Public Guardian Services, as follows:

- (a) a member of the Board of Aging and Adult Services or designee;
- (b) a member of the Board of Services for Persons with Disabilities or designee;
- (c) a member of the Board of Substance Abuse and Mental Health or designee;
- (d) a representative of the long-term care industry;
- (e) a representative of the hospital industry;
- (f) a representative of persons with disabilities;
- (g) a representative of senior citizens;
- (h) a physician; and
- (i) an attorney with experience in guardianship and conservatorship law.

(3) (a) Except as provided in Subsection (3)(b), each member shall be appointed for a four-year term and eligible for one reappointment.

(b) Notwithstanding Subsection (3)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years, taking into account the remaining term of board members who serve on other department boards.

(c) A board member shall continue in office until the expiration of the member's term and until a successor is appointed, which may not exceed 90 days after the formal expiration of the term.

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

(e) The make up of the board should reflect political and geographic diversity.

8863 (4) The board shall annually elect a chairperson from its membership. The board shall  
8864 hold meetings at least once every three months. Meetings shall be held from time to time on  
8865 the call of the chairperson or a majority of the board members. Five board members are  
8866 necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a  
8867 majority of members present shall be the action of the board.

8868 (5) (a) Board members who are not government employees may not receive  
8869 compensation or benefits for their services, but may receive per diem and expenses incurred in  
8870 the performance of their official duties at rates established by the Division of Finance under  
8871 Sections 63A-3-106 and 63A-3-107.

8872 (b) Members of the board may decline to receive per diem expenses for their services.

8873 (6) The board shall:

8874 (a) establish program policy for the office;

8875 (b) establish a mechanism for systematic and regular review of existing policy and for  
8876 consideration of policy changes; and

8877 (c) set fees for the office, excluding [~~attorneys~~] attorney fees, in accordance with  
8878 Section [~~63J-1-303~~] 63J-1-504.

8879 Section 210. Section **63A-1-114** is amended to read:

8880 **63A-1-114. Rate Committee -- Membership -- Duties.**

8881 (1) (a) There is created a Rate Committee which shall consist of:

8882 (i) the director of the Governor's Office of Planning and Budget, or a designee;

8883 (ii) the executive directors of three state agencies that use services and pay rates to one  
8884 of the department internal service funds, or their designee, appointed by the governor for a  
8885 two-year term;

8886 (iii) the executive director of the Department of Administrative Services, or a designee;

8887 (iv) the director of the Division of Finance, or a designee; and

8888 (v) the chief information officer.

8889 (b) (i) The committee shall elect a chair from its members.

8890 (ii) Members of the committee who are state government employees and who do not  
8891 receive salary, per diem, or expenses from their agency for their service on the committee shall  
8892 receive no compensation, benefits, per diem, or expenses for the members' service on the  
8893 committee.

(c) The Department of Administrative Services shall provide staff services to the committee.

(2) (a) The internal service funds managed by the following divisions shall submit to the committee a proposed rate and fee schedule for services rendered by the divisions to an executive branch entity or an entity that subscribes to services rendered by the division, the:

(i) Division of Facilities Construction and Management;

(ii) Division of Fleet Operations;

(iii) Division of Purchasing and General Services; and

(iv) Division of Risk Management.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) review the proposed rate and fee schedules and may approve, increase, or decrease the rate and fee;

(iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of Planning and Budget; and

(B) the legislative appropriations subcommittees that, in accordance with Section ~~[63J-1-306]~~ 63J-1-410, approve the internal service fund agency's rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may, in accordance with Subsection ~~[63J-1-306]~~ 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section 211. Section **63A-2-103** is amended to read:

**63A-2-103. General services provided -- Subscription by state departments, state agencies, and certain local governmental entities -- Fee schedule.**

(1) (a) The director of the Division of Purchasing and General Services shall operate, manage, and maintain:

(i) a central mailing service; and

(ii) an electronic central store system for procuring goods and services.

(b) The director may establish microfilming, duplicating, printing, addressograph, and

8925 other central services.

8926 (2) (a) Each state department and agency shall subscribe to all of the services described  
8927 in Subsection (1), unless the director delegates the director's authority to a department or  
8928 agency under Section 63A-2-104.

8929 (b) An institution of higher education, school district, or political subdivision of the  
8930 state may subscribe to one or more of the services described in Subsection (1).

8931 (3) The director shall:

8932 (a) prescribe a schedule of fees to be charged for all services provided by the division  
8933 to any department or agency after the director:

8934 (i) submits the proposed rate, fees, or other amounts for services provided by the  
8935 division's internal service fund to the Rate Committee established in Section 63A-1-114; and

8936 (ii) obtains the approval of the Legislature, as required by Sections [~~63J-1-303~~]  
8937 63J-1-504 and [~~63J-1-306~~] 63J-1-410;

8938 (b) when practicable, ensure that the fees are approximately equal to the cost of  
8939 providing the services; and

8940 (c) conduct a market analysis by July 1, 2005, and periodically thereafter of fees, which  
8941 analysis shall include comparison of the division's rates with the fees of other public or private  
8942 sector providers where comparable services and rates are reasonably available.

8943 Section 212. Section **63A-4-102** is amended to read:

8944 **63A-4-102. Risk manager -- Powers.**

8945 (1) The risk manager may:

8946 (a) enter into contracts;

8947 (b) purchase insurance;

8948 (c) adjust, settle, and pay claims;

8949 (d) pay expenses and costs;

8950 (e) study the risks of all state agencies and properties;

8951 (f) issue certificates of coverage to state agencies for any risks covered by Risk  
8952 Management Fund;

8953 (g) make recommendations about risk management and risk reduction strategies to  
8954 state agencies;

8955 (h) in consultation with the attorney general, prescribe insurance and liability

8956 provisions to be included in all state contracts;

8957 (i) review agency building construction, major remodeling plans, agency program  
8958 plans, and make recommendations to the agency about needed changes to address risk  
8959 considerations;

8960 (j) attend agency planning and management meetings when necessary;

8961 (k) review any proposed legislation and communicate with legislators and legislative  
8962 committees about the liability or risk management issues connected with any legislation; and

8963 (l) solicit any needed information about agency plans, agency programs, or agency  
8964 risks necessary to perform the risk manager's responsibilities under this part.

8965 (2) (a) The risk manager may expend monies from the Risk Management Fund to  
8966 procure and provide coverage to all state agencies and their indemnified employees, except  
8967 those agencies or employees specifically exempted by statute.

8968 (b) The risk manager shall apportion the costs of that coverage according to the  
8969 requirements of this part.

8970 (3) Before charging a rate, fee, or other amount to an executive branch agency, or to a  
8971 subscriber of services other than an executive branch agency, the director shall:

8972 (a) submit the proposed rates, fees, or other amount and cost analysis to the Rate  
8973 Committee established in Section 63A-1-114; and

8974 (b) obtain the approval of the Legislature as required by Section ~~63J-1-306~~  
8975 63J-1-410.

8976 (4) The director shall conduct a market analysis by July 1, 2005, and periodically  
8977 thereafter, of proposed rates and fees, which analysis shall include a comparison of the  
8978 division's rates and fees with the fees of other public or private sector providers where  
8979 comparable services and rates are reasonably available.

8980 Section 213. Section **63A-5-104** is amended to read:

8981 **63A-5-104. Capital development and capital improvement process -- Approval**  
8982 **requirements -- Limitations on new projects -- Emergencies.**

8983 (1) As used in this section:

8984 (a) "Capital developments" means a:

8985 (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;

8986 (ii) new facility with a construction cost of \$500,000 or more; or

- 8987 (iii) purchase of real property where an appropriation is requested to fund the purchase.
- 8988 (b) "Capital improvements" means a:
- 8989 (i) remodeling, alteration, replacement, or repair project with a total cost of less than
- 8990 \$2,500,000;
- 8991 (ii) site and utility improvement with a total cost of less than \$2,500,000; or
- 8992 (iii) new facility with a total construction cost of less than \$500,000.
- 8993 (c) (i) "New facility" means the construction of a new building on state property
- 8994 regardless of funding source.
- 8995 (ii) "New facility" includes:
- 8996 (A) an addition to an existing building; and
- 8997 (B) the enclosure of space that was not previously fully enclosed.
- 8998 (iii) "New facility" does not mean:
- 8999 (A) the replacement of state-owned space that is demolished or that is otherwise
- 9000 removed from state use, if the total construction cost of the replacement space is less than
- 9001 \$2,500,000; or
- 9002 (B) the construction of facilities that do not fully enclose a space.
- 9003 (d) "Replacement cost of existing state facilities" means the replacement cost, as
- 9004 determined by the Division of Risk Management, of state facilities, excluding auxiliary
- 9005 facilities as defined by the State Building Board.
- 9006 (e) "State funds" means public monies appropriated by the Legislature.
- 9007 (2) The State Building Board, on behalf of all state agencies, commissions,
- 9008 departments, and institutions shall submit its capital development recommendations and
- 9009 priorities to the Legislature for approval and prioritization.
- 9010 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development
- 9011 project may not be constructed on state property without legislative approval.
- 9012 (b) Legislative approval is not required for a capital development project if the State
- 9013 Building Board determines that:
- 9014 (i) the requesting higher education institution has provided adequate assurance that:
- 9015 (A) state funds will not be used for the design or construction of the facility; and
- 9016 (B) the higher education institution has a plan for funding in place that will not require
- 9017 increased state funding to cover the cost of operations and maintenance to, or state funding for,

9018 immediate or future capital improvements to the resulting facility; and  
9019 (ii) the use of the state property is:  
9020 (A) appropriate and consistent with the master plan for the property; and  
9021 (B) will not create an adverse impact on the state.  
9022 (c) (i) The Division of Facilities Construction and Management shall maintain a record  
9023 of facilities constructed under the exemption provided in Subsection (3)(b).  
9024 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a  
9025 higher education institution may not request:  
9026 (A) increased state funds for operations and maintenance; or  
9027 (B) state capital improvement funding.  
9028 (d) Legislative approval is not required for:  
9029 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds;  
9030 (ii) a facility to be built with nonstate funds and owned by nonstate entities within  
9031 research park areas at the University of Utah and Utah State University;  
9032 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation  
9033 with funds of the foundation, including grant monies from the state, or with donated services or  
9034 materials;  
9035 (iv) a capital project that:  
9036 (A) is funded by:  
9037 (I) the Uintah Basin Revitalization Fund; or  
9038 (II) the Navajo Revitalization Fund; and  
9039 (B) does not provide a new facility for a state agency or higher education institution; or  
9040 (v) a capital project on school and institutional trust lands that is funded by the School  
9041 and Institutional Trust Lands Administration from the Land Grant Management Fund and that  
9042 does not fund construction of a new facility for a state agency or higher education institution.  
9043 (e) (i) Legislative approval is not required for capital development projects to be built  
9044 for the Department of Transportation as a result of an exchange of real property under Section  
9045 72-5-111.  
9046 (ii) When the Department of Transportation approves those exchanges, it shall notify  
9047 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities  
9048 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee

9049 about any new facilities to be built under this exemption.

9050 (4) (a) (i) The State Building Board, on behalf of all state agencies, commissions,  
9051 departments, and institutions shall by January 15 of each year, submit a list of anticipated  
9052 capital improvement requirements to the Legislature for review and approval.

9053 (ii) The list shall identify:

9054 (A) a single project that costs more than \$1,000,000;

9055 (B) multiple projects within a single building or facility that collectively cost more than  
9056 \$1,000,000;

9057 (C) a single project that will be constructed over multiple years with a yearly cost of  
9058 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

9059 (D) multiple projects within a single building or facility with a yearly cost of  
9060 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

9061 (E) a single project previously reported to the Legislature as a capital improvement  
9062 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost  
9063 more than \$1,000,000; and

9064 (F) multiple projects within a single building or facility previously reported to the  
9065 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in  
9066 costs or scope of work, will now cost more than \$1,000,000.

9067 (b) Unless otherwise directed by the Legislature, the State Building Board shall  
9068 prioritize capital improvements from the list submitted to the Legislature up to the level of  
9069 appropriation made by the Legislature.

9070 (c) In prioritizing capital improvements, the State Building Board shall consider the  
9071 results of facility evaluations completed by an architect/engineer as stipulated by the building  
9072 board's facilities maintenance standards.

9073 (d) The State Building Board may require an entity that benefits from a capital  
9074 improvement project to repay the capital improvement funds from savings that result from the  
9075 project.

9076 (e) The State Building Board may provide capital improvement funding to a single  
9077 project, or to multiple projects within a single building or facility, even if the total cost of the  
9078 project or multiple projects is \$2,500,000 or more, if:

9079 (i) the capital improvement project or multiple projects require more than one year to

9080 complete; and

9081 (ii) the Legislature has affirmatively authorized the capital improvement project or  
9082 multiple projects to be funded in phases.

9083 (5) The Legislature may authorize:

9084 (a) the total square feet to be occupied by each state agency; and

9085 (b) the total square feet and total cost of lease space for each agency.

9086 (6) (a) Except as provided in Subsection (6)(b), the Legislature may not fund the design  
9087 or construction of any new capital development projects, except to complete the funding of  
9088 projects for which partial funding has been previously provided, until the Legislature has  
9089 appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

9090 (b) (i) As used in this Subsection (6)(b):

9091 (A) "Education Fund budget deficit" is as defined in [~~Subsection 63J-1-202(1)(a)~~]

9092 Section 63J-1-312; and

9093 (B) "General Fund budget deficit" is as defined in [~~Subsection 63J-1-202(1)(c)~~]

9094 Section 63J-1-312.

9095 (ii) If the Legislature determines that an Education Fund budget deficit or a General  
9096 Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount  
9097 appropriated to capital improvements to 0.9% of the replacement cost of state buildings.

9098 (7) (a) If, after approval of capital development and capital improvement priorities by  
9099 the Legislature under this section, emergencies arise that create unforeseen critical capital  
9100 improvement projects, the State Building Board may, notwithstanding the requirements of Title  
9101 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address  
9102 those projects.

9103 (b) The State Building Board shall report any changes it makes in capital improvement  
9104 allocations approved by the Legislature to:

9105 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

9106 (ii) the Legislature at its next annual general session.

9107 (8) (a) The State Building Board may adopt a rule allocating to institutions and  
9108 agencies their proportionate share of capital improvement funding.

9109 (b) The State Building Board shall ensure that the rule:

9110 (i) reserves funds for the Division of Facilities Construction and Management for

9111 emergency projects; and

9112 (ii) allows the delegation of projects to some institutions and agencies with the  
9113 requirement that a report of expenditures will be filed annually with the Division of Facilities  
9114 Construction and Management and appropriate governing bodies.

9115 (9) It is the intent of the Legislature that in funding capital improvement requirements  
9116 under this section the General Fund be considered as a funding source for at least half of those  
9117 costs.

9118 Section 214. Section **63A-5-204** is amended to read:

9119 **63A-5-204. Specific powers and duties of director.**

9120 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the  
9121 same meaning as provided in Section 63C-9-102.

9122 (2) (a) The director shall:

9123 (i) recommend rules to the executive director for the use and management of facilities  
9124 and grounds owned or occupied by the state for the use of its departments and agencies;

9125 (ii) supervise and control the allocation of space, in accordance with legislative  
9126 directive through annual appropriations acts or other specific legislation, to the various  
9127 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or  
9128 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as  
9129 otherwise provided by law;

9130 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,  
9131 Division of Facilities Construction and Management Leasing;

9132 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature  
9133 through the appropriations act or other specific legislation, and hold title to, in the name of the  
9134 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its  
9135 agencies;

9136 (v) adopt and use a common seal, of a form and design determined by the director, and  
9137 of which courts shall take judicial notice;

9138 (vi) file a description and impression of the seal with the Division of Archives;

9139 (vii) collect and maintain all deeds, abstracts of title, and all other documents  
9140 evidencing title to or interest in property belonging to the state or any of its departments, except  
9141 institutions of higher education and the School and Institutional Trust Lands Administration;

9142 (viii) report all properties acquired by the state, except those acquired by institutions of  
9143 higher education, to the director of the Division of Finance for inclusion in the state's financial  
9144 records;

9145 (ix) before charging a rate, fee, or other amount for services provided by the division's  
9146 internal service fund to an executive branch agency, or to a subscriber of services other than an  
9147 executive branch agency:

9148 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee  
9149 established in Section 63A-1-114; and

9150 (B) obtain the approval of the Legislature as required by Section [~~63J-1-306~~]  
9151 63J-1-410;

9152 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed  
9153 rates and fees, which analysis shall include a comparison of the division's rates and fees with  
9154 the fees of other public or private sector providers where comparable services and rates are  
9155 reasonably available;

9156 (xi) implement the State Building Energy Efficiency Program under Section  
9157 63A-5-701; and

9158 (xii) take all other action necessary for carrying out the purposes of this chapter.

9159 (b) Legislative approval is not required for acquisitions by the division that cost less  
9160 than \$250,000.

9161 (3) (a) The director shall direct or delegate maintenance and operations, preventive  
9162 maintenance, and facilities inspection programs and activities for any department, commission,  
9163 institution, or agency, except:

9164 (i) the State Capitol Preservation Board; and

9165 (ii) state institutions of higher education.

9166 (b) The director may choose to delegate responsibility for these functions only when  
9167 the director determines that:

9168 (i) the department or agency has requested the responsibility;

9169 (ii) the department or agency has the necessary resources and skills to comply with  
9170 facility maintenance standards approved by the State Building Board; and

9171 (iii) the delegation would result in net cost savings to the state as a whole.

9172 (c) The State Capitol Preservation Board and state institutions of higher education are

9173 exempt from Division of Facilities Construction and Management oversight.

9174 (d) Each state institution of higher education shall comply with the facility  
9175 maintenance standards approved by the State Building Board.

9176 (e) Except for the State Capitol Preservation Board, agencies and institutions that are  
9177 exempt from division oversight shall annually report their compliance with the facility  
9178 maintenance standards to the division in the format required by the division.

9179 (f) The division shall:

9180 (i) prescribe a standard format for reporting compliance with the facility maintenance  
9181 standards;

9182 (ii) report agency and institution compliance or noncompliance with the standards to  
9183 the Legislature; and

9184 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are  
9185 complying with the standards.

9186 (4) (a) In making any allocations of space under Subsection (2), the director shall:

9187 (i) conduct studies to determine the actual needs of each department, commission,  
9188 institution, or agency; and

9189 (ii) comply with the restrictions contained in this Subsection (4).

9190 (b) The supervision and control of the legislative area is reserved to the Legislature.

9191 (c) The supervision and control of the judicial area is reserved to the judiciary for trial  
9192 courts only.

9193 (d) The director may not supervise or control the allocation of space for entities in the  
9194 public and higher education systems.

9195 (e) The supervision and control of capitol hill facilities and capitol hill grounds is  
9196 reserved to the State Capitol Preservation Board.

9197 (5) The director may:

9198 (a) hire or otherwise procure assistance and services, professional, skilled, or  
9199 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds  
9200 provided for that purpose either through annual operating budget appropriations or from  
9201 nonlapsing project funds;

9202 (b) sue and be sued in the name of the division; and

9203 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the

9204 Legislature, whatever real or personal property that is necessary for the discharge of the  
9205 director's duties.

9206 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may  
9207 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes  
9208 other than administration that are under their control and management:

9209 (a) the Office of Trust Administrator;

9210 (b) the Department of Transportation;

9211 (c) the Division of Forestry, Fire and State Lands;

9212 (d) the Department of Natural Resources;

9213 (e) the Utah National Guard;

9214 (f) any area vocational center or other institution administered by the State Board of  
9215 Education;

9216 (g) any institution of higher education; and

9217 (h) the Utah Science Technology and Research Governing Authority.

9218 (7) The director shall ensure that any firm performing testing and inspection work  
9219 governed by the American Society for Testing Materials Standard E-329 on public buildings  
9220 under the director's supervision shall:

9221 (a) fully comply with the American Society for Testing Materials standard  
9222 specifications for agencies engaged in the testing and inspection of materials known as ASTM  
9223 E-329; and

9224 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

9225 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust  
9226 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances  
9227 held by it that are under its control.

9228 Section 215. Section **63A-8-201** is amended to read:

9229 **63A-8-201. Office of State Debt Collection created -- Duties.**

9230 (1) The state and each state agency shall comply with the requirements of this chapter  
9231 and any rules established by the Office of State Debt Collection.

9232 (2) There is created the Office of State Debt Collection in the Department of  
9233 Administrative Services.

9234 (3) The office shall:

- 9235 (a) have overall responsibility for collecting and managing state receivables;  
9236 (b) develop consistent policies governing the collection and management of state  
9237 receivables;  
9238 (c) oversee and monitor state receivables to ensure that state agencies are:  
9239 (i) implementing all appropriate collection methods;  
9240 (ii) following established receivables guidelines; and  
9241 (iii) accounting for and reporting receivables in the appropriate manner;  
9242 (d) develop policies, procedures, and guidelines for accounting, reporting, and  
9243 collecting monies owed to the state;  
9244 (e) provide information, training, and technical assistance to all state agencies on  
9245 various collection-related topics;  
9246 (f) write an inclusive receivables management and collection manual for use by all  
9247 state agencies;  
9248 (g) prepare quarterly and annual reports of the state's receivables;  
9249 (h) create or coordinate a state accounts receivable database;  
9250 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an  
9251 effective accounts receivable program;  
9252 (j) identify those state agencies that are not making satisfactory progress toward  
9253 implementing collection techniques and improving accounts receivable collections;  
9254 (k) coordinate information, systems, and procedures between state agencies to  
9255 maximize the collection of past-due accounts receivable;  
9256 (l) establish an automated cash receipt process between state agencies;  
9257 (m) establish procedures for writing off accounts receivable for accounting and  
9258 collection purposes;  
9259 (n) establish standard time limits after which an agency will delegate responsibility to  
9260 collect state receivables to the office or its designee;  
9261 (o) be a real party in interest for an account receivable referred to the office by any  
9262 state agency; and  
9263 (p) allocate monies collected for judgments registered under Section 77-18-6 in  
9264 accordance with Sections 51-9-402, 63A-8-302, and 78A-5-110.  
9265 (4) The office may:

9266 (a) recommend to the Legislature new laws to enhance collection of past-due accounts  
9267 by state agencies;

9268 (b) collect accounts receivables for higher education entities, if the higher education  
9269 entity agrees;

9270 (c) prepare a request for proposal for consulting services to:

9271 (i) analyze the state's receivable management and collection efforts; and  
9272 (ii) identify improvements needed to further enhance the state's effectiveness in  
9273 collecting its receivables;

9274 (d) contract with private or state agencies to collect past-due accounts;

9275 (e) perform other appropriate and cost-effective coordinating work directly related to  
9276 collection of state receivables;

9277 (f) obtain access to records of any state agency that are necessary to the duties of the  
9278 office by following the procedures and requirements of Section 63G-2-206;

9279 (g) collect interest and fees related to the collection of receivables under this chapter,  
9280 and establish, by following the procedures and requirements of Section ~~[63J-1-303]~~ 63J-1-504:

9281 (i) a fee to cover the administrative costs of collection, on accounts administered by the  
9282 office;

9283 (ii) a late penalty fee that may not be more than 10% of the account receivable on  
9284 accounts administered by the office;

9285 (iii) an interest charge that is:

9286 (A) the postjudgment interest rate established by Section 15-1-4 in judgments  
9287 established by the courts; or

9288 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts  
9289 receivable for which no court judgment has been entered; and

9290 (iv) fees to collect accounts receivable for higher education;

9291 (h) collect reasonable attorney fees and reasonable costs of collection that are related to  
9292 the collection of receivables under this chapter;

9293 (i) make rules that allow accounts receivable to be collected over a reasonable period  
9294 of time and under certain conditions with credit cards;

9295 (j) file a satisfaction of judgment in the district court by following the procedures and  
9296 requirements of the Utah Rules of Civil Procedure;

9297 (k) ensure that judgments for which the office is the judgment creditor are renewed, as  
9298 necessary; and

9299 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)  
9300 with private sector vendors under contract with the state to assist state agencies in collecting  
9301 debts owed to the state agencies without changing the classification of any private, controlled,  
9302 or protected record into a public record.

9303 (5) The office shall ensure that:

9304 (a) a record obtained by the office or a private sector vendor as referred to in  
9305 Subsection (4)(l):

9306 (i) is used only for the limited purpose of collecting accounts receivable; and

9307 (ii) is subject to federal, state, and local agency records restrictions; and

9308 (b) any person employed by, or formerly employed by, the office or a private sector  
9309 vendor as referred to in Subsection (4)(l) is subject to:

9310 (i) the same duty of confidentiality with respect to the record imposed by law on  
9311 officers and employees of the state agency from which the record was obtained; and

9312 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a  
9313 private, controlled, or protected record.

9314 (6) (a) The office shall collect accounts receivable ordered by the district court as a  
9315 result of prosecution for a criminal offense that have been transferred to the office under  
9316 Subsection 76-3-201.1(5)(h) or (8).

9317 (b) The office may not assess the interest charge established by the office under  
9318 Subsection (4) on an account receivable subject to the postjudgment interest rate established by  
9319 Section 15-1-4.

9320 (7) The office shall require state agencies to:

9321 (a) transfer collection responsibilities to the office or its designee according to time  
9322 limits established by the office;

9323 (b) make annual progress towards implementing collection techniques and improved  
9324 accounts receivable collections;

9325 (c) use the state's accounts receivable system or develop systems that are adequate to  
9326 properly account for and report their receivables;

9327 (d) develop and implement internal policies and procedures that comply with the

9328 collections policies and guidelines established by the office;

9329 (e) provide internal accounts receivable training to staff involved in their management  
9330 and collection of receivables as a supplement to statewide training;

9331 (f) bill for and make initial collection efforts of its receivables up to the time the  
9332 accounts must be transferred; and

9333 (g) submit quarterly receivable reports to the office that identify the age, collection  
9334 status, and funding source of each receivable.

9335 (8) The office shall use the information provided by the agencies and any additional  
9336 information from the office's records to compile a one-page summary report of each agency.

9337 (9) The summary shall include:

9338 (a) the type of revenue that is owed to the agency;

9339 (b) any attempted collection activity; and

9340 (c) any costs incurred in the collection process.

9341 (10) The office shall annually provide copies of each agency's summary to the governor  
9342 and to the Legislature.

9343 Section 216. Section **63A-9-401** is amended to read:

9344 **63A-9-401. Division -- Duties.**

9345 (1) The division shall:

9346 (a) perform all administrative duties and functions related to management of state  
9347 vehicles;

9348 (b) coordinate all purchases of state vehicles;

9349 (c) establish one or more fleet automation and information systems for state vehicles;

9350 (d) make rules establishing requirements for:

9351 (i) maintenance operations for state vehicles;

9352 (ii) use requirements for state vehicles;

9353 (iii) fleet safety and loss prevention programs;

9354 (iv) preventative maintenance programs;

9355 (v) procurement of state vehicles, including:

9356 (A) vehicle standards;

9357 (B) alternative fuel vehicle requirements;

9358 (C) short-term lease programs;

- 9359 (D) equipment installation; and  
9360 (E) warranty recovery programs;  
9361 (vi) fuel management programs;  
9362 (vii) cost management programs;  
9363 (viii) business and personal use practices, including commute standards;  
9364 (ix) cost recovery and billing procedures;  
9365 (x) disposal of state vehicles;  
9366 (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;  
9367 (xii) standard use and rate structures for state vehicles; and  
9368 (xiii) insurance and risk management requirements;  
9369 (e) establish a parts inventory;  
9370 (f) create and administer a fuel dispensing services program that meets the  
9371 requirements of Subsection (2);  
9372 (g) emphasize customer service when dealing with agencies and agency employees;  
9373 (h) conduct an annual audit of all state vehicles for compliance with division  
9374 requirements;  
9375 (i) before charging a rate, fee, or other amount to an executive branch agency, or to a  
9376 subscriber of services other than an executive branch agency:  
9377 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established  
9378 in Section 63A-1-114; and  
9379 (ii) obtain the approval of the Legislature as required by Section [63J-1-306]  
9380 63J-1-410; and  
9381 (j) conduct an annual market analysis of proposed rates and fees, which analysis shall  
9382 include a comparison of the division's rates and fees with the fees of other public or private  
9383 sector providers where comparable services and rates are reasonably available.  
9384 (2) The division shall operate a fuel dispensing services program in a manner that:  
9385 (a) reduces the risk of environmental damage and subsequent liability for leaks  
9386 involving state-owned underground storage tanks;  
9387 (b) eliminates fuel site duplication and reduces overall costs associated with fuel  
9388 dispensing;  
9389 (c) provides efficient fuel management and efficient and accurate accounting of

9390 fuel-related expenses;

9391 (d) where practicable, privatizes portions of the state's fuel dispensing system;

9392 (e) provides central planning for fuel contingencies;

9393 (f) establishes fuel dispensing sites that meet geographical distribution needs and that

9394 reflect usage patterns;

9395 (g) where practicable, uses alternative sources of energy; and

9396 (h) provides safe, accessible fuel supplies in an emergency.

9397 (3) The division shall:

9398 (a) ensure that the state and each of its agencies comply with state and federal law and

9399 state and federal rules and regulations governing underground storage tanks;

9400 (b) coordinate the installation of new state-owned underground storage tanks and the

9401 upgrading or retrofitting of existing underground storage tanks; and

9402 (c) ensure that counties, municipalities, school districts, local districts, and special

9403 service districts subscribing to services provided by the division sign a contract that:

9404 (i) establishes the duties and responsibilities of the parties;

9405 (ii) establishes the cost for the services; and

9406 (iii) defines the liability of the parties.

9407 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

9408 the director of the Division of Fleet Operations:

9409 (i) may make rules governing fuel dispensing; and

9410 (ii) shall make rules establishing standards and procedures for purchasing the most

9411 economically appropriate size and type of vehicle for the purposes and driving conditions for

9412 which the vehicle will be used, including procedures for granting exceptions to the standards

9413 by the executive director of the Department of Administrative Services.

9414 (b) Rules made under Subsection (4)(a)(ii):

9415 (i) shall designate a standard vehicle size and type that shall be designated as the

9416 statewide standard vehicle for fleet expansion and vehicle replacement;

9417 (ii) may designate different standard vehicle size and types based on defined categories

9418 of vehicle use;

9419 (iii) may, when determining a standard vehicle size and type for a specific category of

9420 vehicle use, consider the following factors affecting the vehicle class:

- 9421 (A) size requirements;  
9422 (B) economic savings;  
9423 (C) fuel efficiency;  
9424 (D) driving and use requirements;  
9425 (E) safety;  
9426 (F) maintenance requirements; and  
9427 (G) resale value; and  
9428 (iv) shall require agencies that request a vehicle size and type that is different from the  
9429 standard vehicle size and type to:  
9430 (A) submit a written request for a nonstandard vehicle to the division that contains the  
9431 following:  
9432 (I) the make and model of the vehicle requested, including acceptable alternate vehicle  
9433 makes and models as applicable;  
9434 (II) the reasons justifying the need for a nonstandard vehicle size or type;  
9435 (III) the date of the request; and  
9436 (IV) the name and signature of the person making the request; and  
9437 (B) obtain the division's written approval for the nonstandard vehicle.  
9438 (5) (a) (i) Each state agency and each higher education institution shall subscribe to the  
9439 fuel dispensing services provided by the division.  
9440 (ii) A state agency may not provide or subscribe to any other fuel dispensing services,  
9441 systems, or products other than those provided by the division.  
9442 (b) Counties, municipalities, school districts, local districts, special service districts,  
9443 and federal agencies may subscribe to the fuel dispensing services provided by the division if:  
9444 (i) the county or municipal legislative body, the school district, or the local district or  
9445 special service district board recommends that the county, municipality, school district, local  
9446 district, or special service district subscribe to the fuel dispensing services of the division; and  
9447 (ii) the division approves participation in the program by that government unit.  
9448 (6) The director, with the approval of the executive director, may delegate functions to  
9449 institutions of higher education, by contract or other means authorized by law, if:  
9450 (a) the agency or institution of higher education has requested the authority;  
9451 (b) in the judgment of the director, the state agency or institution has the necessary

9452 resources and skills to perform the delegated responsibilities; and

9453 (c) the delegation of authority is in the best interest of the state and the function  
9454 delegated is accomplished according to provisions contained in law or rule.

9455 Section 217. Section **63C-11-308** is amended to read:

9456 **63C-11-308. Licensing.**

9457 (1) A license is required for a person to act as or to represent that the person is a:

9458 (a) promoter;

9459 (b) manager;

9460 (c) contestant;

9461 (d) second;

9462 (e) referee; or

9463 (f) judge.

9464 (2) The commission shall issue to a person who qualifies under this part a license in the  
9465 classifications of:

9466 (a) promoter;

9467 (b) manager;

9468 (c) contestant;

9469 (d) second;

9470 (e) referee; or

9471 (f) judge.

9472 (3) All moneys collected pursuant to this section and Sections 63C-11-312,  
9473 63C-11-315, 63C-11-318, and 63C-11-321 shall be deposited in the General Fund.

9474 (4) Each applicant for licensure as a promoter shall:

9475 (a) submit an application in a form prescribed by the commission;

9476 (b) pay the fee determined by the commission under Section [~~63J-1-303~~] 63J-1-504;

9477 (c) provide to the commission evidence of financial responsibility, which shall include  
9478 financial statements and other information that the commission may reasonably require to  
9479 determine that the applicant or licensee is able to competently perform as and meet the  
9480 obligations of a promoter in this state;

9481 (d) produce information, documentation, and assurances as may be required to  
9482 establish by a preponderance of the evidence the applicant's reputation for good character,

9483 honesty, integrity, and responsibility, which shall include information, documentation, and  
9484 assurances that the applicant:

9485 (i) has not been convicted of a crime in any jurisdiction which the commission  
9486 determines by the nature of the crime and circumstances surrounding the crime should  
9487 disqualify the applicant from licensure in the public interest;

9488 (ii) is not engaging in illegal gambling with respect to sporting events or gambling with  
9489 respect to the promotions the applicant is promoting;

9490 (iii) has not been found in a criminal or civil proceeding to have engaged in or  
9491 attempted to engage in any fraud or misrepresentation in connection with a contest or any other  
9492 sporting event; and

9493 (iv) has not been found in a criminal or civil proceeding to have violated or attempted  
9494 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating  
9495 to the regulation of contests in this state or any other jurisdiction;

9496 (e) acknowledge in writing to the commission receipt, understanding, and intent to  
9497 comply with this part and the rules made under this part; and

9498 (f) if requested by the commission or the secretary, meet with the commission or the  
9499 secretary to examine the applicant's qualifications for licensure.

9500 (5) Each applicant for licensure as a contestant shall:

9501 (a) be not less than 18 years of age at the time the application is submitted to the  
9502 commission;

9503 (b) submit an application in a form prescribed by the commission;

9504 (c) pay the fee established by the commission under Section ~~[63J-1-303]~~ 63J-1-504;

9505 (d) provide a certificate of physical examination, dated not more than 60 days prior to  
9506 the date of application for license, in a form provided by the commission, completed by a  
9507 licensed physician and surgeon certifying that the applicant is free from any physical or mental  
9508 condition that indicates the applicant should not engage in activity as a contestant;

9509 (e) provide the commission with an accurate history of all matches that the applicant  
9510 has engaged in since becoming a contestant, including information on whether the applicant  
9511 won or lost each contest, and the matches in which there was a knockout or technical knockout;

9512 (f) produce information, documentation, and assurances as may be required to establish  
9513 by a preponderance of the evidence the applicant's reputation for good character, honesty,

9514 integrity, and responsibility, which shall include information, documentation, and assurances  
9515 that the applicant:

9516 (i) has not been convicted of a crime in any jurisdiction which the commission  
9517 determines by the nature of the crime and circumstances surrounding that crime should  
9518 disqualify the applicant from licensure in the public interest;

9519 (ii) is not engaging in illegal gambling with respect to sporting events or gambling with  
9520 respect to a contest in which the applicant will participate;

9521 (iii) has not been found in a criminal or civil proceeding to have engaged in or  
9522 attempted to have engaged in any fraud or misrepresentation in connection with a contest or  
9523 any other sporting event; and

9524 (iv) has not been found in a criminal or civil proceeding to have violated or attempted  
9525 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating  
9526 to the regulation of contests in this state or any other jurisdiction;

9527 (g) acknowledge in writing to the commission receipt, understanding, and intent to  
9528 comply with this part and the rules made under this part; and

9529 (h) if requested by the commission or the secretary, meet with the commission or the  
9530 secretary to examine the applicant's qualifications for licensure.

9531 (6) Each applicant for licensure as a manager or second shall:

9532 (a) submit an application in a form prescribed by the commission;

9533 (b) pay a fee determined by the commission under Section [~~63J-1-303~~] 63J-1-504;

9534 (c) produce information, documentation, and assurances as may be required to  
9535 establish by a preponderance of the evidence the applicant's reputation for good character,  
9536 honesty, integrity, and responsibility, which shall include information, documentation, and  
9537 assurances that the applicant:

9538 (i) has not been convicted of a crime in any jurisdiction which the commission  
9539 determines by the nature of the crime and circumstances surrounding that crime should  
9540 disqualify the applicant from licensure in the public interest;

9541 (ii) is not engaging in illegal gambling with respect to sporting events or gambling with  
9542 respect to a contest in which the applicant is participating;

9543 (iii) has not been found in a criminal or civil proceeding to have engaged in or  
9544 attempted to have engaged in any fraud or misrepresentation in connection with a contest or

9545 any other sporting event; and

9546 (iv) has not been found in a criminal or civil proceeding to have violated or attempted  
9547 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating  
9548 to the regulation of contests in this state or any other jurisdiction;

9549 (d) acknowledge in writing to the commission receipt, understanding, and intent to  
9550 comply with this part and the rules made under this part; and

9551 (e) if requested by the commission or secretary, meet with the commission or the  
9552 secretary to examine the applicant's qualifications for licensure.

9553 (7) Each applicant for licensure as a referee or judge shall:

9554 (a) submit an application in a form prescribed by the commission;

9555 (b) pay a fee determined by the commission under Section [~~63J-1-303~~] 63J-1-504;

9556 (c) produce information, documentation, and assurances as may be required to  
9557 establish by a preponderance of the evidence the applicant's reputation for good character,  
9558 honesty, integrity, and responsibility, which shall include information, documentation, and  
9559 assurances that the applicant:

9560 (i) has not been convicted of a crime in any jurisdiction which the commission  
9561 determines by the nature of the crime and circumstances surrounding the crime should  
9562 disqualify the applicant from licensure in the public interest;

9563 (ii) is not engaging in illegal gambling with respect to sporting events or gambling with  
9564 respect to a contest in which the applicant is participating;

9565 (iii) has not been found in a criminal or civil proceeding to have engaged in or  
9566 attempted to have engaged in any fraud or misrepresentation in connection with a contest or  
9567 any other sporting event; and

9568 (iv) has not been found in a criminal or civil proceeding to have violated or attempted  
9569 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating  
9570 to the regulation of contests in this state or any other jurisdiction;

9571 (d) acknowledge in writing to the commission receipt, understanding, and intent to  
9572 comply with this part and the rules made under this part;

9573 (e) provide evidence satisfactory to the commission that the applicant is qualified by  
9574 training and experience to competently act as a referee or judge in a contest; and

9575 (f) if requested by the commission or the secretary, meet with the commission or the

9576 secretary to examine the applicant's qualifications for licensure.

9577 (8) (a) A licensee serves at the pleasure, and under the direction, of the commission  
9578 while participating in any way at a contest.

9579 (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not  
9580 follow the commission's direction at an event or contest.

9581 Section 218. Section **63C-11-315** is amended to read:

9582 **63C-11-315. Approval to hold contest or promotion -- Bond required.**

9583 (1) An application to hold a contest or multiple contests as part of a single promotion  
9584 shall be made by a licensed promoter to the commission on forms provided by the commission.

9585 (2) The application shall be accompanied by a contest fee determined by the  
9586 commission under Section [~~63J-1-303~~] 63J-1-504.

9587 (3) (a) The commission may approve or deny approval to hold a contest or promotion  
9588 permitted under this part.

9589 (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination  
9590 by the commission that:

9591 (i) the promoter of the contest or promotion is properly licensed;

9592 (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter  
9593 of the contest or promotion; and

9594 (iii) the contest or promotion will be held in accordance with this part and rules made  
9595 under this part.

9596 (4) (a) Final approval to hold a contest or promotion may not be granted unless the  
9597 commission receives not less than seven days before the day of the contest with ten or more  
9598 rounds:

9599 (i) proof of a negative HIV test performed not more than 180 days before the day of the  
9600 contest for each contestant;

9601 (ii) a copy of each contestant's federal identification card;

9602 (iii) a copy of a signed contract between each contestant and the promoter for the  
9603 contest;

9604 (iv) a statement specifying the maximum number of rounds of the contest;

9605 (v) a statement specifying the site, date, and time of weigh-in; and

9606 (vi) the name of the physician selected from among a list of registered and

9607 commission-approved ringside physicians who shall act as ringside physician for the contest.

9608 (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or  
9609 promotion if the requirements under Subsection (4)(a) are not met because of unforeseen  
9610 circumstances beyond the promoter's control.

9611 (5) Final approval for a contest under ten rounds in duration may be granted as  
9612 determined by the commission after receiving the materials identified in Subsection (4) at a  
9613 time determined by the commission.

9614 (6) An applicant shall post a surety bond or cashier's check with the commission in the  
9615 greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the  
9616 proceeds if the applicant fails to comply with:

9617 (a) the requirements of this part; or

9618 (b) rules made under this part relating to the promotion or conduct of the contest or  
9619 promotion.

9620 Section 219. Section **63C-11-318** is amended to read:

9621 **63C-11-318. Contests.**

9622 (1) Except as provided in Section 63C-11-325, a licensee may not participate in:

9623 (a) a boxing contest as a contestant if that person has participated in another boxing  
9624 contest as a contestant within 30 days before the proposed boxing contest; or

9625 (b) an ultimate fighting contest as a contestant if that person has participated in another  
9626 ultimate fighting contest as a contestant within six days before the proposed ultimate fighting  
9627 contest.

9628 (2) Subsection (1) applies regardless of where the previous boxing contest occurred.

9629 (3) During the period of time beginning 60 minutes before the beginning of a contest,  
9630 the promoter shall demonstrate the promoter's compliance with the commission's security  
9631 requirements to all commission members present at the contest.

9632 (4) The commission shall establish fees in accordance with Section [~~63J-1-303~~]  
9633 63J-1-504 to be paid by a promoter for the conduct of each contest or event composed of  
9634 multiple contests conducted under this part.

9635 Section 220. Section **63F-1-103** is amended to read:

9636 **63F-1-103. Department of Technology Services.**

9637 (1) There is created within state government the Department of Technology Services

which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title.

(2) [~~In accordance with Subsection 63J-1-306(7), the~~] The department has authority to operate as an internal service fund agency as provided in Section [~~63J-1-306~~] 63J-1-410.

Section 221. Section **63F-1-301** is amended to read:

**63F-1-301. Cost based services -- Fees -- Rate committee.**

(1) The chief information officer shall:

(a) at the lowest practical cost, manage the delivery of efficient and cost-effective information technology and telecommunication services for:

(i) all executive branch agencies; and

(ii) entities that subscribe to the services in accordance with Section 63F-1-303; and

(b) provide priority service to public safety agencies.

(2) (a) In accordance with this Subsection (2), the chief information officer shall prescribe a schedule of fees for all services rendered by the department to:

(i) an executive branch entity; or

(ii) an entity that subscribes to services rendered by the department in accordance with Section 63F-1-303.

(b) Each fee included in the schedule of fees required by Subsection (2)(a):

(i) shall be equitable;

(ii) should be based upon a zero based, full cost accounting of activities necessary to provide each service for which a fee is established; and

(iii) for each service multiplied by the projected consumption of the service recovers no more or less than the full cost of each service.

(c) Before charging a fee for its services to an executive branch agency or to a subscriber of services other than an executive branch agency, the chief information officer shall:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63F-1-302; and

(ii) obtain the approval of the Legislature as required by Section [~~63J-1-306~~] 63J-1-410.

(d) The chief information officer shall conduct a market analysis by July 1, 2006, and

periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the department's rates with the fees of other public or private sector providers where comparable services and rates are reasonably available.

Section 222. Section **63F-1-302** is amended to read:

**63F-1-302. Information Technology Rate Committee -- Membership -- Duties.**

(1) (a) There is created an Information Technology Rate Committee which shall consist of:

(i) the director of the Governor's Office of Planning and Budget, or a designee;  
(ii) the executive directors, or their designee, of three executive branch agencies that use services and pay rates to one of the department internal service funds, appointed by the governor for a two-year term;

(iii) the director of the Division of Finance, or a designee; and

(iv) the chief information officer.

(b) (i) The director of the Division of Finance shall serve as chair of the committee.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the committee.

(c) The department shall provide staff services to the committee.

(2) (a) Any internal service funds managed by the department shall submit to the committee a proposed rate and fee schedule for services rendered by the department to an executive branch agency or an entity that subscribes to services rendered by the department.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) review the proposed rate and fee schedule and determine if the proposed fee is based on cost recovery as required by Subsection 63F-1-301(2)(b);

(iii) review the proposed rate and fee schedules and may approve, increase, or decrease the rate and fee;

(iv) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of Planning and Budget; and

(B) the Office of Legislative Fiscal Analyst for review by the Legislature in accordance with Section ~~[63J-1-306]~~ 63J-1-410, which requires the Legislature to approve the internal service fund agency's rates, fees, and budget in an appropriations act; and

(v) in accordance with Section ~~[63J-1-306]~~ 63J-1-410, review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature, which rate, fee, or amount shall be submitted to the Legislature at the next annual general session.

(c) The committee may, in accordance with Subsection ~~[63J-1-306]~~ 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section 223. Section **63G-2-203** is amended to read:

**63G-2-203. Fees.**

(1) A governmental entity may charge a reasonable fee to cover the governmental entity's actual cost of providing a record. This fee shall be approved by the governmental entity's executive officer.

(2) (a) When a governmental entity compiles a record in a form other than that normally maintained by the governmental entity, the actual costs under this section may include the following:

(i) the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;

(ii) the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request; and

(iii) in the case of fees for a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users, and the administrative costs as set forth in Subsections (2)(a)(i) and (ii).

(b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request.

(c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first

9731 quarter hour of staff time.

9732 (3) (a) Fees shall be established as provided in this Subsection (3).

9733 (b) A governmental entity with fees established by the Legislature:

9734 (i) shall establish the fees defined in Subsection (2), or other actual costs associated  
9735 with this section through the budget process; and

9736 (ii) may use the procedures of Section [~~63J-1-303~~] 63J-1-504 to set fees until the  
9737 Legislature establishes fees through the budget process.

9738 (c) Political subdivisions shall establish fees by ordinance or written formal policy  
9739 adopted by the governing body.

9740 (d) The judiciary shall establish fees by rules of the judicial council.

9741 (4) A governmental entity may fulfill a record request without charge and is  
9742 encouraged to do so when it determines that:

9743 (a) releasing the record primarily benefits the public rather than a person;

9744 (b) the individual requesting the record is the subject of the record, or an individual  
9745 specified in Subsection 63G-2-202(1) or (2); or

9746 (c) the requester's legal rights are directly implicated by the information in the record,  
9747 and the requester is impecunious.

9748 (5) A governmental entity may not charge a fee for:

9749 (a) reviewing a record to determine whether it is subject to disclosure, except as  
9750 permitted by Subsection (2)(a)(ii); or

9751 (b) inspecting a record.

9752 (6) (a) A person who believes that there has been an unreasonable denial of a fee  
9753 waiver under Subsection (4) may appeal the denial in the same manner as a person appeals  
9754 when inspection of a public record is denied under Section 63G-2-205.

9755 (b) The adjudicative body hearing the appeal has the same authority when a fee waiver  
9756 or reduction is denied as it has when the inspection of a public record is denied.

9757 (7) (a) All fees received under this section by a governmental entity subject to  
9758 Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.

9759 (b) Those funds shall be used to recover the actual cost and expenses incurred by the  
9760 governmental entity in providing the requested record or record series.

9761 (8) (a) A governmental entity may require payment of past fees and future estimated

9762 fees before beginning to process a request if:

9763 (i) fees are expected to exceed \$50; or

9764 (ii) the requester has not paid fees from previous requests.

9765 (b) Any prepaid amount in excess of fees due shall be returned to the requester.

9766 (9) This section does not alter, repeal, or reduce fees established by other statutes or  
9767 legislative acts.

9768 (10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be  
9769 set as provided in this Subsection (10).

9770 (b) The lieutenant governor shall:

9771 (i) after consultation with county clerks, establish uniform fees for voter registration  
9772 and voter history records that meet the requirements of this section; and

9773 (ii) obtain legislative approval of those fees by following the procedures and  
9774 requirements of Section [~~63J-1-303~~] 63J-1-504.

9775 Section 224. Section **63G-9-301** is amended to read:

9776 **63G-9-301. Audit and approval of claims -- Overexpenditure by agencies.**

9777 (1) (a) The Board of Examiners shall audit any claim presented to it, if the settlement  
9778 of the claim is required by law.

9779 (b) If the claim is approved, the board shall transmit it to the Legislature with a  
9780 statement of the reasons for the approval.

9781 (2) When an agency's line item appropriation has been overexpended and a written  
9782 report is submitted to the board as required by Section [~~63J-1-405~~] 63J-1-217, the board shall  
9783 review the report and either:

9784 (a) recommend and submit to the Legislature any supplemental appropriations or  
9785 corrective legislation that may be needed; or

9786 (b) recommend other internal procedures or policies that will make an overexpenditure  
9787 in the future unlikely.

9788 Section 225. Section **63J-1-102** is enacted to read:

9789 **CHAPTER 1. BUDGETARY PROCEDURES ACT**

9790 **Part 1. General Provisions**

9791 **63J-1-102. Definitions.**

9792 (1) (a) "Dedicated credits" means collections by an agency that are deposited directly

9793 into an account for expenditure on a separate line item and program.

9794 (b) "Dedicated credits" includes federal revenues that are deposited into an agency  
 9795 account for expenditure on a separate line item and program.

9796 (2) "Fixed collections" means collections that are:

9797 (a) fixed at a specific amount by law or by an appropriation act; and

9798 (b) required to be deposited into a separate line item and program.

9799 (3) "Free revenue" includes:

9800 (a) collections that are required by law to be deposited in:

9801 (i) the General Fund;

9802 (ii) the Uniform School Fund; or

9803 (iii) the Transportation Fund;

9804 (b) collections that are not otherwise designated by law;

9805 (c) collections that are not externally restricted; and

9806 (d) collections that are not included in an approved work program.

9807 (4) "Major revenue types" means:

9808 (a) free revenue;

9809 (b) restricted revenue;

9810 (c) dedicated credits; and

9811 (d) fixed collections.

9812 (5) "Restricted fund" means a fund or subfund that contains monies that are set aside  
 9813 for a specific program or purpose.

9814 (6) "Restricted revenue" means collections that are:

9815 (a) deposited, by law, into a separate fund or subfund; and

9816 (b) designated for a specific program or purpose.

9817 Section 226. Section **63J-1-104**, which is renumbered from Section 63J-1-404 is  
 9818 renumbered and amended to read:

9819 **~~[63J-1-404].~~      63J-1-104. Revenue types -- Disposition of funds collected or**  
 9820 **credited by a state agency.**

9821 ~~[(1)(a) The revenues enumerated in this section are established as major revenue~~  
 9822 ~~types.]~~

9823 ~~[(b)]~~ (1) (a) The Division of Finance shall:

9824 (i) account for revenues in accordance with generally accepted accounting principles;

9825 and

9826 (ii) use the major revenue types in internal accounting.

9827 ~~[(c)]~~ (b) Each agency shall:

9828 (i) use the major revenue types ~~[enumerated in this section]~~ to account for revenues;

9829 (ii) deposit revenues and other public funds received by them by following the  
9830 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

9831 (iii) expend revenues and public funds as required by this chapter.

9832 ~~[(2) The major revenue types are:]~~

9833 ~~[(a) free revenue;]~~

9834 ~~[(b) restricted revenue;]~~

9835 ~~[(c) dedicated credits; and]~~

9836 ~~[(d) fixed collections.]~~

9837 ~~[(3) (a) Free revenue includes:]~~

9838 ~~[(i) collections that are required by law to be deposited in the General Fund, the  
9839 Education Fund, the Uniform School Fund, or the Transportation Fund;]~~

9840 ~~[(ii) collections that are not otherwise designated by law;]~~

9841 ~~[(iii) collections that are not externally restricted; and]~~

9842 ~~[(iv) collections that are not included in an approved work program.]~~

9843 ~~[(b)]~~ (2) (a) Each agency shall deposit its free revenues into the appropriate fund.

9844 ~~[(c)]~~ (b) An agency may expend free revenues up to the amount specifically  
9845 appropriated by the Legislature.

9846 ~~[(d)]~~ (c) Any free revenue funds appropriated by the Legislature to an agency that  
9847 remain unexpended at the end of the fiscal year lapse to the source fund unless the Legislature  
9848 provides by law that those funds are nonlapsing.

9849 ~~[(4) (a) Restricted revenues are collections deposited by law into a separate fund or  
9850 subfund that are designated for a specific program or purpose.]~~

9851 ~~[(b)]~~ (3) (a) Each agency shall deposit its restricted revenues into a restricted fund.

9852 ~~[(c)]~~ (b) The Legislature may appropriate restricted revenues from a restricted fund for  
9853 the specific purpose or program designated by law.

9854 ~~[(d)]~~ (c) If the fund equity of a restricted fund is insufficient to provide the funds

9855 appropriated from it by the Legislature, the Division of Finance may reduce the appropriation  
9856 to a level that ensures that the fund equity is not less than zero.

9857 ~~[(e)]~~ (d) Any restricted revenue funds appropriated by the Legislature to an agency that  
9858 remain unexpended at the end of the fiscal year lapse to the restricted fund unless the  
9859 Legislature provides by law that those funds, or the program or line item financed by those  
9860 funds, are nonlapsing.

9861 ~~[(5) (a) Dedicated credits and federal revenues are collections by an agency that are  
9862 deposited directly into an account for expenditure on a separate line item and program.]~~

9863 ~~[(b)]~~ (4) (a) An agency may expend dedicated credits for any purpose within the  
9864 program or line item.

9865 ~~[(c) (i) An agency may]~~

9866 (b) (i) Except as provided in Subsection (4)(b)(ii), an agency may not expend dedicated  
9867 credits in excess of the amount appropriated as dedicated credits by the Legislature ~~[by  
9868 following the procedures contained in this Subsection (5)(c)].~~

9869 (ii) In order to expend dedicated credits in excess of the amount appropriated as  
9870 dedicated credits by the Legislature, the following procedure shall be followed:

9871 ~~[(ii)]~~ (A) The agency shall develop a new work program and the justification for the  
9872 work program and submit it to the Division of Finance and the director of the Governor's  
9873 Office of Planning and Budget. ~~[Except for monies deposited as dedicated credits in the Drug  
9874 Stamp Tax Fund under Section 59-19-105 or line items covering tuition and federal vocational  
9875 funds at institutions of higher learning, any expenditure of dedicated credits in excess of  
9876 amounts appropriated as dedicated credits by the Legislature may not be used to permanently  
9877 increase personnel within the agency unless approved by the Legislature.]~~

9878 ~~[(iii)]~~ (B) The Division of Finance and the director of the Governor's Office of  
9879 Planning and Budget shall review the work program and written justification and submit their  
9880 findings and recommendations to the governor.

9881 ~~[(iv)]~~ (C) The governor may authorize the agency to expend its excess dedicated credits  
9882 by approving the submitted work program.

9883 ~~[(v)]~~ (D) The state's fiscal officer shall notify the Legislature of the governor's action  
9884 by providing notice of the governor's action to the Office of Legislative Fiscal Analyst.

9885 (iii) An expenditure of dedicated credits in excess of amounts appropriated as

9886 dedicated credits by the Legislature may not be used to permanently increase personnel within  
9887 the agency unless:

9888 (A) the increase is approved by the Legislature; or

9889 (B) the monies are deposited as dedicated credits in:

9890 (I) the Drug Stamp Tax Fund under Section 59-19-105; or

9891 (II) a line item covering tuition or federal vocational funds at an institution of higher  
9892 education.

9893 ~~[(d)]~~ (c) (i) All excess dedicated credits lapse to the appropriate fund at the end of the  
9894 fiscal year unless the Legislature has designated the entire program or line item that is partially  
9895 or fully funded from dedicated credits as nonlapsing.

9896 (ii) The Division of Finance shall determine the appropriate fund into which the  
9897 dedicated credits lapse.

9898 ~~[(6) (a) Fixed collections are collections:]~~

9899 ~~[(i) fixed by law or by the appropriation act at a specific amount, and]~~

9900 ~~[(ii) required by law to be deposited into a separate line item and program.]~~

9901 ~~[(b)]~~ (5) (a) The Legislature may establish by law the maximum amount of fixed  
9902 collections that an agency may expend.

9903 ~~[(c)]~~ (b) If an agency receives less than the maximum amount of expendable fixed  
9904 collections established by law, the agency's authority to expend is limited to the amount of  
9905 fixed collections that it receives.

9906 ~~[(d)]~~ (c) If an agency receives fixed collections greater than the maximum amount of  
9907 expendable fixed collections established by law, those excess amounts lapse to the General  
9908 Fund, the Education Fund, the Uniform School Fund, or the Transportation Fund as designated  
9909 by the director of the Division of Finance at the end of the fiscal year.

9910 ~~[(7) (a)]~~ (6) Unless otherwise specifically provided by law, when an agency has a  
9911 program or line item that is funded by more than one major revenue type[.];

9912 (a) the agency shall expend its dedicated credits and fixed collections first[.]; and

9913 (b) [Unless otherwise specifically provided by law, when programs or line items are  
9914 funded by more than one major revenue type and include] if the program or line item includes  
9915 both free revenue and restricted revenue, an agency shall expend those [sources] revenues  
9916 based upon a proration of the amounts appropriated from each of those major revenue types.

9917 Section 227. Section **63J-1-201** is amended to read:

9918 **Part 2. Budget Process, Appropriations and Expenditures**

9919 **63J-1-201. Governor to submit budget to Legislature -- Contents -- Preparation --**  
9920 **Appropriations based on current tax laws and not to exceed estimated revenues.**

9921 (1) The governor shall deliver, not later than 30 days before the date the Legislature  
9922 convenes in the annual general session, a confidential draft copy of the governor's proposed  
9923 budget recommendations to the Office of the Legislative Fiscal Analyst.

9924 ~~[(+)]~~ (2) (a) The governor shall, within three days after the convening of the Legislature  
9925 in the annual general session, submit a budget for the ensuing fiscal year by delivering it to the  
9926 presiding officer of each house of the Legislature together with a schedule for all of the  
9927 proposed appropriations of the budget, clearly itemized and classified.

9928 (b) The ~~[budget message]~~ proposed budget shall include:

9929 (i) a projection of estimated revenues and expenditures for the next fiscal year; ~~[and]~~

9930 (ii) the source of all direct, indirect, ~~[or]~~ and in-kind matching funds for all federal  
9931 grants or assistance programs included in the budget~~[-];~~

9932 ~~[(2) At least 34 days before the submission of any budget, the governor shall deliver a~~  
9933 ~~confidential draft copy of the governor's proposed budget recommendations to the Office of the~~  
9934 ~~Legislative Fiscal Analyst.]~~

9935 ~~[(3) (a) The budget shall contain]~~

9936 (iii) a complete plan of proposed expenditures and estimated revenues for the next  
9937 fiscal year based upon the current fiscal year state tax laws and rates~~[-];~~

9938 ~~[(b) The budget may be accompanied by a separate document showing proposed~~  
9939 ~~expenditures and estimated revenues based on changes in state tax laws or rates.]~~

9940 (iv) an itemized estimate of the proposed appropriations for:

9941 (A) the Legislative Department as certified to the governor by the president of the  
9942 Senate and the speaker of the House;

9943 (B) the Executive Department;

9944 (C) the Judicial Department as certified to the governor by the state court  
9945 administrator;

9946 (D) payment and discharge of the principal and interest of the indebtedness of the state;

9947 (E) the salaries payable by the state under the Utah Constitution or under law for the

9948 lease agreements planned for the next fiscal year;  
9949 (F) other purposes that are set forth in the Utah Constitution or under law; and  
9950 (G) all other appropriations;  
9951 (v) for each line item, the average annual dollar amount of staff funding associated  
9952 with all positions that were vacant during the last fiscal year; and  
9953 (vi) deficits or anticipated deficits.  
9954 ~~[(4)]~~ (c) The budget shall be accompanied by a statement showing:  
9955 ~~[(a)]~~ (i) the revenues and expenditures for the last fiscal year;  
9956 ~~[(b)]~~ (ii) the current assets, liabilities, and reserves, surplus or deficit, and the debts and  
9957 funds of the state;  
9958 ~~[(c)]~~ (iii) an estimate of the state's financial condition as of the beginning and the end  
9959 of the period covered by the budget;  
9960 ~~[(d)]~~ (iv) a complete analysis of lease with an option to purchase arrangements entered  
9961 into by state agencies;  
9962 ~~[(e)]~~ (v) the recommendations for each state agency for new full-time employees for  
9963 the next fiscal year[;], which ~~[recommendation should be provided also to the State Building~~  
9964 ~~Board under]~~ shall also be provided to the State Building Board as required by Subsection  
9965 63A-5-103(2);  
9966 ~~[(f)]~~ (vi) any explanation that the governor may desire to make as to the important  
9967 features of the budget and any suggestion as to methods for the reduction of expenditures or  
9968 increase of the state's revenue; and  
9969 ~~[(g) the]~~ (vii) information detailing certain ~~[regulatory]~~ fee increases as required by  
9970 Section ~~[63J-1-303]~~ 63J-1-504.  
9971 ~~[(5) The budget shall include an itemized estimate of the appropriations for:]~~  
9972 ~~[(a) the Legislative Department as certified to the governor by the president of the~~  
9973 ~~Senate and the speaker of the House;]~~  
9974 ~~[(b) the Executive Department;]~~  
9975 ~~[(c) the Judicial Department as certified to the governor by the state court~~  
9976 ~~administrator;]~~  
9977 ~~[(d) payment and discharge of the principal and interest of the indebtedness of the~~  
9978 ~~state;]~~

9979 ~~[(e) the salaries payable by the state under the Utah Constitution or under law for the~~  
9980 ~~lease agreements planned for the next fiscal year;]~~

9981 ~~[(f) other purposes that are set forth in the Utah Constitution or under law; and]~~

9982 ~~[(g) all other appropriations.]~~

9983 ~~[(6) Deficits or anticipated deficits shall be included in the budget.]~~

9984 ~~[(7)]~~ (3) (a) (i) For the purpose of preparing and reporting the budget, the governor  
9985 shall require from the proper state officials, including public and higher education officials, all  
9986 heads of executive and administrative departments and state institutions, bureaus, boards,  
9987 commissions, and agencies expending or supervising the expenditure of the state moneys, and  
9988 all institutions applying for state moneys and appropriations, itemized estimates of revenues  
9989 and expenditures.

9990 (ii) ~~[(A)]~~ The governor may also require other information under these guidelines and  
9991 at times as the governor may direct~~[- (B) These guidelines], which~~ may include a requirement  
9992 for program productivity and performance measures, where appropriate, with emphasis on  
9993 outcome indicators.

9994 ~~[(b) The estimate for the Legislative Department as certified by the presiding officers~~  
9995 ~~of both houses shall be included in the budget without revision by the governor.]~~

9996 ~~[(c) The estimate for the Judicial Department, as certified by the state court~~  
9997 ~~administrator, shall also be included in the budget without revision, but the governor may make~~  
9998 ~~separate recommendations on it.]~~

9999 ~~[(d)]~~ (b) The governor may require ~~[the attendance at budget meetings of]~~  
10000 representatives of public and higher education, state departments and institutions, and other  
10001 institutions or individuals applying for state appropriations~~[-]~~ to attend budget meetings.

10002 (c) (i) (A) In submitting the budgets for the Departments of Health and Human  
10003 Services and the Office of the Attorney General, the governor shall consider a separate  
10004 recommendation in the governor's budget for funds to be contracted to:

10005 (I) local mental health authorities under Section 62A-15-110;

10006 (II) local substance abuse authorities under Section 62A-15-110;

10007 (III) area agencies under Section 62A-3-104.2;

10008 (IV) programs administered directly by and for operation of the Divisions of Substance  
10009 Abuse and Mental Health and Aging and Adult Services;

10010 (V) local health departments under Title 26A, Chapter 1, Local Health Departments;  
10011 and

10012 (VI) counties for the operation of Children's Justice Centers under Section 67-5b-102.

10013 (B) In the governor's budget recommendations under Subsections (3)(c)(i)(A)(I), (II),  
10014 and (III), the governor shall consider an amount sufficient to grant local health departments,  
10015 local mental health authorities, local substance abuse authorities, and area agencies the same  
10016 percentage increase for wages and benefits that the governor includes in the governor's budget  
10017 for persons employed by the state.

10018 (C) If the governor does not include in the governor's budget an amount sufficient to  
10019 grant the increase described in Subsection (3)(c)(i)(B), the governor shall include a message to  
10020 the Legislature regarding the governor's reason for not including that amount.

10021 (ii) (A) In submitting the budget for the Department of Agriculture, the governor shall  
10022 consider an amount sufficient to grant local conservation districts and Utah Association of  
10023 Conservation District employees the same percentage increase for wages and benefits that the  
10024 governor includes in the governor's budget for persons employed by the state.

10025 (B) If the governor does not include in the governor's budget an amount sufficient to  
10026 grant the increase described in Subsection (3)(c)(ii)(A), the governor shall include a message to  
10027 the Legislature regarding the governor's reason for not including that amount.

10028 (iii) (A) In submitting the budget for the Utah State Office of Rehabilitation and the  
10029 Division of Services for People with Disabilities, the Division of Child and Family Services,  
10030 and the Division of Juvenile Justice Services within the Department of Human Services, the  
10031 governor shall consider an amount sufficient to grant employees of corporations that provide  
10032 direct services under contract with those divisions, the same percentage increase for  
10033 cost-of-living that the governor includes in the governor's budget for persons employed by the  
10034 state.

10035 (B) If the governor does not include in the governor's budget an amount sufficient to  
10036 grant the increase described in Subsection (3)(c)(iii)(A), the governor shall include a message  
10037 to the Legislature regarding the governor's reason for not including that amount.

10038 (iv) (A) The Families, Agencies, and Communities Together Council may propose a  
10039 budget recommendation to the governor for collaborative service delivery systems operated  
10040 under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).

10041 (B) The Legislature may, through a specific program schedule, designate funds  
10042 appropriated for collaborative service delivery systems operated under Section 63M-9-402.

10043 (v) The governor shall include in the governor's budget the state's portion of the budget  
10044 for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah  
10045 Communications Agency Network Act.

10046 (vi) (A) The governor shall include a separate recommendation in the governor's  
10047 budget for funds to maintain the operation and administration of the Utah Comprehensive  
10048 Health Insurance Pool.

10049 (B) In making the recommendation the governor may consider:

10050 (I) actuarial analysis of growth or decline in enrollment projected over a period of at  
10051 least three years;

10052 (II) actuarial analysis of the medical and pharmacy claims costs projected over a period  
10053 of at least three years;

10054 (III) the annual Medical Care Consumer Price Index;

10055 (IV) the annual base budget for the pool established by the Commerce and Revenue  
10056 Appropriations Subcommittee for each fiscal year;

10057 (V) the growth or decline in insurance premium taxes and fees collected by the State  
10058 Tax Commission and the Insurance Department; and

10059 (VI) the availability of surplus General Fund revenue under Section 63J-1-312 and  
10060 Subsection 59-14-204(5)(b).

10061 ~~[(e)]~~ (d) (i) The governor may revise all estimates, except those relating to the  
10062 Legislative Department, the Judicial Department, and those providing for the payment of  
10063 principal and interest to the state debt and for the salaries and expenditures specified by the  
10064 Utah Constitution or under the laws of the state.

10065 (ii) The estimate for the Legislative Department, as certified by the presiding officers  
10066 of both houses, shall be included in the budget without revision by the governor.

10067 (iii) The estimate for the Judicial Department, as certified by the state court  
10068 administrator, shall also be included in the budget without revision, but the governor may make  
10069 separate recommendations on the estimate.

10070 ~~[(8)]~~ (e) The total appropriations requested for expenditures authorized by the budget  
10071 may not exceed the estimated revenues from taxes, fees, and all other sources for the next

10072 ensuing fiscal year.

10073 ~~[(9) If any item of the budget as enacted is held invalid upon any ground, the invalidity~~  
10074 ~~does not affect the budget itself or any other item in it.]~~

10075 ~~[(10) (a) In submitting the budgets for the Departments of Health and Human Services~~  
10076 ~~and the Office of the Attorney General, the governor shall consider a separate recommendation~~  
10077 ~~in the governor's budget for funds to be contracted to:]~~

10078 ~~[(i) local mental health authorities under Section 62A-15-110;]~~

10079 ~~[(ii) local substance abuse authorities under Section 62A-15-110;]~~

10080 ~~[(iii) area agencies under Section 62A-3-104.2;]~~

10081 ~~[(iv) programs administered directly by and for operation of the Divisions of Substance~~  
10082 ~~Abuse and Mental Health and Aging and Adult Services;]~~

10083 ~~[(v) local health departments under Title 26A, Chapter 1, Local Health Departments;~~  
10084 ~~and]~~

10085 ~~[(vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.]]~~

10086 ~~[(b) In the governor's budget recommendations under Subsections (10)(a)(i), (ii), and~~  
10087 ~~(iii), the governor shall consider an amount sufficient to grant local health departments, local~~  
10088 ~~mental health authorities, local substance abuse authorities, and area agencies the same~~  
10089 ~~percentage increase for wages and benefits that the governor includes in the governor's budget~~  
10090 ~~for persons employed by the state.]]~~

10091 ~~[(c) If the governor does not include in the governor's budget an amount sufficient to~~  
10092 ~~grant the increase described in Subsection (10)(b), the governor shall include a message to the~~  
10093 ~~Legislature regarding the governor's reason for not including that amount.]]~~

10094 ~~[(11) (a) In submitting the budget for the Department of Agriculture, the governor shall~~  
10095 ~~consider an amount sufficient to grant local conservation districts and Utah Association of~~  
10096 ~~Conservation District employees the same percentage increase for wages and benefits that the~~  
10097 ~~governor includes in the governor's budget for persons employed by the state.]]~~

10098 ~~[(b) If the governor does not include in the governor's budget an amount sufficient to~~  
10099 ~~grant the increase described in Subsection (11)(a), the governor shall include a message to the~~  
10100 ~~Legislature regarding the governor's reason for not including that amount.]]~~

10101 ~~[(12) (a) In submitting the budget for the Utah State Office of Rehabilitation and the~~  
10102 ~~Division of Services for People with Disabilities, the Division of Child and Family Services;~~

and the Division of Juvenile Justice Services within the Department of Human Services, the governor shall consider an amount sufficient to grant employees of corporations that provide direct services under contract with those divisions, the same percentage increase for cost-of-living that the governor includes in the governor's budget for persons employed by the state:]

[~~(b) If the governor does not include in the governor's budget an amount sufficient to grant the increase described in Subsection (12)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.~~]

[~~(13) (a) The Families, Agencies, and Communities Together Council may propose to the governor under Subsection 63M-9-201(4)(c) a budget recommendation for collaborative service delivery systems operated under Section 63M-9-402.~~]

[~~(b) The Legislature may, through a specific program schedule, designate funds appropriated for collaborative service delivery systems operated under Section 63M-9-402.~~]

[~~(14) The governor shall include in the governor's budget the state's portion of the budget for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah Communications Agency Network Act.~~]

[~~(15) (a) The governor shall include a separate recommendation in the governor's budget for funds to maintain the operation and administration of the Utah Comprehensive Health Insurance Pool.~~]

[~~(b) In making the recommendation the governor may consider:~~]

[~~(i) actuarial analysis of growth or decline in enrollment projected over a period of at least three years;~~]

[~~(ii) actuarial analysis of the medical and pharmacy claims costs projected over a period of at least three years;~~]

[~~(iii) the annual Medical Care Consumer Price Index;~~]

[~~(iv) the annual base budget for the pool established by the Commerce and Revenue Appropriations Subcommittee for each fiscal year;~~]

[~~(v) the growth or decline in insurance premium taxes and fees collected by the tax commission and the insurance department; and~~]

[~~(vi) the availability of surplus General Fund revenue under Section 63J-1-202 and Subsection 59-14-204(5)(b).~~]

10134 (4) In considering the factors in Subsections (3)(c)(vi)(B)(I), (II), and (III) and  
10135 Subsections (5)(b)(ii)(A), (B), and (C), the governor and the Legislature may consider the  
10136 actuarial data and projections prepared for the board of the Utah Comprehensive Health  
10137 Insurance Pool as it develops its financial statements and projections for each fiscal year.

10138 ~~[(16)]~~ (5) (a) In adopting a budget for each fiscal year, the Legislature shall consider an  
10139 amount sufficient to grant local health departments, local mental health authorities, local  
10140 substance abuse authorities, area agencies on aging, conservation districts, and Utah  
10141 Association of Conservation District employees the same percentage increase for wages and  
10142 benefits that is included in the budget for persons employed by the state.

10143 ~~[(17)(a)]~~ (b) (i) In adopting a budget each year for the Utah Comprehensive Health  
10144 Insurance Pool, the Legislature shall determine an amount that is sufficient to fund the pool for  
10145 each fiscal year.

10146 ~~[(b)]~~ (ii) When making a determination under Subsection ~~[(17)(a)]~~ (5)(b)(i), the  
10147 Legislature shall consider factors it determines are appropriate, which may include:

10148 ~~[(i)]~~ (A) actuarial analysis of growth or decline in enrollment projected over a period of  
10149 at least three years;

10150 ~~[(ii)]~~ (B) actuarial analysis of the medical and pharmacy claims costs projected over a  
10151 period of at least three years;

10152 ~~[(iii)]~~ (C) the annual Medical Care Consumer Price Index;

10153 ~~[(iv)]~~ (D) the annual base budget for the pool established by the Commerce and  
10154 Revenue Appropriations Subcommittee for each fiscal year;

10155 ~~[(v)]~~ (E) the growth or decline in insurance premium taxes and fees collected by the tax  
10156 commission and the insurance department from the previous fiscal year; and

10157 ~~[(vi)]~~ (F) the availability of surplus General Fund revenue under Section ~~[63J-1-202]~~  
10158 63J-1-312 and Subsection 59-14-204(5)(b).

10159 ~~[(e)]~~ (iii) The funds appropriated by the Legislature to fund the Utah Comprehensive  
10160 Health Insurance Pool as determined under Subsection ~~[(17)(a)]~~ (5)(b)(i):

10161 (i) shall be deposited into the enterprise fund established by Section 31A-29-120; and

10162 (ii) are restricted and are to be used to maintain the operation, administration, and  
10163 management of the Utah Comprehensive Health Insurance Pool created by Section  
10164 31A-29-104.

~~[(18) In considering the factors in Subsections (15)(b)(i), (ii), and (iii) and Subsections (17)(b)(i), (ii), and (iii), the governor and the Legislature may consider the actuarial data and projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it develops its financial statements and projections for each fiscal year.]~~

~~[(19) The governor shall report, for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year.]~~

(6) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 228. Section **63J-1-206**, which is renumbered from Section 63J-1-301 is renumbered and amended to read:

**63J-1-301.                    63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.**

(1) (a) All ~~[moneys]~~ monies appropriated by the Legislature are appropriated upon the terms and conditions set forth in this chapter, and any department, agency, or institution~~;~~ except the Legislature and its committees, or where specifically exempted by the appropriating act, which accepts moneys appropriated by the Legislature] that accepts monies appropriated by the Legislature, does so subject to the requirements of this chapter.

~~[(2)(a) In providing that certain appropriations are to be expended in accordance with a schedule or other restrictions, if any, set forth after each appropriations item, it is the intent of the Legislature to limit the amount of money to be expended from each appropriations item for certain specified purposes:]~~

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each appropriation item is to be expended subject to any schedule of programs and any restriction attached to the appropriation item, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

10196 (iii) is not itself an item of appropriation.

10197 (c) An appropriation or any surplus of any appropriation may not be diverted from any  
10198 department, agency, institution, or division to any other department, agency, institution, or  
10199 division.

10200 (d) The money appropriated subject to a schedule of programs or restriction may be  
10201 used only for the purposes authorized.

10202 (e) (i) If any department, agency, or institution for which money is appropriated  
10203 requests the transfer of [~~moneys~~] monies appropriated to it from one [~~purpose or function~~]  
10204 program to another [~~purpose or function~~] program within an item of appropriation, the director  
10205 of the Governor's Office of Planning and Budget shall require a new work program to be  
10206 submitted for the fiscal year involved setting forth the purpose and necessity for [~~such~~] the  
10207 transfer.

10208 (ii) The director and fiscal officer shall review the proposed change and submit their  
10209 findings and recommendations to the governor, who may permit the transfer.

10210 (iii) The [~~state~~] state's fiscal officer shall notify the Legislature [~~through the~~] of the  
10211 governor's action by providing notice of the governor's action to the Office of the Legislative  
10212 Fiscal Analyst [~~of action taken by the governor~~].

10213 (f) Monies may not be transferred from one item of appropriation to any other item of  
10214 appropriation.

10215 [~~(3) This section does not apply to the Investigation Account of the Water Resources~~  
10216 ~~Construction Fund. The investigation account shall continue to be governed by Section~~  
10217 ~~73-10-8.~~]

10218 Section 229. Section **63J-1-207**, which is renumbered from Section 63J-1-408 is  
10219 renumbered and amended to read:

10220 **[~~63J-1-408~~]. 63J-1-207. Uniform School Fund -- Appropriations.**

10221 (1) Appropriations made from the General Fund to the Uniform School Fund to assist  
10222 in financing the state's portion of the minimum school program, as provided by law, shall be  
10223 conditioned upon available revenue.

10224 (2) If revenues to the General Fund are not sufficient to permit transfers to the Uniform  
10225 School Fund as provided by appropriation, the state fiscal officers[~~, with the approval of the~~  
10226 ~~governor,~~] shall withhold [~~such~~] transfers from the General Fund to the Uniform School Fund

during the fiscal period, as in their judgment the available revenues justify~~[, after]~~ until:

(a) all other appropriations made by law have been provided for~~[, and after]~~;

(b) any modifications [in] to department and agency work ~~[program and allotments]~~  
programs have been made~~[, and provided further, that transfers]~~; and

(c) the governor has approved the transfer.

(3) Transfers from the General Fund to the Uniform School Fund shall be made at such times as required to equalize the property levy for each fiscal year.

Section 230. Section **63J-1-208**, which is renumbered from Section 63J-1-409 is renumbered and amended to read:

~~[63J-1-409].~~        **63J-1-208. Conditions on appropriations binding.**

~~[Any and all conditions as may be]~~ A condition that is attached to [items] an item of  
appropriation ~~[made by the appropriations act]~~ that is not inconsistent with law ~~[shall be]~~ is  
binding upon the recipient of ~~[any such]~~ the appropriation.

Section 231. Section **63J-1-209**, which is renumbered from Section 63J-1-406 is renumbered and amended to read:

~~[63J-1-406].~~        **63J-1-209. Director of finance to exercise accounting control**  
**-- Work programs -- Allotments and expenditures.**

(1) The director of finance shall exercise accounting control over all state departments, institutions, and agencies other than the Legislature and legislative committees.

(2) (a) The director shall require the head of each department to submit, by May 15 of each year, a work program for the next fiscal year.

(b) The director may require any department to submit a work program for any other period.

(3) The work program shall include appropriations and all other funds from any source made available to the department for its operation and maintenance for the period and program authorized by the appropriation act.

(4) The director of finance shall, upon request from the governor, revise, alter, decrease, or change work programs.

(5) Notwithstanding the requirements of Title 63J, Chapter 2, Revenue Procedures and Control Act, the aggregate of the work program changes may not exceed the total appropriations or other funds from any source that are available to the department line item for

the fiscal year in question.

(6) The director of finance shall transmit a copy of the changes, when approved by the governor, to:

(a) the head of the department concerned; and ~~[also a copy to]~~

(b) the legislative analyst.

(7) Upon request, review, and approval by the governor, the director of finance shall permit all expenditures to be made from the appropriations or other funds from any source on the basis of those work programs.

(8) (a) Except as provided by Subsection (8)(c), the director shall, through statistical sampling methods or other means, examine and approve or disapprove all requisitions and requests for proposed expenditures of the departments.

(b) No requisitions of any of the departments shall be allowed nor shall any obligation be created without the approval and the certification of the director.

(c) Notwithstanding the requirements of Subsection (8)(a), the director need only certify the availability of funds when the requisitions or proposed expenditures are for the judicial branch or to pay the salaries or compensation of officers fixed by law.

Section 232. Section **63J-1-210**, which is renumbered from Section 63J-1-302 is renumbered and amended to read:

~~**[63J-1-302].**~~        **63J-1-210. Restrictions on agency expenditures of monies -- Lobbyists.**

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" includes the legislative branch, the judicial branch, the Board of Regents, the board of trustees of each higher education institution, each higher education institution, or a public education entity.

(b) "Executive action" means action undertaken by the governor, including signing or vetoing legislation, and action undertaken by any official in the executive branch of government.

(c) "Legislative action" means action undertaken by the Utah Legislature or any part of

it.

(d) "Lobbyist" means a person who is not an employee of an agency who is hired as an independent contractor by the agency to communicate with legislators or the governor for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

(2) A state agency or entity to which monies are appropriated by the Legislature may not expend any monies to pay a lobbyist.

Section 233. Section **63J-1-211**, which is renumbered from Section 63J-1-307 is renumbered and amended to read:

**~~[63J-1-307].~~        63J-1-211.   Appropriating from restricted accounts.**

(1) As used in this section, "operating deficit" means that estimated General Fund or Uniform School Fund revenues are less than budgeted for the current or next fiscal year.

(2) Notwithstanding any other statute that limits the Legislature's power to appropriate from a restricted account, if the Legislature determines that an operating deficit exists, unless prohibited by federal law or court order, the Legislature may, in eliminating the deficit, appropriate monies from a restricted account into the General Fund.

Section 234. Section **63J-1-212**, which is renumbered from Section 63J-1-308 is renumbered and amended to read:

**~~[63J-1-308].~~        63J-1-212.   Duplicate payment of claims prohibited.**

No claim against the state, the payment of which is provided for, shall be duplicated, and the amount of any appropriation for the payment of any such claim shall be withheld if it is covered by any other appropriation.

Section 235. Section **63J-1-213**, which is renumbered from Section 63J-1-309 is renumbered and amended to read:

**~~[63J-1-309].~~        63J-1-213.   Appropriations from special funds or accounts --  
Transfer by proper official only.**

Whenever appropriations are made from special funds, or a fund account, the transfer of ~~[moneys]~~ monies from ~~[such]~~ those funds, or accounts, to the General Fund or any other fund for budgetary purposes shall be made by the proper state fiscal officer.

Section 236. Section **63J-1-214**, which is renumbered from Section 63J-1-310 is renumbered and amended to read:

10320            ~~[63J-1-310].~~            **63J-1-214.** Warrants -- Not to be drawn until claim  
10321 **processed -- Redemption.**

10322            (1) No warrant to cover any claim against any appropriation or fund shall be drawn  
10323 until such claim has been processed as provided by law.

10324            (2) The state treasurer shall return all redeemed warrants to the state fiscal officer for  
10325 purposes of reconciliation, post-audit and verification of the state treasurer's fund balances.

10326            Section 237. Section **63J-1-215**, which is renumbered from Section 63J-1-311 is  
10327 renumbered and amended to read:

10328            ~~[63J-1-311].~~            **63J-1-215.** Cash funds -- Petty cash, application for --  
10329 **Revolving fund established by law excepted.**

10330            (1) Before any new petty cash funds may be established, the commission, department,  
10331 or agency requesting the fund or funds shall apply in writing to the state fiscal officer, setting  
10332 out the reasons for which it is needed and the amount requested.

10333            (2) The state fiscal officer shall review the application and submit it to the governor  
10334 with the state fiscal officer's recommendations, and the governor may establish the fund or  
10335 funds from ~~[moneys]~~ monies in the state treasury.

10336            ~~[(3) The state fiscal officer may, in lieu of establishing petty cash, imprest cash, or~~  
10337 ~~revolving funds for state institutions of higher education, permit advances to be made from~~  
10338 ~~allotments to the institutions in sufficient amounts to provide necessary working bank balances~~  
10339 ~~to facilitate an orderly management of institutional affairs. The institutions shall make reports~~  
10340 ~~as required by the state fiscal officer for the expenditure of funds included in any advances.]~~

10341            ~~[(4)]~~ (3) Revolving funds established by law are not subject to the provisions of this  
10342 section.

10343            Section 238. Section **63J-1-216** is enacted to read:

10344            **63J-1-216.** Allotment of funds to higher education.

10345            (1) The state fiscal officer may permit advances to be made from allotments to state  
10346 institutions of higher education in sufficient amounts to provide necessary working bank  
10347 balances to facilitate an orderly management of institutional affairs.

10348            (2) State institutions of higher education shall make reports, as required by the state  
10349 fiscal officer, for the expenditure of funds included in any advances.

10350            Section 239. Section **63J-1-217**, which is renumbered from Section 63J-1-405 is

10351 renumbered and amended to read:

10352 ~~[63J-1-405].~~ 63J-1-217. Overexpenditure of budget by agency --

10353 **Prorating budget income shortfall.**

10354 (1) In providing for appropriations, the Legislature intends that expenditures of  
10355 departments, agencies, and institutions of state government be kept within revenues available  
10356 for such expenditures.

10357 (2) (a) The Legislature also intends that line items of appropriation not be  
10358 overexpended.

10359 (b) If an agency's line item is overexpended at the close of a fiscal year:

10360 (i) the director of the Division of Finance may make payments from the line item to  
10361 vendors for goods or services that were received on or before June 30; and

10362 (ii) the director of the Division of Finance shall immediately reduce the agency's line  
10363 item budget in the current year by the amount of the overexpenditure.

10364 (c) Each agency with an overexpended line item shall ~~[produce]~~:

10365 (i) prepare a written report explaining the reasons for the overexpenditure; and ~~[shall]~~

10366 (ii) present the report to the Board of Examiners as required by Section 63G-9-301.

10367 (4) (a) ~~[No]~~ A department may not receive ~~[any]~~ an advance ~~[allotment, or allotments~~  
10368 ~~in excess of regular monthly allotments,]~~ of funds that cannot be covered by anticipated  
10369 revenue within the work program of the fiscal year, unless the governor allocates ~~[moneys]~~  
10370 monies from the governor's emergency appropriations.

10371 (b) All allocations made from the governor's emergency appropriations shall be  
10372 reported to the budget subcommittee of the Legislative Management Committee by notifying  
10373 the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the  
10374 allocation.

10375 (c) Emergency appropriations shall be allocated only to support activities having  
10376 existing legislative approval and appropriation, and may not be allocated to any activity or  
10377 function rejected directly or indirectly by the Legislature.

10378 Section 240. Section **63J-1-218**, which is renumbered from Section 63J-1-407 is  
10379 renumbered and amended to read:

10380 ~~[63J-1-407].~~ 63J-1-218. Reduction in federal funds -- Agencies to reduce  
10381 **budgets.**

(1) In any fiscal year in which federal grants to be received by state agencies, departments, divisions, or institutions are reduced below the level estimated in the appropriations acts for that year, the programs supported by those grants must be reduced commensurate with the amount of the federal reduction unless the Legislature appropriates state funds to offset the loss in federal funding.

(2) This program modification shall be reported to the Legislature through the Executive Appropriations Committee and the Office of the Legislative Fiscal Analyst.

Section 241. Section **63J-1-312**, which is renumbered from Section 63J-1-202 is renumbered and amended to read:

**Part 3. Budget-Related Restricted Accounts**

**[63J-1-202].            63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.**

(1) As used in this section:

(a) "Education Fund budget deficit" means a situation where appropriations made by the Legislature from the Education Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Education Fund in that fiscal year.

(b) "General Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the General Fund.

(c) "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

(d) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(e) "Operating deficit" means that, at the end of the fiscal year, the unreserved and undesignated fund balance in the General Fund is less than zero.

(2) There is created within the General Fund a restricted account to be known as the General Fund Budget Reserve Account, which is designated to receive the legislative appropriations, investment earnings, and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account.

(ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account would cause the balance in the account to exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 6% of General Fund appropriations for the fiscal year in which the General Fund revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding the investment earnings for the fiscal year and excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if a General Fund revenue surplus exists and if, within the last ten years, the Legislature has appropriated any money from the General Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to

10444 exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus  
10445 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the  
10446 balance in the account equals 6% of General Fund appropriations for the fiscal year in which  
10447 the revenue surplus occurred.

10448 (iii) The Division of Finance shall calculate the amount to be transferred under this  
10449 Subsection (3)(b):

10450 (A) before transferring from the General Fund revenue surplus any other year-end  
10451 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
10452 and

10453 (B) excluding the investment earnings for the fiscal year and excluding any direct  
10454 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

10455 (c) For appropriations made by the Legislature to the General Fund Budget Reserve  
10456 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in  
10457 the appropriation, as replacement funds for appropriations made from the account if funds were  
10458 appropriated from the General Fund Budget Reserve Account within the past ten years and  
10459 have not yet been replaced.

10460 (4) (a) If, at the close of any fiscal year, there appear to be insufficient monies to pay  
10461 additional debt service for any bonded debt authorized by the Legislature, the Division of  
10462 Finance may hold back from any General Fund revenue surplus monies sufficient to pay the  
10463 additional debt service requirements resulting from issuance of bonded debt that was  
10464 authorized by the Legislature.

10465 (b) The Division of Finance may not spend the hold back amount for debt service  
10466 under Subsection (4)(a) unless and until it is appropriated by the Legislature.

10467 (c) If, after calculating the amount for transfers to the General Fund Budget Reserve  
10468 Account, the remaining General Fund revenue surplus is insufficient to cover the hold back for  
10469 debt service required by Subsection (4)(a), the Division of Finance shall reduce the transfer to  
10470 the General Fund Budget Reserve Account by the amount necessary to cover the debt service  
10471 hold back.

10472 (d) Notwithstanding Subsection (3), the Division of Finance shall hold back the  
10473 General Fund balance for debt service authorized by this Subsection (4) before making any  
10474 transfers to the General Fund Budget Reserve Account or any other designation or allocation of

10475 General Fund revenue surplus.

10476 (5) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of  
10477 Finance determines that an operating deficit exists and that holding back the transfers to the  
10478 State Disaster Recovery Restricted Account under Section ~~[63J-1-204]~~ 63J-1-314 does not  
10479 eliminate the operating deficit, the Division of Finance may reduce the transfer to the General  
10480 Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.

10481 (6) The Legislature may appropriate monies from the General Fund Budget Reserve  
10482 Account only to:

10483 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund  
10484 budget deficit occurs;

10485 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter  
10486 10, State Settlement Agreements Act;

10487 (c) pay retroactive tax refunds; or

10488 (d) resolve an Education Fund budget deficit.

10489 (7) Interest generated from investments of money in the General Fund Budget Reserve  
10490 Account shall be deposited into the General Fund.

10491 Section 242. Section **63J-1-313**, which is renumbered from Section 63J-1-203 is  
10492 renumbered and amended to read:

10493 ~~[63J-1-203].~~ **63J-1-313. Establishing an Education Budget Reserve**  
10494 **Account -- Providing for deposits and expenditures from the account -- Providing for**  
10495 **interest generated by the account.**

10496 (1) As used in this section:

10497 (a) "Education Fund appropriations" means the sum of the spending authority for a  
10498 fiscal year that is:

10499 (i) granted by the Legislature in all appropriation acts and bills; and

10500 (ii) identified as coming from the Education Fund.

10501 (b) "Education Fund budget deficit" means a situation where appropriations made by  
10502 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
10503 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
10504 in that fiscal year.

10505 (c) "Education Fund revenue surplus" means a situation where actual Education Fund

10506 revenues collected in a completed fiscal year exceed the estimated revenues for the Education  
10507 Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the  
10508 Legislature.

10509 (d) "Operating deficit" means that, at the end of the fiscal year, the unreserved and  
10510 undesignated fund balance in the Education Fund is less than zero.

10511 (2) There is created within the Education Fund a restricted account to be known as the  
10512 Education Fund Budget Reserve Account, which is designated to receive the legislative  
10513 appropriations, investment earnings, and the surplus revenue required to be deposited into the  
10514 account by this section.

10515 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in  
10516 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in  
10517 conjunction with the completion of the annual audit by the state auditor, determines that there  
10518 is an Education Fund revenue surplus, the Division of Finance shall transfer 25% of the  
10519 Education Fund revenue surplus to the Education Fund Budget Reserve Account.

10520 (ii) If the transfer of 25% of the Education Fund revenue surplus to the Education Fund  
10521 Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the account to  
10522 exceed 7% of Education Fund appropriations for the fiscal year in which the Education Fund  
10523 revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to  
10524 ensure that the balance in the account equals 7% of the Education Fund appropriations for the  
10525 fiscal year in which the Education Fund revenue surplus occurred.

10526 (iii) The Division of Finance shall calculate the amount to be transferred under this  
10527 Subsection (3)(a):

10528 (A) before transferring from the Education Fund revenue surplus any other year-end  
10529 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
10530 and

10531 (B) excluding the investment earnings for the fiscal year and excluding any direct  
10532 legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal  
10533 year.

10534 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if  
10535 an Education Fund revenue surplus exists and if, within the last ten years, the Legislature has  
10536 appropriated any money from the Education Fund Budget Reserve Account that has not been

replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the Education Fund revenue surplus to the Education Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the Education Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 7% of Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 7% of Education Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) before transferring from the Education Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding the investment earnings for the fiscal year and excluding any direct legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the Education Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless specified otherwise in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the account within the past ten years and have not yet been replaced.

(4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the Division of Finance may reduce the transfer to the Education Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.

(5) The Legislature may appropriate monies from the Education Fund Budget Reserve Account only to resolve an Education Fund budget deficit.

(6) Interest generated from investments of money in the Education Fund Budget Reserve Account shall be deposited into the Education Fund.

Section 243. Section **63J-1-314**, which is renumbered from Section 63J-1-204 is

10568 renumbered and amended to read:

10569           ~~[63J-1-204].~~           **63J-1-314. Deposits related to the Disaster Recovery**

10570 **Funding Act.**

10571           (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,  
10572 the unreserved and undesignated fund balance in the General Fund is less than zero.

10573           (2) Beginning with the fiscal year ending June 30, 2007, at the end of each fiscal year  
10574 and after the transfer of surplus General Fund revenues has been made to the General Fund  
10575 Budget Reserve Account as provided in Section ~~[63J-1-202]~~ 63J-1-312, the Division of  
10576 Finance shall deposit an amount into the State Disaster Recovery Restricted Account, created  
10577 in Section 53-2-403, calculated by:

10578           (a) determining the amount of surplus General Fund revenues after the transfer to the  
10579 General Fund Budget Reserve Account under Section ~~[63J-1-202]~~ 63J-1-312 that is  
10580 unrestricted and undesignated;

10581           (b) calculating an amount equal to the lesser of:

10582               (i) 25% of the amount determined under Subsection (2)(a); or

10583               (ii) 6% of the total of the General Fund appropriation amount for the fiscal year in  
10584 which the surplus occurs; and

10585           (c) adding to the amount calculated under Subsection (2)(b) an amount equal to the  
10586 lesser of:

10587               (i) 25% more of the amount described in Subsection (2)(a); or

10588               (ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any  
10589 amount appropriated from the State Disaster Recovery Restricted Account within ten fiscal  
10590 years before the fiscal year in which the surplus occurs if:

10591               (A) a surplus exists; and

10592               (B) the Legislature appropriates money from the State Disaster Recovery Restricted  
10593 Account that is not replaced by appropriation or as provided in this Subsection (2)(c).

10594           (3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of  
10595 Finance determines that an operating deficit exists, the Division of Finance shall reduce the  
10596 transfer to the State Disaster Recovery Restricted Account by the amount necessary to  
10597 eliminate the operating deficit.

10598           Section 244. Section **63J-1-410**, which is renumbered from Section 63J-1-306 is

10599 renumbered and amended to read:

10600 **Part 4. Internal Service Funds**

10601 **~~[63J-1-306].~~ 63J-1-410. Internal service funds -- Governance and review.**

10602 (1) For purposes of this section:

10603 (a) "Agency" means a department, division, office, bureau, or other unit of state  
10604 government, and includes any subdivision of an agency.

10605 (b) "Do not replace vehicles" means a vehicle accounted for in the Division of Fleet  
10606 Operations for which charges to an agency for its use do not include amounts to cover  
10607 depreciation or to accumulate assets to replace the vehicle at the end of its useful life.

10608 (c) "Internal service fund agency" means an agency that provides goods or services to  
10609 other agencies of state government or to other governmental units on a capital maintenance and  
10610 cost reimbursement basis, and which recovers costs through interagency billings.

10611 (d) "Revolving loan fund" means each of the revolving loan funds defined in Section  
10612 63A-3-205.

10613 (2) An internal service fund agency is not subject to this section with respect to its  
10614 administration of a revolving loan fund.

10615 (3) An internal service fund agency may not bill another agency for services that it  
10616 provides, unless the Legislature has:

10617 (a) reviewed and approved the internal service fund agency's budget request;

10618 (b) reviewed and approved the internal service fund agency's rates, fees, and other  
10619 amounts that it charges those who use its services and included those rates, fees, and amounts  
10620 in an appropriation act;

10621 (c) approved the number of full-time, permanent positions of the internal service fund  
10622 agency as part of the annual appropriation process; and

10623 (d) appropriated to the internal service fund agency the internal service fund's  
10624 estimated revenue based upon the rates and fee structure that are the basis for the estimate.

10625 (4) (a) Except as provided in Subsection (4)(b), an internal service fund agency may  
10626 not charge rates, fees, and other amounts that exceed the rates, fees, and amounts established  
10627 by the Legislature in the appropriations act.

10628 (b) (i) An internal service fund agency that begins a new service or introduces a new  
10629 product between annual general sessions of the Legislature may establish and charge an interim

10630 rate or amount for that service or product.

10631 (ii) The internal service fund agency shall submit that interim rate or amount to the  
10632 Legislature for approval at the next annual general session.

10633 (5) The internal service fund agency budget request shall separately identify the capital  
10634 needs and the related capital budget.

10635 (6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is  
10636 implemented by the Division of Finance, the Division of Finance shall transfer equity created  
10637 by that accounting change to any internal service fund agency up to the amount needed to  
10638 eliminate any long-term debt and deficit working capital in the fund.

10639 (7) No new internal service fund agency may be established unless reviewed and  
10640 approved by the Legislature.

10641 (8) (a) Except as provided in Subsection (8)(f), an internal service fund agency may not  
10642 acquire capital assets unless legislative approval for acquisition of the assets has been included  
10643 in an appropriations act for the internal service fund agency.

10644 (b) An internal service fund agency may not acquire capital assets after the transfer  
10645 mandated by Subsection (6) has occurred unless the internal service fund agency has adequate  
10646 working capital.

10647 (c) The internal service fund agency shall provide working capital from the following  
10648 sources in the following order:

10649 (i) first, from operating revenues to the extent allowed by state rules and federal  
10650 regulations;

10651 (ii) second, from long-term debt, subject to the restrictions of this section; and

10652 (iii) last, from an appropriation.

10653 (d) (i) To eliminate negative working capital, an internal service fund agency may incur  
10654 long-term debt from the General Fund or Special Revenue Funds to acquire capital assets.

10655 (ii) The internal service fund agency shall repay all long-term debt borrowed from the  
10656 General Fund or Special Revenue Funds by making regular payments over the useful life of the  
10657 asset according to the asset's depreciation schedule.

10658 (e) (i) The Division of Finance may not allow an internal service fund agency's  
10659 borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of  
10660 the fiscal year.

(ii) If an internal service fund agency wishes to purchase authorized assets or enter into equipment leases that would increase its borrowing beyond 90% of the net book value of the agency's capital assets, the agency may purchase those assets only with monies appropriated from another fund, such as the General Fund or a special revenue fund.

(f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through agency appropriation may not be transferred to any internal service fund agency without legislative approval.

(ii) Vehicles acquired by agencies from appropriated funds or monies appropriated to agencies to be used for vehicle purchases may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iii) Vehicles acquired with funding from sources other than state appropriations or acquired through the federal surplus property donation program may be transferred to the Division of Fleet Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

(iv) Unless otherwise approved by the Legislature, vehicles acquired under Subsection (8)(f)(iii) shall be accounted for as "do not replace" vehicles.

(9) The Division of Finance shall adopt policies and procedures related to the accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal service funds agencies.

Section 245. Section **63J-1-411**, which is renumbered from Section 63J-1-403 is renumbered and amended to read:

**~~63J-1-403~~.                    63J-1-411. Internal service funds -- End of fiscal year -- Unused authority for capital acquisition.**

(1) An internal service fund agency's authority to acquire capital assets under Subsection [~~63J-1-306~~] 63J-1-410(8)(a) shall lapse if the acquisition of the capital asset does not occur in the fiscal year in which the authorization is included in the appropriations act, unless the Legislature identifies the authority to acquire the capital asset as nonlapsing authority:

(a) for a specific one-time project and a limited period of time in the Legislature's initial appropriation to the agency; or

(b) in a supplemental appropriation in accordance with Subsection (2).

(2) (a) An internal service fund agency's authority to acquire capital assets may be retained as nonlapsing authorization if the internal service fund agency includes a one-time project's list as part of the budget request that it submits to the governor and the Legislature at the annual general session of the Legislature immediately before the end of the fiscal year in which the agency may have unused capital acquisition authority.

(b) The governor:

(i) may approve some or all of the items from an agency's one-time project's list; and  
(ii) shall identify and prioritize any approved one-time projects in the budget that the governor submits to the Legislature.

(c) The Legislature:

(i) may approve some or all of the specific items from an agency's one-time project's list as an approved capital acquisition for an agency's appropriation balance;  
(ii) shall identify any authorized one-time projects in the appropriate line item appropriation; and  
(iii) may prioritize one-time projects in intent language.

(3) An internal service fund agency shall submit a status report of outstanding nonlapsing authority to acquire capital assets and associated one-time projects to the Governor's Office of Planning and Budget and the Legislative Fiscal Analyst's Office with the proposed budget required by Section 63J-1-201.

Section 246. Section **63J-1-504**, which is renumbered from Section 63J-1-303 is renumbered and amended to read:

#### **Part 5. Fees**

**[63J-1-303].            63J-1-504. Fees -- Adoption, procedure, and approval --  
Establishing and assessing fees without legislative approval.**

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not mean the Legislature or its committees.

(b) "Fee agency" means any agency that is authorized to establish regulatory fees.

(c) "Fee schedule" means the complete list of regulatory fees charged by a fee agency

10723 and the amount of those fees.

10724 (d) "Regulatory fees" means fees established for licensure, registration, or certification.

10725 (2) Each fee agency shall:

10726 (a) adopt a schedule of fees assessed for services provided by the fee agency that are:

10727 (i) reasonable, fair, and reflect the cost of services provided; and

10728 (ii) established according to a cost formula determined by the director of the

10729 Governor's Office of Planning and Budget and the director of the Division of Finance in

10730 conjunction with the agency seeking to establish the regulatory fee;

10731 (b) conduct a public hearing on any proposed regulatory fee and increase or decrease

10732 the proposed regulatory fee based upon the results of the public hearing;

10733 (c) except as provided in Subsection (6), submit the fee schedule to the Legislature as

10734 part of the agency's annual appropriations request;

10735 (d) where necessary, modify the fee schedule to implement the Legislature's actions;

10736 and

10737 (e) deposit all regulatory fees collected under the fee schedule into the General Fund.

10738 (3) A fee agency may not:

10739 (a) set regulatory fees by rule; or

10740 (b) charge or collect any regulatory fee without approval by the Legislature unless the

10741 fee agency has complied with the procedures and requirements of Subsection (5).

10742 (4) The Legislature may approve, increase or decrease and approve, or reject any

10743 regulatory fee submitted to it by a fee agency.

10744 (5) (a) After the public hearing required by this section, a fee agency may establish and

10745 assess regulatory fees without legislative approval if:

10746 (i) the Legislature creates a new program that is to be funded by regulatory fees to be

10747 set by the Legislature; and

10748 (ii) the new program's effective date is before the Legislature's next annual general

10749 session; or

10750 (iii) the Division of Occupational and Professional licensing makes a special

10751 assessment against qualified beneficiaries under the Residence Lien Restriction and Lien

10752 Recovery Fund Act as provided in Subsection 38-11-206(1).

10753 (b) Each fee agency shall submit its fee schedule or special assessment amount to the

10754 Legislature for its approval at a special session, if allowed in the governor's call, or at the next  
10755 annual general session of the Legislature, whichever is sooner.

10756 (c) Unless the fee schedule is approved by the Legislature, the fee agency may not  
10757 collect a regulatory fee set according to this subsection after the adjournment of the annual  
10758 general session following the session that established the new program.

10759 (6) (a) Each fee agency that wishes to increase any regulatory fee by 5% or more shall  
10760 obtain legislative approval for the fee increase as provided in this subsection before assessing  
10761 the new regulatory fee.

10762 (b) Each fee agency that wishes to increase any regulatory fee by 5% or more shall  
10763 submit to the governor as part of the agency's annual appropriation request a list that identifies:

10764 (i) the title or purpose of the regulatory fee;

10765 (ii) the present amount of the regulatory fee;

10766 (iii) the proposed new amount of the regulatory fee;

10767 (iv) the percent that the regulatory fee will have increased if the Legislature approves  
10768 the higher fee; and

10769 (v) the reason for the increase in the regulatory fee.

10770 (c) (i) The governor may review and approve, modify and approve, or reject the  
10771 regulatory fee increases.

10772 (ii) The governor shall transmit the list required by Subsection (6)(b), with any  
10773 modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.

10774 (d) Bills approving any regulatory fee increases of 5% or more shall be filed before the  
10775 beginning of the Legislature's annual general session, if possible.

10776 Section 247. Section **63J-1-505**, which is renumbered from Section 63J-1-304 is  
10777 renumbered and amended to read:

10778 **[63J-1-304].            63J-1-505. Payment of fees prerequisite to service --**  
10779 **Exception.**

10780 (1) (a) State and county officers required by law to charge fees may not perform any  
10781 official service unless the fees prescribed for that service are paid in advance.

10782 (b) When the fee is paid, the officer shall perform the services required.

10783 (c) An officer is liable upon the officer's official bond for every failure or refusal to  
10784 perform an official duty when the fees are tendered.

- 10785 (2) (a) Except as provided in Subsection (2)(b), no fees may be charged:
- 10786 (i) to the officer's state, or any county or subdivision of the state;
- 10787 (ii) to any public officer acting for the state, county, or subdivision;
- 10788 (iii) in cases of habeas corpus;
- 10789 (iv) in criminal causes before final judgment;
- 10790 (v) for administering and certifying the oath of office;
- 10791 (vi) for swearing pensioners and their witnesses; or
- 10792 (vii) for filing and recording bonds of public officers.
- 10793 (b) Fees may be charged for payment:
- 10794 (i) of recording fees for assessment area recordings in compliance with Section
- 10795 11-42-205;
- 10796 (ii) of recording fees for judgments recorded in compliance with Sections 57-3-106 and
- 10797 78A-7-117; and
- 10798 (iii) to the state engineer under Section 73-2-14.

10799 Section 248. Section **63J-1-506**, which is renumbered from Section 63J-1-305 is

10800 renumbered and amended to read:

10801 **[63J-1-305]. 63J-1-506. Parking fees at court buildings.**

10802 (1) State-owned or leased court facilities may not charge or collect fees for parking

10803 without prior approval by the Legislature.

10804 (2) The Legislature may approve, increase, decrease and approve, or reject any parking

10805 fee submitted to it by the courts.

10806 Section 249. Section **63J-1-601**, which is renumbered from Section 63J-1-401 is

10807 renumbered and amended to read:

10808 **Part 6. Unused Balances**

10809 **[63J-1-401]. 63J-1-601. End of fiscal year -- Unexpended balances --**

10810 **Funds not to be closed out -- Pending claims -- Transfer of amounts from item of**

10811 **appropriation.**

10812 (1) As used in this section, "transaction control number" means the unique numerical

10813 identifier established by the Department of Health to track each medical claim, which indicates

10814 the date upon which the claim is entered.

10815 (2) On or before August 31 of each fiscal year, the director of the Division of Finance

10816 shall close out to the proper fund or account all remaining unexpended and unencumbered  
10817 balances of appropriations made by the Legislature, except:

10818       (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act as:

10819           (i) enterprise funds;

10820           (ii) internal service funds;

10821           (iii) trust and agency funds;

10822           (iv) capital projects funds;

10823           (v) college and university funds;

10824           (vi) debt service funds; and

10825           (vii) permanent funds;

10826       (b) appropriations made to the Legislature and its committees;

10827       (c) restricted special revenue funds, unless specifically directed to close out the fund in  
10828 the fund's enabling legislation;

10829       (d) acquisition and development funds appropriated to the Division of Parks and  
10830 Recreation;

10831       (e) funds encumbered to pay purchase orders issued prior to May 1 for capital  
10832 equipment if delivery is expected before June 30;

10833       (f) unexpended and unencumbered balances of appropriations that meet the  
10834 requirements of Section ~~[63J-1-402]~~ 63J-1-603; and

10835       (g) any other appropriations excepted by statute or by an annual appropriations act.

10836       (3) (a) Liabilities and related expenses for goods and services received on or before  
10837 June 30 shall be recognized as expenses due and payable from appropriations made prior to  
10838 June 30.

10839       (b) The liability and related expense shall be recognized within time periods  
10840 established by the Division of Finance but shall be recognized not later than August 31.

10841       (c) Liabilities and expenses not so recognized may be paid from regular departmental  
10842 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and  
10843 unencumbered balances of appropriations for the years in which the obligation was incurred.

10844       (d) No amounts may be transferred from an item of appropriation of any department,  
10845 institution, or agency into the Capital Projects Fund or any other fund without the prior express  
10846 approval of the Legislature.

(4) (a) For purposes of this chapter, claims processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) may not be considered a liability or expense to the state for budgetary purposes unless they are received by the Division of Health Care Financing within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) are not subject to the requirements of Subsection (3)(c).

(b) The transaction control number recorded on each claim invoice by the division is considered the date of receipt.

Section 250. Section **63J-1-603**, which is renumbered from Section 63J-1-402 is renumbered and amended to read:

**~~[63J-1-402].~~            63J-1-603. Nonlapsing authority.**

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not include those entities whose unappropriated and unencumbered balances are made nonlapsing by the operation of Subsection ~~[63J-1-401]~~ 63J-1-601(2).

(b) "Appropriation balance" means the unexpended and unencumbered balance of a line item appropriation made by the Legislature to an agency that exists at the end of a fiscal year.

(c) "Nonlapsing" means that an agency's appropriation balance is not closed out to the appropriate fund at the end of a fiscal year as required by Section ~~[63J-1-401]~~ 63J-1-601.

(d) "One-time project" means a project or program that can be completed with the appropriation balance and includes such items as employee incentive awards and bonuses, purchase of equipment, and one-time training.

(e) "One-time projects list" means:

(i) a prioritized list of one-time projects, upon which an agency would like to spend any appropriation balance; and

(ii) for each project, the maximum amount the agency is estimating for the project.

(f) "Program" means a service provided by an agency to members of the public, other agencies, or to employees of the agency.

(2) Notwithstanding the requirements of Section ~~[63J-1-401]~~ 63J-1-601, an agency may, by following the procedures and requirements of this section, retain and expend any appropriation balance.

(3) (a) Each agency that wishes to preserve any part or all of its appropriation balance as nonlapsing shall include a one-time projects list as part of the budget request that it submits to the governor and the Legislature at the annual general session of the Legislature immediately before the end of the fiscal year in which the agency may have an appropriation balance.

(b) An agency may not include a proposed expenditure on its one-time projects list if:

(i) the expenditure creates a new program;

(ii) the expenditure enhances the level of an existing program; or

(iii) the expenditure will require a legislative appropriation in the next fiscal year.

(c) The governor:

(i) may approve some or all of the items from an agency's one-time projects list; and

(ii) shall identify and prioritize any approved one-time projects in the budget that the governor submits to the Legislature.

(4) The Legislature:

(a) may approve some or all of the specific items from an agency's one-time projects list as authorized expenditures of an agency's appropriation balance;

(b) shall identify any authorized one-time projects in the appropriate line item appropriation; and

(c) may prioritize one-time projects in intent language.

Section 251. Section **63J-1-701**, which is renumbered from Section 63J-1-501 is renumbered and amended to read:

#### **Part 7. In-Depth Budget Review**

~~[63J-1-501].~~      **63J-1-701. Request for in-depth budget review of agency or program -- Form of budget submitted.**

The Legislative Management Committee, upon recommendation of an appropriations subcommittee of the Legislature, may request of the governor for any designated fiscal year, an in-depth budget review of any state department, agency, institution, or program. When responding to a request for an in-depth budget review, the governor shall submit for the department, agency, institution, or program for the fiscal year indicated a budget prepared in

accordance with Section ~~[63J-1-502]~~ 63J-1-702 and using the format and procedures developed by the director of the Governor's Office of Planning and Budget in cooperation with the legislative fiscal analyst. This format shall be constructed to assist the analyst and the Legislature in reviewing the justification for selected departments, agencies, and institutions or any of their programs and activities.

Section 252. Section **63J-1-702**, which is renumbered from Section 63J-1-502 is renumbered and amended to read:

**~~[63J-1-502]~~. 63J-1-702. Purpose of review -- Information submitted.**

The purpose of an in-depth budget review is to determine whether each department, agency, institution, or program warrants continuation of its current level of expenditure or at a different level, or if it should be terminated. The budget for a state department, agency, institution, or program subject to an in-depth budget review shall be a detailed plan in which programs and activities within programs are organized and budgeted after analysis and evaluation are made of all proposed expenditures. In the presentation of the budget of a department, agency, institution, or program subject to in-depth budget review, the governor shall include the following:

(1) a statement of agency and program objectives, effectiveness measures, and program size indicators;

(2) alternative funding levels for each program with effectiveness measures and program size indicators detailed for each alternative funding level. Alternative funding levels shall be determined as percentages of the appropriations level authorized by the Legislature for the current fiscal year. The percentages shall be determined for each in-depth budget review by the director of the Governor's Office of Planning and Budget in consultation with the legislative fiscal analyst;

(3) a priority ranking of all programs and activities in successively increasing levels of performance and funding;

(4) other budgetary information requested by the legislative fiscal analyst; and

(5) a statement containing further recommendations of the governor as appropriate.

Section 253. Section **63J-1-703**, which is renumbered from Section 63J-1-503 is renumbered and amended to read:

**~~[63J-1-503]~~. 63J-1-703. Selection of activities for review -- Coordination**

10940 **with audits.**

10941       The legislative auditor general shall consult with the Legislative Management  
10942 Committee to determine the programs or activities to audit which will best assist the executive  
10943 branch in preparing the in-depth budget and the Legislature in reviewing the in-depth budget  
10944 for funding. The scope of the audits shall be determined by the legislative auditor general  
10945 based upon need, manpower considerations, and other audit priorities. It is the intent of the  
10946 Legislature that the legislative fiscal analyst and the legislative auditor general coordinate the  
10947 in-depth budget reviews insofar as possible with the audits performed by the legislative auditor  
10948 general.

10949       Section 254. Section **63J-2-202** is amended to read:

10950       **63J-2-202. Disposition of revenues.**

10951       (1) (a) Each agency shall include in its annual budget request estimates of dedicated  
10952 credits revenues and fixed collections revenues that are identified by, collected for, or set by the  
10953 agency.

10954       (b) If the Legislature or the Division of Finance establishes a new revenue type by law,  
10955 the agency shall include that new revenue type in its budget request for the next fiscal year.

10956       (c) (i) Except as provided in Subsection (1)(c)(ii), if any agency fails to include the  
10957 estimates of a revenue type in its annual budget request, the Division of Finance shall deposit  
10958 the monies collected in that revenue type into the General Fund or other appropriate fund as  
10959 free or restricted revenue.

10960       (ii) The Division of Finance may not deposit the monies collected from a revenue type  
10961 not included in an agency's annual budget request into the General Fund or other appropriate  
10962 fund if the agency did not include the estimates of the revenue type in its annual budget request  
10963 because the Legislature had not yet established or authorized the new revenue type by law.

10964       (2) (a) (i) Except as provided in Subsection (2)(b), each agency that receives dedicated  
10965 credits and fixed collections revenues greater than the amount appropriated to them by the  
10966 Legislature in the annual appropriations act may expend the excess up to 25% of the amount  
10967 appropriated if the expenditure is authorized by an amended work program approved as  
10968 provided in Section [~~63J-1-406~~] 63J-1-209. However, except for monies deposited as  
10969 dedicated credits in the Illegal Drug Stamp Tax Fund under Section 59-19-105 or line items  
10970 covering tuition and federal vocational funds at institutions of higher learning, any expenditure

of dedicated credits in excess of amounts appropriated by the Legislature may not be used to permanently increase personnel within the agency unless approved by the Legislature.

(ii) The Division of Finance shall deposit the balance of that excess into the General Fund or other appropriate fund as free or restricted revenue.

(b) Notwithstanding the requirements of Subsection (2)(a), when an agency's dedicated credits and fixed collections revenues represent over 90% of the budget of the program for which they are collected, the agency may expend 100% of the excess of the amount appropriated if the expenditure is authorized by an amended work program approved as provided in Section ~~[63J-1-406]~~ 63J-1-209.

Section 255. Section **63J-3-103** is amended to read:

**63J-3-103. Definitions.**

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund sources and from non-Uniform School Fund income tax revenues as presented in the governor's executive budgets.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund.

(c) "Appropriations" does not mean:

(i) debt service expenditures;

(ii) emergency expenditures;

(iii) expenditures from all other fund or subfund sources presented in the executive budgets;

(iv) transfers or appropriations from the Education Fund to the Uniform School Fund;

(v) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section ~~[63J-1-202]~~ 63J-1-312;

(vi) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section ~~[63J-1-203]~~ 63J-1-313;

(vii) transfers in accordance with Section ~~[63J-1-204]~~ 63J-1-314 into, or appropriations made to the State Disaster Recovery Restricted Account created in Section 53-2-403;

(viii) monies appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section 63A-5-104;

11002 (ix) transfers or deposits into or appropriations made to the Centennial Highway Fund  
11003 Restricted Account created by Section 72-2-118;

11004 (x) transfers or deposits into or appropriations made to the Transportation Investment  
11005 Fund of 2005 created by Section 72-2-124;

11006 (xi) transfers or deposits into or appropriations made to:  
11007 (A) the Department of Transportation from any source; or  
11008 (B) any transportation-related account or fund from any source; or

11009 (xii) supplemental appropriations from the General Fund to the Division of Forestry,  
11010 Fire, and State Lands to provide monies for wildland fire control expenses incurred during the  
11011 current or previous fire years.

11012 (2) "Base year real per capita appropriations" means the result obtained for the state by  
11013 dividing the fiscal year 1985 actual appropriations of the state less debt monies by:  
11014 (a) the state's July 1, 1983 population; and  
11015 (b) the fiscal year 1983 inflation index divided by 100.

11016 (3) "Calendar year" means the time period beginning on January 1 of any given year  
11017 and ending on December 31 of the same year.

11018 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate  
11019 expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session,  
11020 Chapter 4.

11021 (5) "Fiscal year" means the time period beginning on July 1 of any given year and  
11022 ending on June 30 of the subsequent year.

11023 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual  
11024 capital and operations appropriations from General Fund and non-Uniform School Fund  
11025 income tax revenue sources, less debt monies.

11026 (7) "Inflation index" means the change in the general price level of goods and services  
11027 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic  
11028 Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

11029 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could  
11030 be, or could have been, spent in any given year under the limitations of this chapter.

11031 (b) "Maximum allowable appropriations limit" does not mean actual appropriations  
11032 spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Planning and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 256. Section **63J-4-301** is amended to read:

**63J-4-301. Budget duties of the director and office.**

(1) The director and the office shall:

(a) comply with the procedures and requirements of Title 63J, Chapter 1, Budgetary Procedures Act;

(b) under the direct supervision of the governor, assist the governor in the preparation of the governor's budget recommendations;

(c) advise the governor with regard to approval or revision of agency work programs as specified in Section ~~[63J-1-406]~~ 63J-1-209; and

(d) perform other duties and responsibilities as assigned by the governor.

(2) (a) The director of the Governor's Office of Planning and Budget or the director's designee is the Federal Assistance Management Officer.

(b) In acting as the Federal Assistance Management Officer, the director or designee shall:

(i) study the administration and effect of federal assistance programs in the state and

advise the governor and the Legislature, through the Office of Legislative Fiscal Analyst and the Executive Appropriations Committee, of alternative recommended methods and procedures for the administration of these programs;

(ii) assist in the coordination of federal assistance programs that involve or are administered by more than one state agency; and

(iii) analyze and advise on applications for new federal assistance programs submitted to the governor for approval as required by Chapter 5, Federal Funds Procedures.

Section 257. Section **63M-1-905** is amended to read:

**63M-1-905. Loans, grants, and assistance -- Repayment -- Earned credits.**

(1) (a) A company that qualifies under Section 63M-1-906 may receive loans, grants, or other financial assistance from the fund for expenses related to establishment, relocation, or development of industry in Utah.

(b) A company creating an economic impediment that qualifies under Section 63M-1-908 may in accordance with this part receive loans, grants, or other financial assistance from the fund for the expenses of the company creating an economic impediment related to:

(i) relocation to a rural area in Utah of the company creating an economic impediment; and

(ii) the siting of a replacement company.

(c) An entity offering an economic opportunity that qualifies under Section 63M-1-909 may:

(i) receive loans, grants, or other financial assistance from the fund for expenses related to the establishment, relocation, retention, or development of industry in the state; and

(ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.

(2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the fund.

(b) Loans made under Subsection (2)(a) shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the fund shall be made only after the

11095 administrator has determined that the company has satisfied the conditions upon which the  
11096 payment or earned credit was based.

11097 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a  
11098 system of earned credits that may be used to support grant payments or in lieu of cash  
11099 repayment of a fund loan obligation.

11100 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors  
11101 determined by the administrator, including:

11102 (A) the number of Utah jobs created;

11103 (B) the increased economic activity in Utah; or

11104 (C) other events and activities that occur as a result of the fund assistance.

11105 (b) (i) The administrator shall provide for a system of credits to be used to support  
11106 grant payments or in lieu of cash repayment of a fund loan when loans are made to a company  
11107 creating an economic impediment.

11108 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors  
11109 determined by the administrator, including:

11110 (A) the number of Utah jobs created;

11111 (B) the increased economic activity in Utah; or

11112 (C) other events and activities that occur as a result of the fund assistance.

11113 (4) (a) A cash loan repayment or other cash recovery from a company receiving  
11114 assistance under this section, including interest, shall be deposited into the fund.

11115 (b) The administrator and the Division of Finance shall determine the manner of  
11116 recognizing and accounting for the earned credits used in lieu of loan repayments or to support  
11117 grant payments as provided in Subsection (3).

11118 (5) (a) At the end of each fiscal year, the unrestricted, undesignated General Fund  
11119 balance after the transfers of surplus of General Fund revenues described in this Subsection  
11120 (5)(a) shall be earmarked to the Industrial Assistance Fund in an amount equal to any credit  
11121 that has accrued under this part. The earmark required by this Subsection (5)(a) shall be made  
11122 after the transfer of surplus General Fund revenues is made:

11123 (i) to the General Fund Budget Reserve Account as provided in Section [~~63J-1-202~~]  
11124 63J-1-312; and

11125 (ii) beginning with the fiscal year ending June 30, 2007, as provided in Section

11126 [~~63J-1-204~~] 63J-1-314.

11127 (b) These credit amounts may not be used for purposes of the fund as provided in this  
11128 part until appropriated by the Legislature.

11129 Section 258. Section **63M-1-1104** is amended to read:

11130 **63M-1-1104. Criteria for recycling market development zone -- Application**  
11131 **process and fees.**

11132 (1) An area may be designated as a recycling market development zone only if:

11133 (a) the county or municipality agrees to make a qualifying local contribution under  
11134 Section 63M-1-1105; and

11135 (b) the county or municipality provides for postconsumer waste collection for recycling  
11136 within the county or municipality.

11137 (2) The executive authority of any municipality or county desiring to be designated as a  
11138 recycling market development zone shall:

11139 (a) obtain the written approval of the municipality or county's legislative body; and

11140 (b) file an application with the office demonstrating the county or municipality meets  
11141 the requirements of this part.

11142 (3) The application shall be in a form prescribed by the office, and shall include:

11143 (a) a plan developed by the county or municipality that identifies local contributions  
11144 meeting the requirements of Section 63M-1-1105;

11145 (b) a county or municipality development plan that outlines:

11146 (i) the specific investment or development reasonably expected to take place;

11147 (ii) any commitments obtained from businesses to participate, and in what capacities  
11148 regarding recycling markets;

11149 (iii) the county's or municipality's economic development plan and demonstration of  
11150 coordination between the zone and the county or municipality in overall development goals;

11151 (iv) zoning requirements demonstrating that sufficient portions of the proposed zone  
11152 area are zoned as appropriate for the development of commercial, industrial, or manufacturing  
11153 businesses;

11154 (v) the county's or municipality's long-term waste management plan and evidence that  
11155 the zone will be adequately served by the plan; and

11156 (vi) the county or municipality postconsumer waste collection infrastructure;

(c) the county's or municipality's proposed means of assessing the effectiveness of the development plan or other programs implemented within the zone;

(d) state whether within the zone either of the following will be established:

(i) commercial manufacturing or industrial processes that will produce end products that consist of not less than 50% recovered materials, of which not less than 25% is postconsumer waste material; or

(ii) commercial composting;

(e) any additional information required by the office; and

(f) any additional information the county or municipality considers relevant to its designation as a recycling market development zone.

(4) A county or municipality applying for designation as a recycling market development zone shall pay to the office an application fee determined under Section ~~63J-1-303~~ 63J-1-504.

Section 259. Section **63M-1-2408** is amended to read:

**63M-1-2408. Transition clause -- Renegotiation of agreements -- Payment of partial rebates.**

(1) As used in this section, "partial rebate" means an agreement between the office and a business entity under which the state agrees to pay back to the business entity a portion of new state revenues generated by a business entity's new commercial project.

(2) (a) Unless modified or renegotiated as provided in Subsection (2)(b), the Division of Finance shall make partial rebate payments due under agreements entered into by the office before May 5, 2008 as provided in this section.

(b) By January 1, 2009, the office shall:

(i) contact each business entity with whom the office entered into an agreement under former Section 63M-1-1304 or 63M-1-1704; and

(ii) subject to the limits established in Subsection 63M-1-2404(3)(b), seek to modify those agreements for the sole purpose of providing the incentives in the form of tax credits under this part rather than partial rebates.

(c) The office shall:

(i) for each modified agreement granting tax credits, follow the procedures and requirements of Section 63M-1-2405;

11188 (ii) for each agreement that still requires the state to pay partial rebates to the business  
11189 entity, follow the procedures and requirements of this section; and

11190 (iii) provide a report to the Executive Appropriations Committee and the Legislative  
11191 Fiscal Analyst by December 1, 2008, about the progress of its efforts to modify agreements  
11192 reached before May 5, 2008.

11193 (3) (a) There is created a restricted account in the General Fund known as the  
11194 Economic Incentive Restricted Account.

11195 (b) The account shall consist of monies transferred into the account by the Division of  
11196 Finance from the General Fund as provided in this section.

11197 (c) The Division of Finance shall make payments from the account as required by this  
11198 section.

11199 (4) (a) Each business entity seeking a partial rebate shall follow the procedures and  
11200 requirements of this Subsection (4) to obtain a partial rebate.

11201 (b) Within 90 days of the end of each calendar year, a business entity seeking a partial  
11202 rebate shall:

11203 (i) provide the office with documentation of the new state revenues that the business  
11204 entity generated during the preceding calendar year; and

11205 (ii) ensure that the documentation includes:

11206 (A) the types of taxes and corresponding amounts of taxes paid directly to the State  
11207 Tax Commission; and

11208 (B) the sales taxes paid to Utah vendors and suppliers that were indirectly paid to the  
11209 State Tax Commission.

11210 (c) The office shall:

11211 (i) audit or review the documentation for accuracy;

11212 (ii) based upon its analysis of the documentation, determine the amount of partial  
11213 rebates that the business entity earned under the agreement; and

11214 (iii) submit to the Division of Finance:

11215 (A) a request for payment of partial rebates to the business entity;

11216 (B) the name and address of the payee; and

11217 (C) any other information requested by the Division of Finance.

11218 (5) Upon receipt of a request for payment of partial rebates from the office, the

11219 Division of Finance shall:

11220 (a) transfer from the General Fund to the restricted account the amount contained in the  
11221 request for payment of partial rebates after reducing the amount transferred by any  
11222 unencumbered balances in the restricted account; and

11223 (b) notwithstanding Subsections 51-5-3(23)(b) and [~~63J-1-404(4)(c)~~] 63J-1-104(3)(b),  
11224 after receiving a request for payment of partial rebates and making the transfer required by  
11225 Subsection (5)(a), the Division of Finance shall pay the partial rebates from the account.

11226 Section 260. Section **63M-1-2612** is amended to read:

11227 **63M-1-2612. Private Proposal Restricted Special Revenue Fund -- Fees.**

11228 (1) There is created a restricted special revenue fund within the office called the Private  
11229 Proposal Restricted Special Revenue Fund.

11230 (2) Monies collected from the payment of a fee required by this part shall be deposited  
11231 in the Private Proposal Restricted Special Revenue Fund.

11232 (3) The board or the committee may use the monies in the Private Proposal Restricted  
11233 Special Revenue Fund to offset:

11234 (a) the expense of hiring staff and engaging any outside consultant to review a  
11235 proposal under this part; and

11236 (b) any expense incurred by the Governor's Office of Planning and Budget or the  
11237 affected department in the fulfillment of its duties under this part.

11238 (4) The board shall establish a fee in accordance with Section [~~63J-1-303~~] 63J-1-504  
11239 for:

11240 (a) reviewing an initial proposal;

11241 (b) reviewing any detailed proposal; and

11242 (c) preparing any project agreement.

11243 (5) The board may waive the fee established under Subsection (4) if the board  
11244 determines that it is:

11245 (a) reasonable; and

11246 (b) in the best interest of the state.

11247 Section 261. Section **67-1a-2.5** is amended to read:

11248 **67-1a-2.5. Fees of lieutenant governor.**

11249 In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit

11250 Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the  
11251 lieutenant governor shall receive and determine fees pursuant to Section [~~63J-1-303~~] 63J-1-504  
11252 for the following:

11253 (1) for a copy of any law, resolution, record, or other document or paper on file in the  
11254 lieutenant governor's office, other than documents or papers filed under Title 16, Chapter 6a,  
11255 Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business  
11256 Corporation Act;

11257 (2) for affixing certificate and the Great Seal of the state, except on documents filed  
11258 under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter  
11259 10a, Utah Revised Business Corporation Act;

11260 (3) for each commission signed by the governor, except that no charge may be made  
11261 for commissions to public officers serving without compensation;

11262 (4) for each warrant of arrest issued by the governor and attested by the lieutenant  
11263 governor upon the requisition of any other state or territory;

11264 (5) for recording miscellaneous papers or documents;

11265 (6) for filing any paper or document not otherwise provided for; and

11266 (7) for searching records and archives of the state, except that no member of the  
11267 Legislature or other state or county officer may be charged for any search relative to matters  
11268 appertaining to the duties of the member or officer's office or for a certified copy of any law or  
11269 resolution relative to the member or officer's official duties passed by the Legislature.

11270 Section 262. Section **67-19-5** is amended to read:

11271 **67-19-5. Department of Human Resource Management created -- Executive**  
11272 **director -- Compensation -- Staff.**

11273 (1) There is created the Department of Human Resource Management.

11274 (2) (a) The department shall be administered by an executive director appointed by the  
11275 governor with the consent of the Senate.

11276 (b) The executive director shall be a person with experience in human resource  
11277 management and shall be accountable to the governor for the executive director's performance  
11278 in office.

11279 (3) The executive director may:

11280 (a) appoint a personal secretary and a deputy director, both of whom shall be exempt

11281 from career service; and

11282 (b) appoint division directors and program managers who may be career service  
11283 exempt.

11284 (4) (a) The executive director shall have full responsibility and accountability for the  
11285 administration of the statewide human resource management system.

11286 (b) Except as provided in Section 67-19-6.1, an agency may not perform human  
11287 resource functions without the consent of the executive director.

11288 (5) Statewide human resource management rules adopted by the Department of Human  
11289 Resource Management in accordance with Title 63G, Chapter 3, Utah Administrative  
11290 Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or  
11291 practices.

11292 (6) The department may operate as an internal service fund agency in accordance with  
11293 Section [~~63J-1-306~~] 63J-1-410 for the human resource functions the department provides.

11294 Section 263. Section **67-19-11** is amended to read:

11295 **67-19-11. Use of department facilities -- Field office facilities cost allocation --**  
11296 **Funding for department.**

11297 (1) (a) All officers and employees of the state and its political subdivisions shall allow  
11298 the department to use public buildings under their control, and furnish heat, light, and furniture,  
11299 for any examination, hearing, or investigation authorized by this chapter.

11300 (b) The cost of the department's use of facilities shall be paid by the agency housing a  
11301 field office staff.

11302 (2) The executive director shall:

11303 (a) prepare an annual budget request for the department;

11304 (b) submit the budget request to the governor and the Legislature; and

11305 (c) except for fiscal year 2007, before charging a fee for services provided by the  
11306 department's internal service fund to an executive branch agency, the executive director shall:

11307 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established  
11308 under Subsection (3); and

11309 (ii) obtain the approval of the Legislature as required under Section [~~63J-1-306~~]  
11310 63J-1-410.

11311 (3) (a) There is created a Rate Committee which shall consist of:

11312 (i) the director of the Governor's Office of Planning and Budget, or a designee;  
11313 (ii) the executive directors of three state agencies that use services and pay rates to one  
11314 of the department internal service funds, or their designee, appointed by the governor for a  
11315 two-year term;  
11316 (iii) the director of the Division of Finance, or a designee; and  
11317 (iv) the executive director of the Department of Human Resource Management, or a  
11318 designee.

11319 (b) (i) The committee shall elect a chair from its members.  
11320 (ii) Members of the committee who are state government employees and who do not  
11321 receive salary, per diem, or expenses from their agency for their service on the committee shall  
11322 receive no compensation, benefits, per diem, or expenses for the members' service on the  
11323 committee.

11324 (c) The Department of Human Resource Management shall provide staff services to the  
11325 committee.

11326 (4) (a) The department shall submit to the committee a proposed rate and fee schedule  
11327 for services rendered.

11328 (b) The committee shall:

11329 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings  
11330 Act;

11331 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease  
11332 the rate and fee;

11333 (iii) recommend a proposed rate and fee schedule for the internal service fund to:  
11334 (A) the Governor's Office of Planning and Budget; and  
11335 (B) the legislative appropriations subcommittees that, in accordance with Section  
11336 ~~[63J-1-306]~~ 63J-1-410, approve the internal service fund rates, fees, and budget; and

11337 (iv) review and approve, increase or decrease an interim rate, fee, or amount when the  
11338 department begins a new service or introduces a new product between annual general sessions  
11339 of the Legislature.

11340 (c) The committee may in accordance with Subsection ~~[63J-1-306]~~ 63J-1-410(4)  
11341 decrease a rate, fee, or amount that has been approved by the Legislature.  
11342 Section 264. Section **70-3a-203** is amended to read:

**70-3a-203. Fees.**

(1) (a) A regulatory fee, as defined in Section ~~[63J-1-303]~~ 63J-1-504, shall be determined by the division in accordance with Section ~~[63J-1-303]~~ 63J-1-504, but may not exceed \$250 annually for electronic registration of a mark in a single class.

(b) A person who pays the annual regulatory fee for the electronic registration of a mark may register additional classes for the same mark for an additional fee not to exceed \$25 annually.

(2) (a) For a fee authorized by this chapter that is not a regulatory fee, the division may adopt a schedule of fees if each fee in the schedule of fees is:

(i) reasonable and fair; and

(ii) submitted to the Legislature as part of the Department of Commerce's annual appropriations request.

(b) When a fee schedule described in Subsection (2)(a) is submitted as part of the annual appropriations request, the Legislature, in a manner substantially similar to Section ~~[63J-1-303]~~ 63J-1-504, may for any fee in the fee schedule:

(i) approve the fee;

(ii) (A) increase or decrease the fee; and

(B) approve the fee as changed by the Legislature; or

(iii) reject the fee.

(c) A fee approved by the Legislature pursuant to this section shall be deposited in a restricted account within the General Fund known as the Commerce Service Fund.

Section 265. Section **72-6-205** is amended to read:

**72-6-205. Solicited and unsolicited tollway development agreement proposals.**

(1) In accordance with this section, the department may:

(a) accept unsolicited tollway development agreement proposals; or

(b) solicit tollway development agreement proposals for a proposed project.

(2) The department shall solicit tollway development agreement proposals in accordance with Section 63G-6-503.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department and the commission shall establish rules and procedures for accepting unsolicited proposals that require the:

(a) private entity that submits the unsolicited proposal to comply with the minimum requirements for tollway development agreement proposals under Section 72-6-204;

(b) department to issue a request for competing proposals and qualifications that includes:

(i) a description of the proposed tollway development facility and the terms and conditions of a tollway development agreement;

(ii) submittal requirements;

(iii) the criteria to be used to evaluate the proposals;

(iv) the relative weight given to the criteria; and

(v) the deadline by which competing proposals must be received; and

(c) department to publish a notice advertising the request for competing proposals and providing information regarding how to obtain a copy of the request.

(4) (a) The department may establish a fee in accordance with Section ~~[63J-1-303]~~ 63J-1-504 for reviewing unsolicited proposals and competing proposals submitted under this section.

(b) The department may waive the fee under Subsection (4)(a) if it determines that it is reasonable and in the best interest of the state.

Section 266. Section **72-7-507** is amended to read:

**72-7-507. Advertising -- Permits -- Application requirements -- Duration -- Fees.**

(1) (a) Outdoor advertising may not be maintained without a current permit.

(b) Applications for permits shall be made to the department on forms furnished by it.

(c) A permit must be obtained prior to installing each outdoor sign.

(d) The application for a permit shall be accompanied by an initial fee established under Section ~~[63J-1-303]~~ 63J-1-504.

(2) (a) Each permit issued by the department is valid for a period of up to five years and shall expire on June 30 of the fifth year of the permit, or upon the expiration or termination of the right to use the property, whichever is sooner.

(b) Upon renewal, each permit may be renewed for periods of up to five years upon the filing of a renewal application and payment of a renewal fee established under Section ~~[63J-1-303]~~ 63J-1-504.

(3) Sign owners residing outside the state shall provide the department with a

11405 continuous performance bond in the amount of \$2,500.

11406 (4) Fees may not be prorated for fractions of the permit period. Advertising copy may  
11407 be changed at any time without payment of an additional fee.

11408 (5) (a) Each sign shall have its permit continuously affixed to the sign in a position  
11409 visible from the nearest traveled portion of the highway.

11410 (b) The permit shall be affixed to the sign structure within 30 days after delivery by the  
11411 department to the permit holder, or within 30 days of the installation date of the sign structure.

11412 (c) Construction of the sign structure shall begin within 180 days after delivery of the  
11413 permit by the department to the permit holder and construction shall be completed within 365  
11414 days after delivery of the permit.

11415 (6) The department may not accept any applications for a permit or issue any permit to  
11416 erect or maintain outdoor advertising within 500 feet of a permitted sign location except to the  
11417 permit holder or the permit holder's assigns until the permit has expired or has been terminated  
11418 pursuant to the procedures under Section 72-7-508.

11419 (7) Permits are transferrable if the ownership of the permitted sign is transferred.

11420 (8) Conforming, permitted sign structures may be altered, changed, remodeled, and  
11421 relocated subject to the provisions of Subsection (6).

11422 Section 267. Section **72-9-602** is amended to read:

11423 **72-9-602. Towing inspections, investigations, and certification -- Equipment**  
11424 **requirements -- Consumer information.**

11425 (1) (a) The department shall inspect, investigate, and certify tow truck motor carriers,  
11426 tow trucks, and tow truck drivers to ensure compliance with this chapter and compliance with  
11427 Sections 41-6a-1406 and 41-6a-1407.

11428 (b) The inspection, investigation, and certification shall be conducted prior to any tow  
11429 truck operation and at least every two years thereafter.

11430 (c) (i) The department shall issue an authorized towing certificate for each tow truck  
11431 motor carrier, tow truck, and driver that complies with this part.

11432 (ii) The certificate shall expire two years from the month of issuance.

11433 (d) The department may charge a biennial fee established under Section [~~63J-1-303~~]  
11434 63J-1-504 to cover the cost of the inspection, investigation, and certification required under  
11435 this part.

11436 (2) The department shall make consumer protection information available to the public  
11437 that may use a tow truck motor carrier.

11438 Section 268. Section **72-10-116** is amended to read:

11439 **72-10-116. Airport license required -- Issuance by division -- Restrictions on use**  
11440 **of lands or waters of another -- Annual fee.**

11441 (1) For purposes of this section, aircraft based at the owner's airport means an aircraft  
11442 which is hangared, tied down, or parked at an owner's airport for a plurality of the year.

11443 (2) (a) An airport open to public use may not be used or operated unless it is duly  
11444 licensed by the division.

11445 (b) A person who owns or operates an airport open to public use shall file an  
11446 application with the division for a license for the facility.

11447 (c) Semi-annually, an owner or operator described in Subsection (2)(b) shall provide a  
11448 list of all aircraft based at the owner's airport to the Utah Division of Aeronautics.

11449 (3) (a) A license shall be granted whenever it is reasonably necessary for the  
11450 accommodation and convenience of the public and may be granted in other cases in the  
11451 discretion of the division.

11452 (b) The division may not issue a license if the division finds that the facility is not  
11453 constructed, equipped, and operated in accordance with the standards set by the department.

11454 (4) (a) The landing or taking off of aircraft on or from the lands or waters of another  
11455 without consent is unlawful, except in the case of a forced landing.

11456 (b) For damages caused by a takeoff or landing, the owner, lessee of the aircraft,  
11457 operator, or any of them is liable.

11458 (5) (a) A student pilot may not land on any area without the knowledge of the operator,  
11459 instructor, or school from which the student is flying.

11460 (b) The use of private landing fields must not impose a hazard upon the person or  
11461 property of others.

11462 (6) A certificate of registration is not required of, and the rules made under this title do  
11463 not apply to an airport owned or operated by the government of the United States.

11464 (7) The division, with the approval of the commission, may charge a fee determined by  
11465 the division pursuant to Section [~~63J-1-303~~] 63J-1-504 for the issuance of an annual airport  
11466 license.

11467 Section 269. Section **72-11-208** is amended to read:

11468 **72-11-208. Passenger ropeways -- Registration fee.**

11469 The application for registration, or supplemental application, shall be accompanied by  
11470 an annual fee adopted by the committee in accordance with Section [63J-1-303] 63J-1-504.

11471 Section 270. Section **73-2-14** is amended to read:

11472 **73-2-14. Fees of state engineer -- Deposited as a dedicated credit.**

11473 (1) The state engineer shall charge fees pursuant to Section [63J-1-303] 63J-1-504 for  
11474 the following:

11475 (a) applications to appropriate water;

11476 (b) applications to temporarily appropriate water;

11477 (c) applications for permanent or temporary change;

11478 (d) applications for exchange;

11479 (e) applications for an extension of time in which to resume use of water;

11480 (f) applications to appropriate water, or make a permanent or temporary change, for use  
11481 outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;

11482 (g) groundwater recovery permits;

11483 (h) diligence claims for surface or underground water filed pursuant to Section  
11484 73-5-13;

11485 (i) republication of notice to water users after amendment of application where  
11486 required by this title;

11487 (j) applications to segregate;

11488 (k) requests for an extension of time in which to submit proof of appropriation not to  
11489 exceed 14 years after the date of approval of the application;

11490 (l) requests for an extension of time in which to submit proof of appropriation 14 years  
11491 or more after the date of approval of the application;

11492 (m) groundwater recharge permits;

11493 (n) applications for a well driller's license, annual renewal of a well driller's license,  
11494 and late annual renewal of a well driller's license;

11495 (o) certification of copies;

11496 (p) preparing copies of documents;

11497 (q) reports of water right conveyance; and

- 11498 (r) requests for a livestock water use certificate under Section 73-3-31.
- 11499 (2) Fees for the services specified in Subsections (1)(a) through (i) shall be based upon
- 11500 the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and
- 11501 storage, the fee shall be based upon either the rate of flow or annual volume of water stored,
- 11502 whichever fee is greater.
- 11503 (3) Fees collected under this section:
- 11504 (a) shall be deposited in the General Fund as a dedicated credit to be used by the
- 11505 Division of Water Rights; and
- 11506 (b) may only be used by the Division of Water Rights to:
- 11507 (i) meet the publication of notice requirements under this title;
- 11508 (ii) process reports of water right conveyance;
- 11509 (iii) process a request for a livestock water use certificate; and
- 11510 (iv) hire an employee to assist with processing an application.
- 11511 Section 271. Section **73-3b-201** is amended to read:
- 11512 **73-3b-201. Application for a recharge permit -- Required information -- Filing**
- 11513 **fee.**
- 11514 (1) The application for obtaining a groundwater recharge permit shall include the
- 11515 following information:
- 11516 (a) the name and mailing address of the applicant;
- 11517 (b) the name of the groundwater basin or groundwater sub-basin in which the applicant
- 11518 proposes to operate the project;
- 11519 (c) the name and mailing address of the owner of the land on which the applicant
- 11520 proposes to operate the project;
- 11521 (d) a legal description of the location of the proposed project;
- 11522 (e) the source and annual quantity of water proposed to be stored underground;
- 11523 (f) evidence of a water right or an agreement to use the water proposed to be stored
- 11524 underground;
- 11525 (g) the quality of the water proposed to be stored underground and the water quality of
- 11526 the receiving groundwater aquifer;
- 11527 (h) evidence that the applicant has applied for all applicable water quality permits;
- 11528 (i) a plan of operation for the proposed recharge and recovery project which shall

11529 include:

- 11530 (i) a description of the proposed project;  
11531 (ii) its design capacity;  
11532 (iii) a detailed monitoring program; and  
11533 (iv) the proposed duration of the project;  
11534 (j) a copy of a study demonstrating:  
11535 (i) the area of hydrologic impact of the project;  
11536 (ii) that the project is hydrologically feasible;  
11537 (iii) that the project will not:  
11538 (A) cause unreasonable harm to land; or  
11539 (B) impair any existing water right within the area of hydrologic impact; and  
11540 (iv) the percentage of anticipated recoverable water;  
11541 (k) evidence of financial and technical capability; and  
11542 (l) any other information that the state engineer requires.  
11543 (2) (a) A filing fee must be submitted with the application.  
11544 (b) The state engineer shall establish the filing fee in accordance with Section

11545 [~~63J-1-303~~] 63J-1-504.

11546 Section 272. Section **73-3b-204** is amended to read:

11547 **73-3b-204. Application for a recovery permit -- Required information.**

11548 (1) If a person intends to recharge and recover water, the recovery application and  
11549 permit may be filed and processed with the groundwater recharge application and permit.

11550 (2) The application for obtaining a recovery permit shall include the following  
11551 information:

- 11552 (a) the name and mailing address of the applicant;  
11553 (b) a legal description of the location of the existing well or proposed new well from  
11554 which the applicant intends to recover stored water;  
11555 (c) a written consent from the owner of the recharge permit;  
11556 (d) the name and mailing address of the owner of the land from which the applicant  
11557 proposes to recover stored water;  
11558 (e) the name or description of the artificially recharged groundwater aquifer which is  
11559 the source of supply;

(f) the purpose for which the stored water will be recovered;  
(g) the depth and diameter of the existing well or proposed new well;  
(h) a legal description of the area where the stored water is proposed to be used;  
(i) the design pumping capacity of the existing well or proposed new well; and  
(j) any other information including maps, drawings, and data that the state engineer requires.

(3) (a) A filing fee must be submitted with the application.

(b) The state engineer shall establish the filing fee in accordance with Section ~~[63J-1-303]~~ 63J-1-504.

Section 273. Section **73-3b-302** is amended to read:

**73-3b-302. Fee.**

(1) The state engineer shall assess an annual fee, in accordance with Section ~~[63J-1-303]~~ 63J-1-504, on each person who holds a groundwater recharge or recovery permit.

(2) The fee shall reflect the division's costs to administer and monitor groundwater recharge and recovery projects.

Section 274. Section **73-10c-10** is amended to read:

**73-10c-10. Origination fee.**

(1) The Drinking Water Board and the Water Quality Board may establish an origination fee for a loan to fund the administration of the programs created by this chapter by following the procedures and requirements of Section ~~[63J-1-303]~~ 63J-1-504.

(2) The origination fee shall be part of the department fee schedule established under Section 19-1-201.

(3) Notwithstanding ~~[Subsection 63J-1-303(2)(c)]~~ the requirements of Section 63J-1-504, the board shall deposit the fee in the origination fee subaccount created in Section 73-10c-5 and use the fee to administer this chapter.

(4) The loan recipient may pay the origination fee from the loan proceeds.

Section 275. Section **73-18-4** is amended to read:

**73-18-4. Board may promulgate rules and set fees.**

(1) The board may promulgate rules:

(a) creating a uniform waterway marking system which shall be obeyed by all vessel operators;

11591 (b) regulating the placement of waterway markers and other permanent or anchored  
11592 objects on the waters of this state;

11593 (c) zoning certain waters of this state for the purpose of prohibiting the operation of  
11594 vessels or motors for safety and health purposes only; and

11595 (d) regulating vessel operators who carry passengers for hire, boat liveries, and  
11596 outfitting companies.

11597 (2) (a) The board may set fees in accordance with Section [~~63J-1-303~~] 63J-1-504 for:

11598 (i) licensing vessel operators who carry passengers for hire; and

11599 (ii) registering:

11600 (A) outfitting companies; and

11601 (B) boat liveries.

11602 (b) The license and registration fees imposed pursuant to Subsection (2)(a) shall be  
11603 deposited into the Boating Account created in Section 73-18-22.

11604 Section 276. Section **73-18-7** is amended to read:

11605 **73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records --**

11606 **Period of registration and renewal -- Expiration -- Notice of transfer of interest or change**

11607 **of address -- Duplicate registration card -- Invalid registration -- Powers of board.**

11608 (1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and  
11609 sailboat on the waters of this state shall register it with the division as provided in this chapter.

11610 (b) A person may not place, give permission for the placement of, operate, or give  
11611 permission for the operation of a motorboat or sailboat on the waters of this state, unless the  
11612 motorboat or sailboat is registered as provided in this chapter.

11613 (2) (a) The owner of a motorboat or sailboat required to be registered shall file an  
11614 application for registration with the division on forms approved by the division.

11615 (b) The owner of the motorboat or sailboat shall sign the application and pay the fee set  
11616 by the board in accordance with Section [~~63J-1-303~~] 63J-1-504.

11617 (c) Before receiving a registration card and registration decals, the applicant shall  
11618 provide the division with a certificate from the county assessor of the county in which the  
11619 motorboat or sailboat has situs for taxation, stating that:

11620 (i) the property tax on the motorboat or sailboat for the current year has been paid;

11621 (ii) in the county assessor's opinion, the property tax is a lien on real property sufficient

11622 to secure the payment of the property tax; or

11623 (iii) the motorboat or sailboat is exempt by law from payment of property tax for the  
11624 current year.

11625 (d) If the board modifies the fee under Subsection (2)(b), the modification shall take  
11626 effect on the first day of the calendar quarter after 90 days from the day on which the board  
11627 provides the State Tax Commission:

11628 (i) notice from the board stating that the board will modify the fee; and

11629 (ii) a copy of the fee modification.

11630 (3) (a) Upon receipt of the application in the approved form, the division shall record  
11631 the receipt and issue to the applicant registration decals and a registration card that state the  
11632 number assigned to the motorboat or sailboat and the name and address of the owner.

11633 (b) The registration card shall be available for inspection on the motorboat or sailboat  
11634 for which it was issued, whenever that motorboat or sailboat is in operation.

11635 (4) The assigned number shall:

11636 (a) be painted or permanently attached to each side of the forward half of the motorboat  
11637 or sailboat;

11638 (b) consist of plain vertical block characters not less than three inches in height;

11639 (c) contrast with the color of the background and be distinctly visible and legible;

11640 (d) have spaces or hyphens equal to the width of a letter between the letter and numeral  
11641 groupings; and

11642 (e) read from left to right.

11643 (5) A motorboat or sailboat with a valid marine document issued by the United States  
11644 Coast Guard is exempt from the number display requirements of Subsection (4).

11645 (6) The nonresident owner of any motorboat or sailboat already covered by a valid  
11646 number that has been assigned to it according to federal law or a federally approved numbering  
11647 system of the owner's resident state is exempt from registration while operating the motorboat  
11648 or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity  
11649 period provided for in Subsection 73-18-9(1).

11650 (7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a  
11651 new application form and fee with the division, and the division shall issue a new registration  
11652 card and registration decals in the same manner as provided for in Subsections (2) and (3).

11653 (b) The division shall reassign the current number assigned to the motorboat or sailboat  
11654 to the new owner to display on the motorboat or sailboat.

11655 (8) If the United States Coast Guard has in force an overall system of identification  
11656 numbering for motorboats or sailboats within the United States, the numbering system  
11657 employed under this chapter by the board shall conform with that system.

11658 (9) (a) The division may authorize any person to act as its agent for the registration of  
11659 motorboats and sailboats.

11660 (b) A number assigned, a registration card, and registration decals issued by an agent of  
11661 the division in conformity with this chapter and rules of the board are valid.

11662 (10) (a) The Motor Vehicle Division shall classify all records of the division made or  
11663 kept according to this section in the same manner that motor vehicle records are classified  
11664 under Section 41-1a-116.

11665 (b) Division records are available for inspection in the same manner as motor vehicle  
11666 records pursuant to Section 41-1a-116.

11667 (11) (a) (i) Each registration, registration card, and decal issued under this chapter shall  
11668 continue in effect for 12 months, beginning with the first day of the calendar month of  
11669 registration.

11670 (ii) A registration may be renewed by the owner in the same manner provided for in the  
11671 initial application.

11672 (iii) The division shall reassign the current number assigned to the motorboat or  
11673 sailboat when the registration is renewed.

11674 (b) Each registration, registration card, and registration decal expires the last day of the  
11675 month in the year following the calendar month of registration.

11676 (c) If the last day of the registration period falls on a day in which the appropriate state  
11677 or county offices are not open for business, the registration of the motorboat or sailboat is  
11678 extended to 12 midnight of the next business day.

11679 (d) The division may receive applications for registration renewal and issue new  
11680 registration cards at any time before the expiration of the registration, subject to the availability  
11681 of renewal materials.

11682 (e) The new registration shall retain the same expiration month as recorded on the  
11683 original registration even if the registration has expired.

11684 (f) The year of registration shall be changed to reflect the renewed registration period.

11685 (g) If the registration renewal application is an application generated by the division  
11686 through its automated system, the owner is not required to surrender the last registration card or  
11687 duplicate.

11688 (12) (a) An owner shall notify the division of:

11689 (i) the transfer of all or any part of the owner's interest, other than creation of a security  
11690 interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and

11691 (ii) the destruction or abandonment of the owner's motorboat or sailboat.

11692 (b) Notification must take place within 15 days of the transfer, destruction, or  
11693 abandonment.

11694 (c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates  
11695 its registration.

11696 (ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not  
11697 affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

11698 (13) (a) A registered owner shall notify the division within 15 days if the owner's  
11699 address changes from the address appearing on the registration card and shall, as a part of this  
11700 notification, furnish the division with the owner's new address.

11701 (b) The board may provide in its rules for:

11702 (i) the surrender of the registration card bearing the former address; and

11703 (ii) (A) the replacement of the card with a new registration card bearing the new  
11704 address; or

11705 (B) the alteration of an existing registration card to show the owner's new address.

11706 (14) (a) If a registration card is lost or stolen, the division may collect a fee of \$4 for  
11707 the issuance of a duplicate card.

11708 (b) If a registration decal is lost or stolen, the division may collect a fee of \$3 for the  
11709 issuance of a duplicate decal.

11710 (15) A number other than the number assigned to a motorboat or sailboat or a number  
11711 for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached,  
11712 or otherwise displayed on either side of the bow of a motorboat or sailboat.

11713 (16) A motorboat or sailboat registration and number are invalid if obtained by  
11714 knowingly falsifying an application for registration.

(17) The board may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

- (a) the display of registration decals;
- (b) the issuance and display of dealer numbers and registrations; and
- (c) the issuance and display of temporary registrations.

Section 277. Section **73-18-15.2** is amended to read:

**73-18-15.2. Minimum age of operators -- Boating safety course for youth to operate personal watercraft.**

(1) (a) A person under 16 years of age may not operate a motorboat on the waters of this state unless the person is under the on-board and direct supervision of a person who is at least 18 years of age.

(b) A person under 16 years of age may operate a sailboat, if the person is under the direct supervision of a person who is at least 18 years of age.

(2) A person who is at least 12 years of age or older but under 16 years of age may operate a personal watercraft provided he:

- (a) is under the direct supervision of a person who is at least 18 years of age;
- (b) completes a boating safety course approved by the division; and
- (c) has in his possession a boating safety certificate issued by the boating safety course provider.

(3) A person who is at least 16 years of age but under 18 years of age may operate a personal watercraft, if the person:

- (a) completes a boating safety course approved by the division; and
- (b) has in his possession a boating safety certificate issued by the boating safety course provider.

(4) A person required to attend a boating safety course under Subsection (3)(a) need not be accompanied by a parent or legal guardian while completing a boating safety course.

(5) A person may not give permission to another person to operate a vessel in violation of this section.

(6) As used in this section, "direct supervision" means oversight at a distance within which visual contact is maintained.

(7) (a) The division may collect fees set by the board in accordance with Section ~~63J-1-303~~ 63J-1-504 from each person who takes the division's boating safety course to help defray the cost of the boating safety course.

(b) Money collected from the fees collected under Subsection (7)(a) shall be deposited in the Boating Account.

Section 278. Section **73-18-25** is amended to read:

**73-18-25. Fees to cover the costs of electronic payments.**

(1) As used in this section:

(a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

(b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

(2) (a) The Motor Vehicle Division may collect an electronic payment fee on all registrations and renewals of registration under Section 73-18-7.

(b) The fee described under Subsection (2)(a) shall be imposed regardless of the method of payment for a particular transaction.

(3) The Motor Vehicle Division shall establish the fee according to the procedures and requirements of Section ~~63J-1-303~~ 63J-1-504.

(4) A fee imposed under this section:

(a) shall be used by the Motor Vehicle Division as a dedicated credit to cover the costs of electronic payments;

(b) is nonlapsing;

(c) is not subject to Subsection 63J-2-202(2); and

(d) need not be separately identified from the fees imposed on registrations and renewals of registration under Section 73-18-7.

Section 279. Section **73-28-404** is amended to read:

**73-28-404. Repayments returned to Water Resources Conservation and Development Fund -- Establishment of an enterprise fund.**

(1) The board shall deposit, in accordance with Section 51-4-1, into the Water Resources Conservation and Development Fund:

(a) repayments of preconstruction and construction costs; and

(b) the interest charged.

(2) (a) There is created an enterprise fund, as defined in Subsection 51-5-4(8), entitled

11777 the "Lake Powell Pipeline Project Operation and Maintenance Fund."

11778 (b) The fund consists of:

11779 (i) revenues received from the sale of developed water that is designated for project  
11780 operation, maintenance, repair, and replacement costs;

11781 (ii) revenues received from the sale of electricity that are deposited in the fund in  
11782 accordance with Subsection 73-28-203(3); and

11783 (iii) all interest earned by the fund.

11784 (3) (a) Any unexpended monies remaining in the fund at the end of the fiscal year are  
11785 nonlapsing.

11786 (b) Notwithstanding Section [~~63J-1-307~~] 63J-1-211, the Legislature may not  
11787 appropriate any monies from the Lake Powell Pipeline Project Operation and Maintenance  
11788 Fund.

11789 (4) The state treasurer shall:

11790 (a) invest the monies in the enterprise fund by following the procedures and  
11791 requirements of Title 51, Chapter 7, State Money Management Act; and

11792 (b) deposit all interest or other earnings derived from those investments into the Lake  
11793 Powell Pipeline Operation and Maintenance Fund.

11794 (5) The committee shall approve the expenditure of fund monies to cover the project  
11795 operation, maintenance, repair, and replacement costs, subject to:

11796 (a) monies available in the fund; and

11797 (b) rules established by the board under Subsection 73-28-104(2).

11798 (6) If title to the project is transferred under Section 73-28-405, the agreement shall  
11799 direct the disposition of the monies remaining in the fund.

11800 Section 280. Section **76-10-526** is amended to read:

11801 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**  
11802 **Exemption for concealed firearm permit holders.**

11803 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not  
11804 include a temporary permit issued pursuant to Section 53-5-705.

11805 (2) (a) To establish personal identification and residence in this state for purposes of  
11806 this part, a dealer shall require an individual receiving a firearm to present one photo  
11807 identification on a form issued by a governmental agency of the state.

11808           (b) A dealer may not accept a driving privilege card issued in accordance with Section  
11809 53-3-207 as proof of identification for the purpose of establishing personal identification and  
11810 residence in this state as required under this Subsection (2).

11811           (3) A criminal history background check is required for the sale of a firearm by a  
11812 licensed firearm dealer in the state.

11813           (4) (a) An individual, except a dealer, purchasing a firearm from a dealer shall consent  
11814 in writing to a criminal background check, on a form provided by the division.

11815           (b) The form shall contain the following information:

11816           (i) the dealer identification number;

11817           (ii) the name and address of the individual receiving the firearm;

11818           (iii) the date of birth, height, weight, eye color, and hair color of the individual  
11819 receiving the firearm; and

11820           (iv) the Social Security number or any other identification number of the individual  
11821 receiving the firearm.

11822           (5) (a) The dealer shall send the form required by Subsection (4) to the division  
11823 immediately upon its completion.

11824           (b) No dealer shall sell or transfer any firearm to an individual until the dealer has  
11825 provided the division with the information in Subsection (4) and has received approval from  
11826 the division under Subsection (7).

11827           (6) The dealer shall make a request for criminal history background information by  
11828 telephone or other electronic means to the division and shall receive approval or denial of the  
11829 inquiry by telephone or other electronic means.

11830           (7) When the dealer calls for or requests a criminal history background check, the  
11831 division shall:

11832           (a) review the criminal history files, including juvenile court records, to determine if  
11833 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or  
11834 federal law;

11835           (b) inform the dealer that:

11836           (i) the records indicate the individual is so prohibited; or

11837           (ii) the individual is approved for purchasing, possessing, or transferring a firearm;

11838           (c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the division, the division shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The division shall not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request if the division determines that the individual receiving the gun is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the division shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(9) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the division shall inform the law enforcement agency in the jurisdiction where the person resides.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The division shall make rules as provided in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the division pursuant to this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) (i) All dealers shall collect a criminal history background check fee which is \$7.50.

(ii) This fee remains in effect until changed by the division through the process under Section ~~[63J-1-303]~~ 63J-1-504.

(b) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the division by the last day of the month following the sale of a firearm.

(ii) The division shall deposit the fees in the General Fund as dedicated credits to cover

the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued pursuant to Title 53, Chapter 5, Part 7, Concealed Weapon Act, shall be exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the division that the individual's concealed firearm permit is valid.

Section 281. Section **76-10-1209** is amended to read:

**76-10-1209. Injunctive relief -- Jurisdiction -- Consent to be sued -- Service of process.**

(1) The district courts of this state shall have full power, authority, and jurisdiction, upon application by any county attorney or city attorney within their respective jurisdictions or the attorney general, to issue any and all proper restraining orders, preliminary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this part. No restraining order or injunction, however, shall issue except upon notice to the person sought to be enjoined. That person shall be entitled to a trial of the issues commencing within three days after filing of an answer to the complaint and a decision shall be rendered by the court within two days after the conclusion of the trial. If a final order or judgment of injunction is entered against the person sought to be enjoined, this final order or judgment shall contain a provision directing the person to surrender to the sheriff of the county in which the action was brought any pornographic material in the person's possession which is subject to the injunction; and the sheriff shall be directed to seize and destroy this material.

(2) Any person not qualified to do business in the state who sends or brings any pornographic material into the state with the intent to distribute or exhibit it to others in this state thereby consents that the person may be sued in any proceedings commenced under this section and therefor appoints the director of the Division of Corporations and Commercial Code to be the agent upon whom may be served all legal process against that person. Service of process shall be made by serving a copy of same upon the director of the Division of Corporations and Commercial Code or by filing the copy in that office, together with payment of a fee determined by the division pursuant to Section [~~63J-1-303~~] 63J-1-504. This service

shall be sufficient service upon the defendant if:

(a) notice of the service and a copy of the process are within ten days thereafter sent by mail by the prosecuting attorney to the defendant at the address of the defendant that appears on any material exhibited or distributed, and if no address appears, then the last known address of the defendant; and

(b) the prosecuting attorney's affidavit of compliance with the provisions of this Subsection (2) are attached to the summons. The Division of Corporations and Commercial Code shall keep a record of all the process served upon it under this section, showing the day and hour of the service. Nothing in this Subsection (2) shall be construed to limit the operation of Rule 17(e) of the Utah Rules of Civil Procedure.

(3) This section shall not be construed in any way to limit the district courts in the exercise of their jurisdiction under any other provision of law.

Section 282. Section **77-18-11** is amended to read:

**77-18-11. Petition -- Expungement of conviction -- Certificate of eligibility -- Fee -- Notice -- Written evaluation -- Objections -- Hearing.**

(1) (a) A person convicted of a crime may petition the convicting court for an expungement of the record of conviction as provided in this section.

(b) If a person has received a pardon from the Utah Board of Pardons and Parole, the person is entitled to an expungement of all pardoned crimes, subject to the exceptions under Subsection 77-18-12(1)(a).

(2) (a) The court shall require receipt of a certificate of eligibility issued by the division under Section 77-18-12.

(b) The fee for each certificate of eligibility is \$25. This fee remains in effect until changed by the division through the process under Section ~~[63J-1-303]~~ 63J-1-504.

(c) Funds generated under Subsection (2)(b) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(3) The petition and certificate of eligibility shall be filed with the court and served upon the prosecuting attorney and the Department of Corrections.

(4) A victim shall receive notice of a petition for expungement if, prior to the entry of an expungement order, the victim or, in the case of a minor or a person who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed

request for notice to the office of the Department of Corrections in the judicial district in which the crime occurred or judgment was entered.

(5) The Department of Corrections shall serve notice of the expungement request by first-class mail to the victim at the most recent address of record on file with the department. The notice shall include a copy of the petition, certificate of eligibility, and statutes and rules applicable to the petition.

(6) The court in its discretion may request a written evaluation by Adult Parole and Probation of the Department of Corrections.

(a) The evaluation shall include a recommendation concerning the petition for expungement.

(b) If expungement is recommended, the evaluation shall include certification that the petitioner has completed all requirements of sentencing and probation or parole and state any rationale that would support or refute consideration for expungement.

(c) The conclusions and recommendations contained in the evaluation shall be provided to the petitioner and the prosecuting attorney.

(7) If the prosecuting attorney or a victim submits a written objection to the court concerning the petition within 30 days after service of the notice, or if the petitioner objects to the conclusions and recommendations in the evaluation within 15 days after receipt of the conclusions and recommendations, the court shall set a date for a hearing and notify the prosecuting attorney for the jurisdiction, the petitioner, and the victim of the date set for the hearing.

(8) Any person who has relevant information about the petitioner may testify at the hearing.

(9) The prosecuting attorney may respond to the court with a recommendation or objection within 30 days.

(10) If an objection is not received under Subsection (7), the expungement may be granted without a hearing.

(11) A court may not expunge a conviction of:

(a) a capital felony;

(b) a first degree felony;

(c) a second degree forcible felony;

11963 (d) any sexual act against a minor; or  
11964 (e) an offense for which a certificate of eligibility may not be issued under Section  
11965 77-18-12.  
11966 Section 283. **Effective date.**  
11967 This bill takes effect on May 12, 2009, except that the amendments to Section  
11968 31A-3-304 (Effective 07/01/10) take effect on July 1, 2010.  
11969 Section 284. **Revisor instructions.**  
11970 It is the intent of the Legislature that the Office of Legislative Research and General  
11971 Counsel in preparing the Utah Code database for publication, change all internal references in  
11972 the Utah Code to their correctly renumbered cite in Title 63J, Chapter 1.

---

---

**Legislative Review Note**  
**as of 1-28-09 9:29 AM**

**Office of Legislative Research and General Counsel**

---

---

**H.B. 297 - Budgetary Procedures Act Recodification**

**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.

---