

1 **STATUTORY CONSTRUCTION AMENDMENTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Rebecca D. Lockhart**

5 Senate Sponsor: Stephen H. Urquhart

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to definitions, statutory construction, and drafting
10 of the Utah Code, contained in Title 68, Chapter 3, Construction.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends provisions relating to statutory construction of the Utah Code;
- 14 ▶ specifies terms and phrases that are preferred, and terms and phrases the use of
15 which is discouraged, in the Utah Code;
- 16 ▶ defines terms for the Utah Code;
- 17 ▶ recodifies and amends definitions applicable to the Utah Code;
- 18 ▶ deletes some definitions applicable to the Utah Code; and
- 19 ▶ makes technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **17-22-2.5**, as last amended by Laws of Utah 2006, Chapter 306

27 **17B-1-102**, as last amended by Laws of Utah 2008, Chapter 360



28 **20A-1-102**, as last amended by Laws of Utah 2009, Chapter 45
 29 **45-1-101**, as last amended by Laws of Utah 2009, First Special Session, Chapter 5
 30 **63M-7-502**, as last amended by Laws of Utah 2008, Chapter 339 and renumbered and
 31 amended by Laws of Utah 2008, Chapter 382
 32 **68-3-2**, Utah Code Annotated 1953
 33 **68-3-3**, Utah Code Annotated 1953
 34 **68-3-12**, as last amended by Laws of Utah 2003, Chapter 20
 35 **68-3-14**, as enacted by Laws of Utah 1997, Chapter 135
 36 **76-6-506**, as last amended by Laws of Utah 2009, Chapter 166
 37 **78B-6-1402**, as renumbered and amended by Laws of Utah 2008, Chapter 3

38 ENACTS:

39 **68-3-12.5**, Utah Code Annotated 1953



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

42 Section 1. Section **17-22-2.5** is amended to read:

43 **17-22-2.5. Fees of sheriff.**

44 (1) The sheriff shall receive the following fees:

45 (a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and
 46 complaint, or garnishee execution, or other process by which an action or proceeding is
 47 commenced, on each defendant, including copies when furnished by plaintiff, \$15;

48 (b) for taking or approving a bond or undertaking in any case in which he is authorized
 49 to take or approve a bond or undertaking, including justification, \$5;

50 (c) for a copy of any writ, process or other paper when demanded or required by law,
 51 for each folio, 50 cents;

52 (d) for serving an attachment on property, or levying an execution, or executing an
 53 order of arrest or an order for the delivery of personal property, including copies when
 54 furnished by plaintiff, \$50;

55 (e) for taking and keeping possession of and preserving property under attachment or
 56 execution or other process, the amount the court orders to a maximum of \$15 per day;

57 (f) for advertising property for sale on execution, or any judgment, or order of sale,
 58 exclusive of the cost of publication, \$15;

59 (g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive
60 of acknowledgment, \$15, to be paid by the grantee;

61 (h) for recording each deed, conveyance, or other instrument affecting real estate,
62 exclusive of the cost of recording, \$10, to be paid by the grantee;

63 (i) for serving a writ of possession or restitution, and putting any person entitled to
64 possession into possession of premises, and removing occupant, \$50;

65 (j) for holding each trial of right of property, to include all services in the matter,
66 except mileage, \$35;

67 (k) for conducting, postponing, or canceling a sale of property, \$15;

68 (l) for taking a prisoner in civil cases from prison before a court or magistrate, for each
69 mile necessarily traveled, in going only, to a maximum of 100 miles, \$1.50;

70 (m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a
71 court or magistrate, for each mile necessarily traveled, in going only, to a maximum of 100
72 miles, \$1.50;

73 (n) for receiving and paying over money on execution or other process, as follows:

74 (i) if the amount collected does not exceed \$1,000, 2% of this amount, with a
75 minimum of \$1; and

76 (ii) if the amount collected exceeds \$1,000, 2% on the first \$1,000 and 1-1/2% on the
77 balance; and

78 (o) for executing in duplicate a certificate of sale, exclusive of filing it, \$10.

79 (2) The fees allowed by Subsection (1)(f) for the levy of execution and for advertising
80 shall be collected from the judgment debtor as part of the execution in the same manner as the
81 sum directed to be made.

82 (3) When serving an attachment on property, an order of arrest, or an order for the
83 delivery of personal property, the sheriff may only collect traveling fees for the distance
84 actually traveled beyond the distance required to serve the summons if the attachment or those
85 orders:

86 (a) accompany the summons in the action; and

87 (b) may be executed at the time of the service of the summons.

88 (4) (a) (i) When traveling generally to serve notices, orders, process, or other papers,
89 the sheriff may receive \$1.50 for each mile necessarily traveled, in going only, computed from

90 the courthouse for each person served, to a maximum of 100 miles.

91 (ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may
92 receive \$1.50 for each mile necessarily traveled, in going only, computed from the post office
93 where received for each person served, to a maximum of 100 miles.

94 (b) The sheriff may only charge one mileage fee if any two or more papers are required
95 to be served in the same action or proceeding at the same time and at the same address.

96 (c) If it is necessary to make more than one trip to serve any notice, order, process, or
97 other paper, the sheriff may not collect more than two additional mileage charges.

98 (5) (a) For delivering [~~an insane person~~] a patient to the Utah State Hospital, when the
99 cost of delivery is payable by private individuals, the sheriff may collect \$1.50 per mile for the
100 distance from the county seat of [~~his~~] the sheriff's county to the Utah State Hospital, to a
101 maximum of 100 miles.

102 (b) If the sheriff requires assistance to deliver the person to the Utah State Hospital, the
103 sheriff may also charge the actual and necessary cost of that assistance.

104 (6) For obtaining a saliva DNA specimen under Section 53-10-404, the sheriff shall
105 collect the fee of \$100 in accordance with Section 53-10-404.

106 Section 2. Section **17B-1-102** is amended to read:

107 **17B-1-102. Definitions.**

108 As used in this title:

109 (1) "Appointing authority" means the person or body authorized to make an
110 appointment to the board of trustees.

111 (2) "Basic local district":

112 (a) means a local district that is not a specialized local district; and

113 (b) includes an entity that was, under the law in effect before April 30, 2007, created
114 and operated as a local district, as defined under the law in effect before April 30, 2007.

115 (3) "Bond" means:

116 (a) a written obligation to repay borrowed money, whether denominated a bond, note,
117 warrant, certificate of indebtedness, or otherwise; and

118 (b) a lease agreement, installment purchase agreement, or other agreement that:

119 (i) includes an obligation by the district to pay money; and

120 (ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title

121 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond
122 Act.

123 (4) "Cemetery maintenance district" means a local district that operates under and is
124 subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District
125 Act, including an entity that was created and operated as a cemetery maintenance district under
126 the law in effect before April 30, 2007.

127 (5) "Drainage district" means a local district that operates under and is subject to the
128 provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that
129 was created and operated as a drainage district under the law in effect before April 30, 2007.

130 (6) "Facility" or "facilities" includes any structure, building, system, land, water right,
131 water, or other real or personal property required to provide a service that a local district is
132 authorized to provide, including any related or appurtenant easement or right-of-way,
133 improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

134 (7) "Fire protection district" means a local district that operates under and is subject to
135 the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an
136 entity that was created and operated as a fire protection district under the law in effect before
137 April 30, 2007.

138 (8) "General obligation bond":

139 (a) means a bond that is directly payable from and secured by ad valorem property
140 taxes that are:

141 (i) levied:

142 (A) by the district that issues the bond; and

143 (B) on taxable property within the district; and

144 (ii) in excess of the ad valorem property taxes of the district for the current fiscal year;

145 and

146 (b) does not include:

147 (i) a short-term bond;

148 (ii) a tax and revenue anticipation bond; or

149 (iii) a special assessment bond.

150 (9) "Improvement district" means a local district that operates under and is subject to
151 the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an

152 entity that was created and operated as a county improvement district under the law in effect
153 before April 30, 2007.

154 (10) "Irrigation district" means a local district that operates under and is subject to the
155 provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that
156 was created and operated as an irrigation district under the law in effect before April 30, 2007.

157 (11) "Local district" means a limited purpose local government entity, as described in
158 Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:

- 159 (a) this chapter; or
- 160 (b) (i) this chapter; and
- 161 (ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;
- 162 (B) Chapter 2a, Part 2, Drainage District Act;
- 163 (C) Chapter 2a, Part 3, Fire Protection District Act;
- 164 (D) Chapter 2a, Part 4, Improvement District Act;
- 165 (E) Chapter 2a, Part 5, Irrigation District Act;
- 166 (F) Chapter 2a, Part 6, Metropolitan Water District Act;
- 167 (G) Chapter 2a, Part 7, Mosquito Abatement District Act;
- 168 (H) Chapter 2a, Part 8, Public Transit District Act;
- 169 (I) Chapter 2a, Part 9, Service Area Act; or
- 170 (J) Chapter 2a, Part 10, Water Conservancy District Act.

171 (12) "Metropolitan water district" means a local district that operates under and is
172 subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District
173 Act, including an entity that was created and operated as a metropolitan water district under the
174 law in effect before April 30, 2007.

175 (13) "Mosquito abatement district" means a local district that operates under and is
176 subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District
177 Act, including an entity that was created and operated as a mosquito abatement district under
178 the law in effect before April 30, 2007.

179 (14) "Municipal" means of or relating to a municipality.

180 (15) "Municipality" means a city or town.

181 [~~(16) "Person" has the same meaning as defined in Section 68-3-12.~~]

182 [~~(17)~~ (16) "Political subdivision" means a county, city, town, local district under this

183 title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity
184 created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation
185 Act, or any other governmental entity designated in statute as a political subdivision of the
186 state.

187 ~~[(18)]~~ (17) "Private," with respect to real property, means not owned by the United
188 States or any agency of the federal government, the state, a county, or a political subdivision.

189 ~~[(19)]~~ (18) "Public entity" means:

190 (a) the United States or an agency of the United States;

191 (b) the state or an agency of the state;

192 (c) a political subdivision of the state or an agency of a political subdivision of the
193 state;

194 (d) another state or an agency of that state; or

195 (e) a political subdivision of another state or an agency of that political subdivision.

196 ~~[(20)]~~ (19) "Public transit district" means a local district that operates under and is
197 subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act,
198 including an entity that was created and operated as a public transit district under the law in
199 effect before April 30, 2007.

200 ~~[(21)]~~ (20) "Revenue bond":

201 (a) means a bond payable from designated taxes or other revenues other than the local
202 district's ad valorem property taxes; and

203 (b) does not include:

204 (i) an obligation constituting an indebtedness within the meaning of an applicable
205 constitutional or statutory debt limit;

206 (ii) a tax and revenue anticipation bond; or

207 (iii) a special assessment bond.

208 ~~[(22)]~~ (21) "Service area" means a local district that operates under and is subject to the
209 provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was
210 created and operated as a county service area or a regional service area under the law in effect
211 before April 30, 2007.

212 ~~[(23)]~~ (22) "Short-term bond" means a bond that is required to be repaid during the
213 fiscal year in which the bond is issued.

214 [~~24~~] (23) "Special assessment" means an assessment levied against property to pay all
215 or a portion of the costs of making improvements that benefit the property.

216 [~~25~~] (24) "Special assessment bond" means a bond payable from special assessments.

217 [~~26~~] (25) "Specialized local district" means a local district that is a cemetery
218 maintenance district, a drainage district, a fire protection district, an improvement district, an
219 irrigation district, a metropolitan water district, a mosquito abatement district, a public transit
220 district, a service area, or a water conservancy district.

221 [~~27~~] (26) "Taxable value" means the taxable value of property as computed from the
222 most recent equalized assessment roll for county purposes.

223 [~~28~~] (27) "Tax and revenue anticipation bond" means a bond:

224 (a) issued in anticipation of the collection of taxes or other revenues or a combination
225 of taxes and other revenues; and

226 (b) that matures within the same fiscal year as the fiscal year in which the bond is
227 issued.

228 [~~29~~] (28) "Unincorporated" means not included within a municipality.

229 [~~30~~] (29) "Water conservancy district" means a local district that operates under and
230 is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District
231 Act, including an entity that was created and operated as a water conservancy district under the
232 law in effect before April 30, 2007.

233 [~~31~~] (30) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain,
234 tunnel, power plant, and any facility, improvement, or property necessary or convenient for
235 supplying or treating water for any beneficial use, and for otherwise accomplishing the
236 purposes of a local district.

237 Section 3. Section **20A-1-102** is amended to read:

238 **20A-1-102. Definitions.**

239 As used in this title:

240 (1) "Active voter" means a registered voter who has not been classified as an inactive
241 voter by the county clerk.

242 (2) "Automatic tabulating equipment" means apparatus that automatically examines
243 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

244 (3) "Ballot" means the storage medium, whether paper, mechanical, or electronic, upon

245 which a voter records his votes and includes ballot sheets, paper ballots, electronic ballots, and
246 secrecy envelopes.

247 (4) "Ballot sheet":

248 (a) means a ballot that:

249 (i) consists of paper or a card where the voter's votes are marked or recorded; and

250 (ii) can be counted using automatic tabulating equipment; and

251 (b) includes punch card ballots, and other ballots that are machine-countable.

252 (5) "Ballot label" means the cards, papers, booklet, pages, or other materials that

253 contain the names of offices and candidates and statements of ballot propositions to be voted

254 on and which are used in conjunction with ballot sheets that do not display that information.

255 (6) "Ballot proposition" means a question, issue, or proposal that is submitted to voters
256 on the ballot for their approval or rejection including:

257 (a) an opinion question specifically authorized by the Legislature;

258 (b) a constitutional amendment;

259 (c) an initiative;

260 (d) a referendum;

261 (e) a bond proposition;

262 (f) a judicial retention question; or

263 (g) any other ballot question specifically authorized by the Legislature.

264 (7) "Board of canvassers" means the entities established by Sections 20A-4-301 and
265 20A-4-306 to canvass election returns.

266 (8) "Bond election" means an election held for the purpose of approving or rejecting
267 the proposed issuance of bonds by a government entity.

268 (9) "Book voter registration form" means voter registration forms contained in a bound
269 book that are used by election officers and registration agents to register persons to vote.

270 (10) "By-mail voter registration form" means a voter registration form designed to be
271 completed by the voter and mailed to the election officer.

272 (11) "Canvass" means the review of election returns and the official declaration of
273 election results by the board of canvassers.

274 (12) "Canvassing judge" means a poll worker designated to assist in counting ballots at
275 the canvass.

276 (13) "Convention" means the political party convention at which party officers and
277 delegates are selected.

278 (14) "Counting center" means one or more locations selected by the election officer in
279 charge of the election for the automatic counting of ballots.

280 (15) "Counting judge" means a poll worker designated to count the ballots during
281 election day.

282 (16) "Counting poll watcher" means a person selected as provided in Section
283 20A-3-201 to witness the counting of ballots.

284 (17) "Counting room" means a suitable and convenient private place or room,
285 immediately adjoining the place where the election is being held, for use by the poll workers
286 and counting judges to count ballots during election day.

287 [~~(18) "County executive" has the meaning as provided in Subsection 68-3-12(2).]~~

288 [~~(19) "County legislative body" has the meaning as provided in Subsection~~
289 ~~68-3-12(2).]~~

290 [~~(20)~~ (18) "County officers" means those county officers that are required by law to be
291 elected.

292 [~~(21)~~ (19) "Election" means a regular general election, a municipal general election, a
293 statewide special election, a local special election, a regular primary election, a municipal
294 primary election, and a local district election.

295 [~~(22)~~ (20) "Election Assistance Commission" means the commission established by
296 Public Law 107-252, the Help America Vote Act of 2002.

297 [~~(23)~~ (21) "Election cycle" means the period beginning on the first day persons are
298 eligible to file declarations of candidacy and ending when the canvass is completed.

299 [~~(24)~~ (22) "Election judge" means a poll worker that is assigned to:

- 300 (a) preside over other poll workers at a polling place;
- 301 (b) act as the presiding election judge; or
- 302 (c) serve as a canvassing judge, counting judge, or receiving judge.

303 [~~(25)~~ (23) "Election officer" means:

- 304 (a) the lieutenant governor, for all statewide ballots;
- 305 (b) the county clerk or clerks for all county ballots and for certain ballots and elections
- 306 as provided in Section 20A-5-400.5;

307 (c) the municipal clerk for all municipal ballots and for certain ballots and elections as
308 provided in Section 20A-5-400.5;

309 (d) the local district clerk or chief executive officer for certain ballots and elections as
310 provided in Section 20A-5-400.5; and

311 (e) the business administrator or superintendent of a school district for certain ballots
312 or elections as provided in Section 20A-5-400.5.

313 [~~26~~] (24) "Election official" means any election officer, election judge, or poll
314 worker.

315 [~~27~~] (25) "Election results" means, for bond elections, the count of those votes cast
316 for and against the bond proposition plus any or all of the election returns that the board of
317 canvassers may request.

318 [~~28~~] (26) "Election returns" includes the pollbook, all affidavits of registration, the
319 military and overseas absentee voter registration and voting certificates, one of the tally sheets,
320 any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all
321 spoiled ballots, the ballot disposition form, and the total votes cast form.

322 [~~29~~] (27) "Electronic ballot" means a ballot that is recorded using a direct electronic
323 voting device or other voting device that records and stores ballot information by electronic
324 means.

325 [~~30~~] (28) (a) "Electronic voting device" means a voting device that uses electronic
326 ballots.

327 (b) "Electronic voting device" includes a direct recording electronic voting device.

328 [~~31~~] (29) "Inactive voter" means a registered voter who has been sent the notice
329 required by Section 20A-2-306 and who has failed to respond to that notice.

330 [~~32~~] (30) "Inspecting poll watcher" means a person selected as provided in this title to
331 witness the receipt and safe deposit of voted and counted ballots.

332 [~~33~~] (31) "Judicial office" means the office filled by any judicial officer.

333 [~~34~~] (32) "Judicial officer" means any justice or judge of a court of record or any
334 county court judge.

335 [~~35~~] (33) "Local district" means a local government entity under Title 17B, Limited
336 Purpose Local Government Entities - Local Districts, and includes a special service district
337 under Title 17D, Chapter 1, Special Service District Act.

338 [~~(36)~~] (34) "Local district officers" means those local district officers that are required
339 by law to be elected.

340 [~~(37)~~] (35) "Local election" means a regular municipal election, a local special
341 election, a local district election, and a bond election.

342 [~~(38)~~] (36) "Local political subdivision" means a county, a municipality, a local
343 district, or a local school district.

344 [~~(39)~~] (37) "Local special election" means a special election called by the governing
345 body of a local political subdivision in which all registered voters of the local political
346 subdivision may vote.

347 [~~(40)~~] (38) "Municipal executive" means:

348 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;
349 and

350 (b) the mayor in the council-manager form of government defined in Subsection
351 10-3b-103(6).

352 [~~(41)~~] (39) "Municipal general election" means the election held in municipalities and
353 local districts on the first Tuesday after the first Monday in November of each odd-numbered
354 year for the purposes established in Section 20A-1-202.

355 [~~(42)~~] (40) "Municipal legislative body" means the council of the city or town in any
356 form of municipal government.

357 [~~(43)~~] (41) "Municipal officers" means those municipal officers that are required by
358 law to be elected.

359 [~~(44)~~] (42) "Municipal primary election" means an election held to nominate
360 candidates for municipal office.

361 [~~(45)~~] (43) "Official ballot" means the ballots distributed by the election officer to the
362 poll workers to be given to voters to record their votes.

363 [~~(46)~~] (44) "Official endorsement" means:

364 (a) the information on the ballot that identifies:

365 (i) the ballot as an official ballot;

366 (ii) the date of the election; and

367 (iii) the facsimile signature of the election officer; and

368 (b) the information on the ballot stub that identifies:

369 (i) the poll worker's initials; and

370 (ii) the ballot number.

371 [~~(47)~~] (45) "Official register" means the official record furnished to election officials
372 by the election officer that contains the information required by Section 20A-5-401.

373 [~~(48)~~] (46) "Paper ballot" means a paper that contains:

374 (a) the names of offices and candidates and statements of ballot propositions to be
375 voted on; and

376 (b) spaces for the voter to record his vote for each office and for or against each ballot
377 proposition.

378 [~~(49)~~] (47) "Political party" means an organization of registered voters that has
379 qualified to participate in an election by meeting the requirements of Title 20A, Chapter 8,
380 Political Party Formation and Procedures.

381 [~~(50)~~] (48) (a) "Poll worker" means a person assigned by an election official to assist
382 with an election, voting, or counting votes.

383 (b) "Poll worker" includes election judges.

384 (c) "Poll worker" does not include a watcher.

385 [~~(51)~~] (49) "Pollbook" means a record of the names of voters in the order that they
386 appear to cast votes.

387 [~~(52)~~] (50) "Polling place" means the building where voting is conducted.

388 [~~(53)~~] (51) "Position" means a square, circle, rectangle, or other geometric shape on a
389 ballot in which the voter marks his choice.

390 [~~(54)~~] (52) "Provisional ballot" means a ballot voted provisionally by a person:

391 (a) whose name is not listed on the official register at the polling place;

392 (b) whose legal right to vote is challenged as provided in this title; or

393 (c) whose identity was not sufficiently established by a poll worker.

394 [~~(55)~~] (53) "Provisional ballot envelope" means an envelope printed in the form
395 required by Section 20A-6-105 that is used to identify provisional ballots and to provide
396 information to verify a person's legal right to vote.

397 [~~(56)~~] (54) "Primary convention" means the political party conventions at which
398 nominees for the regular primary election are selected.

399 [~~(57)~~] (55) "Protective counter" means a separate counter, which cannot be reset, that is

400 built into a voting machine and records the total number of movements of the operating lever.

401 ~~[(58)]~~ (56) "Qualify" or "qualified" means to take the oath of office and begin
402 performing the duties of the position for which the person was elected.

403 ~~[(59)]~~ (57) "Receiving judge" means the poll worker that checks the voter's name in the
404 official register, provides the voter with a ballot, and removes the ballot stub from the ballot
405 after the voter has voted.

406 ~~[(60)]~~ (58) "Registration form" means a book voter registration form and a by-mail
407 voter registration form.

408 ~~[(61)]~~ (59) "Regular ballot" means a ballot that is not a provisional ballot.

409 ~~[(62)]~~ (60) "Regular general election" means the election held throughout the state on
410 the first Tuesday after the first Monday in November of each even-numbered year for the
411 purposes established in Section 20A-1-201.

412 ~~[(63)]~~ (61) "Regular primary election" means the election on the fourth Tuesday of
413 June of each even-numbered year, at which candidates of political parties and nonpolitical
414 groups are voted for nomination.

415 ~~[(64)]~~ (62) "Resident" means a person who resides within a specific voting precinct in
416 Utah.

417 ~~[(65)]~~ (63) "Sample ballot" means a mock ballot similar in form to the official ballot
418 printed and distributed as provided in Section 20A-5-405.

419 ~~[(66)]~~ (64) "Scratch vote" means to mark or punch the straight party ticket and then
420 mark or punch the ballot for one or more candidates who are members of different political
421 parties.

422 ~~[(67)]~~ (65) "Secrecy envelope" means the envelope given to a voter along with the
423 ballot into which the voter places the ballot after he has voted it in order to preserve the secrecy
424 of the voter's vote.

425 ~~[(68)]~~ (66) "Special election" means an election held as authorized by Section
426 20A-1-204.

427 ~~[(69)]~~ (67) "Spoiled ballot" means each ballot that:

428 (a) is spoiled by the voter;

429 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

430 (c) lacks the official endorsement.

431 [~~(70)~~] (68) "Statewide special election" means a special election called by the governor
432 or the Legislature in which all registered voters in Utah may vote.

433 [~~(71)~~] (69) "Stub" means the detachable part of each ballot.

434 [~~(72)~~] (70) "Substitute ballots" means replacement ballots provided by an election
435 officer to the poll workers when the official ballots are lost or stolen.

436 [~~(73)~~] (71) "Ticket" means each list of candidates for each political party or for each
437 group of petitioners.

438 [~~(74)~~] (72) "Transfer case" means the sealed box used to transport voted ballots to the
439 counting center.

440 [~~(75)~~] (73) "Vacancy" means the absence of a person to serve in any position created
441 by statute, whether that absence occurs because of death, disability, disqualification,
442 resignation, or other cause.

443 [~~(76)~~] (74) "Valid voter identification" means:

444 (a) a form of identification that bears the name and photograph of the voter which may
445 include:

446 (i) a currently valid Utah driver license;

447 (ii) a currently valid identification card that is issued by:

448 (A) the state; or

449 (B) a branch, department, or agency of the United States;

450 (iii) a currently valid Utah permit to carry a concealed weapon;

451 (iv) a currently valid United States passport; or

452 (v) a valid tribal identification card, whether or not the card includes a photograph of
453 the voter;

454 (b) two forms of identification that bear the name of the voter and provide evidence
455 that the voter resides in the voting precinct, which may include:

456 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the
457 election;

458 (ii) a bank or other financial account statement, or a legible copy thereof;

459 (iii) a certified birth certificate;

460 (iv) a valid Social Security card;

461 (v) a check issued by the state or the federal government or a legible copy thereof;

- 462 (vi) a paycheck from the voter's employer, or a legible copy thereof;
- 463 (vii) a currently valid Utah hunting or fishing license;
- 464 (viii) a currently valid United States military identification card;
- 465 (ix) certified naturalization documentation;
- 466 (x) a currently valid license issued by an authorized agency of the United States;
- 467 (xi) a certified copy of court records showing the voter's adoption or name change;
- 468 (xii) a Bureau of Indian Affairs card;
- 469 (xiii) a tribal treaty card;
- 470 (xiv) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 471 (xv) a currently valid identification card issued by:
 - 472 (A) a local government within the state;
 - 473 (B) an employer for an employee; or
 - 474 (C) a college, university, technical school, or professional school located within the
 - 475 state;
- 476 (xvi) a current Utah vehicle registration; or
- 477 (xvii) a form of identification listed in Subsection [~~(76)~~] (74)(a) that does not contain a
- 478 photograph, but establishes the name of the voter and provides evidence that the voter resides
- 479 in the voting precinct, if at least one other form of identification listed in Subsection [~~(76)~~]
- 480 (74)(b)(i) through (xv) is also presented.
- 481 [~~(77)~~] (75) "Valid write-in candidate" means a candidate who has qualified as a
- 482 write-in candidate by following the procedures and requirements of this title.
- 483 [~~(78)~~] (76) "Voter" means a person who meets the requirements for voting in an
- 484 election, meets the requirements of election registration, is registered to vote, and is listed in
- 485 the official register book.
- 486 [~~(79)~~] (77) "Voter registration deadline" means the registration deadline provided in
- 487 Section 20A-2-102.5.
- 488 [~~(80)~~] (78) "Voting area" means the area within six feet of the voting booths, voting
- 489 machines, and ballot box.
- 490 [~~(81)~~] (79) "Voting booth" means:
- 491 (a) the space or compartment within a polling place that is provided for the preparation
- 492 of ballots, including the voting machine enclosure or curtain; or

493 (b) a voting device that is free standing.

494 [~~(82)~~] (80) "Voting device" means:

495 (a) an apparatus in which ballot sheets are used in connection with a punch device for
496 piercing the ballots by the voter;

497 (b) a device for marking the ballots with ink or another substance;

498 (c) an electronic voting device or other device used to make selections and cast a ballot
499 electronically, or any component thereof;

500 (d) an automated voting system under Section 20A-5-302; or

501 (e) any other method for recording votes on ballots so that the ballot may be tabulated
502 by means of automatic tabulating equipment.

503 [~~(83)~~] (81) "Voting machine" means a machine designed for the sole purpose of
504 recording and tabulating votes cast by voters at an election.

505 [~~(84)~~] (82) "Voting poll watcher" means a person appointed as provided in this title to
506 witness the distribution of ballots and the voting process.

507 [~~(85)~~] (83) "Voting precinct" means the smallest voting unit established as provided by
508 law within which qualified voters vote at one polling place.

509 [~~(86)~~] (84) "Watcher" means a voting poll watcher, a counting poll watcher, an
510 inspecting poll watcher, and a testing watcher.

511 [~~(87)~~] (85) "Western States Presidential Primary" means the election established in
512 Title 20A, Chapter 9, Part 8.

513 [~~(88)~~] (86) "Write-in ballot" means a ballot containing any write-in votes.

514 [~~(89)~~] (87) "Write-in vote" means a vote cast for a person whose name is not printed on
515 the ballot according to the procedures established in this title.

516 Section 4. Section **45-1-101** is amended to read:

517 **45-1-101. Legal notice publication requirements.**

518 (1) As used in this section:

519 (a) [~~(†)~~] "Legal notice" means:

520 [~~(A)~~] (i) a communication required to be made public by a state statute or state agency
521 rule; or

522 [~~(B)~~] (ii) a notice required for judicial proceedings or by judicial decision.

523 [~~(†)~~] (b) "Legal notice" does not include a public notice published by a public body in

524 accordance with the provisions of Sections 52-4-202 and 63F-1-701.

525 ~~[(b) "Person" is as defined in Section 68-3-12.]~~

526 (2) Notwithstanding any other legal notice provision established in this Utah Code, a
527 person required to publish legal notice:

528 (a) until January 1, 2010, shall publish as required by the state statute establishing the
529 legal notice requirement; and

530 (b) beginning on January 1, 2010, shall publish legal notice:

531 (i) as required by the statute establishing the notice requirement; and

532 (ii) on a website established by the collective efforts of Utah's newspapers.

533 (3) Beginning on January 1, 2012, notwithstanding any provision of law requiring
534 publication of legal notice in a newspaper, a person who publishes legal notice that is required
535 to be given in a county of the first or second class:

536 (a) is not required to comply with the requirement to publish legal notice in a
537 newspaper;

538 (b) is required to publish legal notice on the website described in Subsection (2)(b)(ii);
539 and

540 (c) may, in addition to complying with Subsection (3)(b), publish legal notice in a
541 newspaper.

542 (4) The website described in Subsection (2)(b)(ii) may not:

543 (a) charge a fee to publish a legal notice on the website before January 1, 2012; and

544 (b) charge more than \$10 to publish a legal notice on the website on or after January 1,
545 2012.

546 Section 5. Section **63M-7-502** is amended to read:

547 **63M-7-502. Definitions.**

548 As used in this chapter:

549 (1) "Accomplice" means a person who has engaged in criminal conduct as defined in
550 Section 76-2-202.

551 (2) "Board" means the Crime Victim Reparations Board created under Section
552 63M-7-504.

553 (3) "Bodily injury" means physical pain, illness, or any impairment of physical
554 condition.

- 555 (4) "Claim" means:
- 556 (a) the victim's application or request for a reparations award; and
- 557 (b) the formal action taken by a victim to apply for reparations pursuant to Sections
- 558 63M-7-501 through 63M-7-525.
- 559 (5) "Claimant" means any of the following claiming reparations under this chapter:
- 560 (a) a victim;
- 561 (b) a dependent of a deceased victim;
- 562 (c) a representative other than a collateral source; or
- 563 (d) the person or representative who files a claim on behalf of a victim.
- 564 (6) "Child" means an unemancipated person who is under 18 years of age.
- 565 (7) "Collateral source" means the definition as provided in Section 63M-7-513.
- 566 (8) "Contested case" means a case which the claimant contests, claiming the award was
- 567 either inadequate or denied, or which a county attorney, a district attorney, a law enforcement
- 568 officer, or other individual related to the criminal investigation proffers reasonable evidence of
- 569 the claimant's lack of cooperation in the prosecution of a case after an award has already been
- 570 given.
- 571 (9) (a) "Criminally injurious conduct" other than acts of war declared or not declared
- 572 means conduct that:
- 573 (i) is or would be subject to prosecution in this state under Section 76-1-201;
- 574 (ii) occurs or is attempted;
- 575 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
- 576 (iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct
- 577 possessed the capacity to commit the conduct; and
- 578 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
- 579 aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is
- 580 conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the
- 581 Person, or as any offense chargeable as driving under the influence of alcohol or drugs.
- 582 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
- 583 Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism"
- 584 does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.
- 585 (10) "Dependent" means a natural person to whom the victim is wholly or partially

586 legally responsible for care or support and includes a child of the victim born after the victim's
587 death.

588 (11) "Dependent's economic loss" means loss after the victim's death of contributions
589 of things of economic value to the victim's dependent, not including services the dependent
590 would have received from the victim if the victim had not suffered the fatal injury, less
591 expenses of the dependent avoided by reason of victim's death.

592 (12) "Dependent's replacement services loss" means loss reasonably and necessarily
593 incurred by the dependent after the victim's death in obtaining services in lieu of those the
594 decedent would have performed for the victim's benefit if the victim had not suffered the fatal
595 injury, less expenses of the dependent avoided by reason of the victim's death and not
596 subtracted in calculating the dependent's economic loss.

597 (13) "Director" means the director of the Office of Crime Victim Reparations.

598 (14) "Disposition" means the sentencing or determination of penalty or punishment to
599 be imposed upon a person:

600 (a) convicted of a crime;

601 (b) found delinquent; or

602 (c) against whom a finding of sufficient facts for conviction or finding of delinquency
603 is made.

604 (15) "Economic loss" means economic detriment consisting only of allowable expense,
605 work loss, replacement services loss, and if injury causes death, dependent's economic loss and
606 dependent's replacement service loss. Noneconomic detriment is not loss, but economic
607 detriment is loss although caused by pain and suffering or physical impairment.

608 (16) "Elderly victim" means a person 60 years of age or older who is a victim.

609 (17) "Fraudulent claim" means a filed claim based on material misrepresentation of
610 fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds
611 for which the claimant is not eligible as provided in Section 63M-7-510.

612 (18) "Fund" means the Crime Victim Reparations Fund created in Section 51-9-404.

613 (19) "Law enforcement officer" means a law enforcement officer as defined in Section
614 53-13-103.

615 (20) "Medical examination" means a physical examination necessary to document
616 criminally injurious conduct but does not include mental health evaluations for the prosecution

617 and investigation of a crime.

618 (21) "Mental health counseling" means outpatient and inpatient counseling necessitated
619 as a result of criminally injurious conduct. The definition of mental health counseling is
620 subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah
621 Administrative Rulemaking Act.

622 (22) "Misconduct" as provided in Subsection 63M-7-512(1)(b) means conduct by the
623 victim which was attributable to the injury or death of the victim as provided by rules
624 promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking
625 Act.

626 (23) "Noneconomic detriment" means pain, suffering, inconvenience, physical
627 impairment, and other nonpecuniary damage, except as provided in this chapter.

628 (24) "Pecuniary loss" does not include loss attributable to pain and suffering except as
629 otherwise provided in this chapter.

630 (25) "Offender" means a person who has violated the criminal code through criminally
631 injurious conduct regardless of whether the person is arrested, prosecuted, or convicted.

632 (26) "Offense" means a violation of the criminal code.

633 (27) "Office of Crime Victim Reparations" or "office" means the office of the
634 reparations staff for the purpose of carrying out the provisions of this chapter.

635 (28) "Perpetrator" means the person who actually participated in the criminally
636 injurious conduct.

637 [~~(29)~~] "~~Personal property~~" has the same definition as provided in Section 68-3-12-]

638 [~~(30)~~] (29) "Reparations officer" means a person employed by the office to investigate
639 claims of victims and award reparations under this chapter, and includes the director when the
640 director is acting as a reparations officer.

641 [~~(31)~~] (30) "Reparations staff" means the director, the reparations officers, and any
642 other staff employed to administer the Crime Victim Reparations Act.

643 [~~(32)~~] (31) "Replacement service loss" means expenses reasonably and necessarily
644 incurred in obtaining ordinary and necessary services in lieu of those the injured person would
645 have performed, not for income but the benefit of the injured person or the injured person's
646 dependents if the injured person had not been injured.

647 [~~(33)~~] (32) "Representative" means the victim, immediate family member, legal

648 guardian, attorney, conservator, executor, or an heir of a person but does not include service
649 providers.

650 ~~[(34)]~~ (33) "Restitution" means money or services an appropriate authority orders an
651 offender to pay or render to a victim of the offender's conduct.

652 ~~[(35)]~~ (34) "Secondary victim" means a person who is traumatically affected by the
653 criminally injurious conduct subject to rules promulgated by the board pursuant to Title 63G,
654 Chapter 3, Utah Administrative Rulemaking Act.

655 ~~[(36)]~~ (35) "Service provider" means a person or agency who provides a service to
656 crime victims for a monetary fee except attorneys as provided in Section 63M-7-524.

657 ~~[(37)]~~ (36) (a) "Victim" means a person who suffers bodily or psychological injury or
658 death as a direct result of criminally injurious conduct or of the production of pornography in
659 violation of Sections 76-5a-1 through 76-5a-4 if the person is a minor.

660 (b) "Victim" does not include a person who participated in or observed the judicial
661 proceedings against an offender unless otherwise provided by statute or rule.

662 (c) "Victim" includes a resident of this state who is injured or killed by an act of
663 terrorism, as defined in 18 U.S.C. 2331, committed outside of the United States.

664 ~~[(38)]~~ (37) "Work loss" means loss of income from work the injured victim would
665 have performed if the injured victim had not been injured and expenses reasonably incurred by
666 the injured victim in obtaining services in lieu of those the injured victim would have
667 performed for income, reduced by any income from substitute work the injured victim was
668 capable of performing but unreasonably failed to undertake.

669 Section 6. Section **68-3-2** is amended to read:

670 **68-3-2. Statutes in derogation of common law not strictly construed -- Rules of**
671 **equity prevail.**

672 (1) The rule of the common law that ~~[statutes]~~ a statute in derogation [thereof are] of
673 the common law is to be strictly construed ~~[has no application to the statutes of this state. The~~
674 ~~statutes establish the laws]~~ does not apply to the Utah Code.

675 (2) A statute of the Utah Code establishes the law of this state respecting the subjects
676 to which [they relate, and their provisions and all proceedings under them are to be liberally]
677 the statute relates.

678 (3) Each provision of, and each proceeding under, the Utah Code shall be construed

679 with a view to effect the objects of the [statutes] provision and to promote justice. [~~Whenever~~
680 ~~there is any variance~~]

681 (4) When there is a conflict between the rules of equity and the rules of common law in
682 reference to the same matter, the rules of equity [~~shall~~] prevail.

683 Section 7. Section **68-3-3** is amended to read:

684 **68-3-3. Retroactive effect.**

685 [~~No part of these revised statutes is~~] A provision of the Utah Code is not retroactive,
686 unless [~~expressly so~~] the provision is expressly declared to be retroactive.

687 Section 8. Section **68-3-12** is amended to read:

688 **68-3-12. Rules of construction.**

689 (1) (a) In the construction of [~~these statutes~~] a statute in the Utah Code, the general
690 rules listed in this Subsection (1) shall be observed, unless the construction would be:

691 (i) inconsistent with the manifest intent of the Legislature; or

692 (ii) repugnant to the context of the statute.

693 (b) The singular [~~number~~] includes the plural, and the plural includes the singular.

694 (c) [~~Words~~] A word used in one gender [~~comprehend~~] includes the other gender.

695 (d) [~~Words~~] A word used in the present tense [~~include~~] includes the future tense.

696 (e) In accordance with Title 46, Chapter 4, Part 5, Electronic Records in Government
697 Agencies, [~~words~~] a word related to the medium used in the provision of a government
698 [~~services~~] service may include an electronic or other [~~mediums~~] medium.

699 (f) "Include," "includes," or "including" means that the items listed are not an exclusive
700 list, unless the word "only" or similar language is used to expressly indicate that the list is an
701 exclusive list.

702 (g) "May" means that an action is authorized or permissive.

703 (h) "May not" means that an action is not authorized and is prohibited.

704 (i) "Must" means, depending on the context in which it is used, that:

705 (i) an action is required or mandatory;

706 (ii) an action or result is compelled by necessity;

707 (iii) an item is indispensable; or

708 (iv) an action or event is a condition precedent to:

709 (A) the authority to act;

- 710 (B) a prohibition;
711 (C) the accrual or loss of a right; or
712 (D) the imposition or removal of an obligation.
713 (j) "Shall" means that an action is required or mandatory.
714 (2) (a) Except as provided in Subsection (2)(b) or (c), the use of the following terms in
715 the Utah Code is strongly discouraged:
716 (i) "shall not";
717 (ii) "should not";
718 (iii) "must not"; or
719 (iv) "but not limited to" after "include," "includes," or "including."
720 (b) A term described in Subsection (2)(a) may be used when unusual circumstances
721 exist that require the use of the term, including the use of the term:
722 (i) in an interstate compact; or
723 (ii) to ensure consistency with a federal law or rule.
724 (c) (i) Except as provided in Subsection (2)(c)(ii), the use of the word "should" is
725 strongly discouraged.
726 (ii) The word "should" may be used to:
727 (A) refer to a recommended action, including a provision that a person shall or may
728 recommend whether an action "should" be taken;
729 (B) indicate an expected standard of knowledge, including a provision that a person
730 "should" know:
731 (I) whether a fact exists; or
732 (II) that an action is likely to cause a specified result; or
733 (C) refer to a determination as to whether an action "should" have occurred.
734 (d) The use of the word "must" is strongly discouraged when the term "shall" can be
735 used in its place.
736 ~~[(2) In the construction of these statutes, the definitions listed in this Subsection (2)~~
737 ~~shall be observed, unless the definition would be inconsistent with the manifest intent of the~~
738 ~~Legislature, or repugnant to the context of the statute.]~~
739 ~~[(a) "Adjudicative proceeding" means:]~~
740 ~~[(i) all actions by a board, commission, department, officer, or other administrative unit~~

741 of the state that determine the legal rights, duties, privileges, immunities, or other legal
742 interests of one or more identifiable persons, including all actions to grant, deny, revoke,
743 suspend, modify, annul, withdraw, or amend an authority, right, or license; and]
744 [~~(ii) judicial review of all such actions;~~]
745 [~~(b) "Advisory board," "advisory commission," and "advisory council" means a board,~~
746 ~~commission, or council that:~~]
747 [~~(i) provides advice and makes recommendations to another person or entity who~~
748 ~~makes policy for the benefit of the general public;~~]
749 [~~(ii) is created by and whose duties are provided by statute or by executive order; and]~~
750 [~~(iii) performs its duties only under the supervision of another person as provided by~~
751 ~~statute.~~]
752 [~~(c) "Councilman" includes a town trustee or a city commissioner, and "city~~
753 ~~commissioner" includes a councilman.~~]
754 [~~(d) "County executive" means:~~]
755 [~~(i) the county commission in the county commission or expanded county commission~~
756 ~~form of government established under Title 17, Chapter 52, Forms of County Government;~~]
757 [~~(ii) the county executive in the "county executive-council" optional form of~~
758 ~~government authorized by Section 17-52-504; and]~~
759 [~~(iii) the county manager in the "council-manager" optional form of government~~
760 ~~authorized by Section 17-52-505.~~]
761 [~~(e) "County legislative body" means:~~]
762 [~~(i) the county commission in the county commission or expanded county commission~~
763 ~~form of government established under Title 17, Chapter 52, Forms of County Government;~~]
764 [~~(ii) the county council in the "county executive-council" optional form of government~~
765 ~~authorized by Section 17-52-504; and]~~
766 [~~(iii) the county council in the "council-manager" optional form of government~~
767 ~~authorized by Section 17-52-505.~~]
768 [~~(f) "Executor" includes administrator, and the term "administrator" includes executor,~~
769 ~~when the subject matter justifies such use.~~]
770 [~~(g) "Guardian" includes a person who has qualified as a guardian of a minor or~~
771 ~~incapacitated person pursuant to testamentary or court appointment and a person who is~~

772 ~~appointed by a court to manage the estate of a minor or incapacitated person.]~~

773 ~~[(h) "Highway" and "road" include public bridges and may be held equivalent to the~~
774 ~~words "county way," "county road," "common road," and "state road."]~~

775 ~~[(i) "Him," "his," and other masculine pronouns include "her," "hers," and similar~~
776 ~~feminine pronouns unless the context clearly indicates a contrary intent or the subject matter~~
777 ~~relates clearly and necessarily to the male sex only.]~~

778 ~~[(j) "Insane person" include idiots, lunatics, distracted persons, and persons of unsound~~
779 ~~mind.]~~

780 ~~[(k) "Land," "real estate," and "real property" include land, tenements, hereditaments,~~
781 ~~water rights, possessory rights, and claims.]~~

782 ~~[(l) "Man" or "men" when used alone or in conjunction with other syllables as in~~
783 ~~"workman," includes "woman" or "women" unless the context clearly indicates a contrary~~
784 ~~intent or the subject matter relates clearly and necessarily to the male sex only.]~~

785 ~~[(m) "Month" means a calendar month, unless otherwise expressed, and the word~~
786 ~~"year," or the abbreviation "A.D." is equivalent to the expression "year of our Lord."]~~

787 ~~[(n) "Oath" includes "affirmation," and the word "swear" includes "affirm." Every oral~~
788 ~~statement under oath or affirmation is embraced in the term "testify," and every written one, in~~
789 ~~the term "depose."]~~

790 ~~[(o) "Person" includes individuals, bodies politic and corporate, partnerships,~~
791 ~~associations, and companies.]~~

792 ~~[(p) "Personal property" includes every description of money, goods, chattels, effects,~~
793 ~~evidences of rights in action, and all written instruments by which any pecuniary obligation,~~
794 ~~right, or title to property is created, acknowledged, transferred, increased, defeated, discharged,~~
795 ~~or diminished, and every right or interest therein.]~~

796 ~~[(q) "Personal representative," "executor," and "administrator" includes an executor,~~
797 ~~administrator, successor personal representative, special administrator, and persons who~~
798 ~~perform substantially the same function under the law governing their status.]~~

799 ~~[(r) "Policy board," "policy commission," or "policy council" means a board,~~
800 ~~commission, or council that:]~~

801 ~~[(i) possesses a portion of the sovereign power of the state to enable it to make policy~~
802 ~~for the benefit of the general public;]~~

803 ~~[(ii) is created by and whose duties are provided by the constitution or by statute;]~~

804 ~~[(iii) performs its duties according to its own rules without supervision other than~~

805 ~~under the general control of another person as provided by statute; and]~~

806 ~~[(iv) is permanent and continuous and not temporary and occasional.]~~

807 ~~[(s) "Population" shall be as shown by the last preceding state or national census,~~

808 ~~unless otherwise specially provided.]~~

809 ~~[(t) "Property" includes both real and personal property.]~~

810 ~~[(u) "Review board," "review commission," or "review council" means a board,~~

811 ~~commission, or council that:]~~

812 ~~[(i) possesses a portion of the sovereign power of the state only to the extent to enable~~

813 ~~it to approve policy made for the benefit of the general public by another body or person;]~~

814 ~~[(ii) is created by and whose duties are provided by statute;]~~

815 ~~[(iii) performs its duties according to its own rules without supervision other than~~

816 ~~under the general control of another person as provided by statute; and]~~

817 ~~[(iv) is permanent and continuous and not temporary and occasional.]~~

818 ~~[(v) "Sheriff," "county attorney," "district attorney," "clerk," or other words used to~~

819 ~~denote an executive or ministerial officer, may include any deputy, or other person performing~~

820 ~~the duties of such officer, either generally or in special cases; and the words "county clerk" may~~

821 ~~be held to include "clerk of the district court."]~~

822 ~~[(w) "Signature" includes any name, mark, or sign written with the intent to~~

823 ~~authenticate any instrument or writing.]~~

824 ~~[(x) "State," when applied to the different parts of the United States, includes the~~

825 ~~District of Columbia and the territories; and the words "United States" may include the District~~

826 ~~and the territories.]~~

827 ~~[(y) "Town" may mean incorporated town and may include city, and the word "city"~~

828 ~~may mean incorporated town.]~~

829 ~~[(z) "Vessel," when used with reference to shipping, includes steamboats, canal boats,~~

830 ~~and every structure adapted to be navigated from place to place.]~~

831 ~~[(aa) "Will" includes codicils.]~~

832 ~~[(bb) "Writ" means an order or precept in writing, issued in the name of the state or of~~

833 ~~a court or judicial officer; and "process" means a writ or summons issued in the course of~~

834 ~~judicial proceedings.]~~
835 ~~[(cc) "Writing" includes:]~~
836 ~~[(i) printing;]~~
837 ~~[(ii) handwriting; and]~~
838 ~~[(iii) information stored in an electronic or other medium if the information is~~
839 ~~retrievable in a perceivable format.]~~

840 Section 9. Section **68-3-12.5** is enacted to read:

841 **68-3-12.5. Definitions for Utah Code.**

842 (1) The definitions listed in this section apply to the Utah Code, unless:

843 (a) the definition is inconsistent with the manifest intent of the Legislature or repugnant
844 to the context of the statute; or

845 (b) a different definition is expressly provided for the respective title, chapter, part,
846 section, or subsection.

847 (2) "Adjudicative proceeding" means:

848 (a) an action by a board, commission, department, officer, or other administrative unit
849 of the state that determines the legal rights, duties, privileges, immunities, or other legal
850 interests of one or more identifiable persons, including an action to grant, deny, revoke,
851 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

852 (b) judicial review of an action described in Subsection (2)(a).

853 (3) "Administrator" includes "executor" when the subject matter justifies the use.

854 (4) "Advisory board," "advisory commission," and "advisory council" mean a board,
855 commission, committee, or council that:

856 (a) is created by, and whose duties are provided by, statute or executive order;

857 (b) performs its duties only under the supervision of another person as provided by
858 statute; and

859 (c) provides advice and makes recommendations to another person that makes policy
860 for the benefit of the general public.

861 (5) "County executive" means:

862 (a) the county commission, in the county commission or expanded county commission
863 form of government established under Title 17, Chapter 52, Changing Forms of County
864 Government;

865 (b) the county executive, in the county executive-council optional form of government
866 authorized by Section 17-52-504; or

867 (c) the county manager, in the council-manager optional form of government
868 authorized by Section 17-52-505.

869 (6) "County legislative body" means:

870 (a) the county commission, in the county commission or expanded county commission
871 form of government established under Title 17, Chapter 52, Changing Forms of County
872 Government;

873 (b) the county council, in the county executive-council optional form of government
874 authorized by Section 17-52-504; and

875 (c) the county council, in the council-manager optional form of government authorized
876 by Section 17-52-505.

877 (7) "Depose" means to make a written statement made under oath or affirmation.

878 (8) "Executor" includes "administrator" when the subject matter justifies the use.

879 (9) "Guardian" includes a person who:

880 (a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary
881 or court appointment; or

882 (b) is appointed by a court to manage the estate of a minor or incapacitated person.

883 (10) "Highway" includes:

884 (a) a public bridge;

885 (b) a county way;

886 (c) a county road;

887 (d) a common road; and

888 (e) a state road.

889 (11) "Land" includes:

890 (a) land;

891 (b) a tenement;

892 (c) a hereditament;

893 (d) a water right;

894 (e) a possessory right; and

895 (f) a claim.

- 896 (12) "Month" means a calendar month, unless otherwise expressed.
- 897 (13) "Oath" includes "affirmation."
- 898 (14) "Person" means:
- 899 (a) an individual;
- 900 (b) an association;
- 901 (c) an institution;
- 902 (d) a corporation;
- 903 (e) a company;
- 904 (f) a trust;
- 905 (g) a limited liability company;
- 906 (h) a partnership;
- 907 (i) a political subdivision;
- 908 (j) a government office, department, division, bureau, or other body of government;
- 909 and
- 910 (k) any other organization or entity.
- 911 (15) "Personal property" includes:
- 912 (a) money;
- 913 (b) goods;
- 914 (c) chattels;
- 915 (d) effects;
- 916 (e) evidences of a right in action;
- 917 (f) a written instrument by which a pecuniary obligation, right, or title to property is
- 918 created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
- 919 (g) a right or interest in an item described in Subsections (15)(a) through (f).
- 920 (16) "Personal representative," "executor," and "administrator" include:
- 921 (a) an executor;
- 922 (b) an administrator;
- 923 (c) a successor personal representative;
- 924 (d) a special administrator; and
- 925 (e) a person who performs substantially the same function as a person described in
- 926 Subsections (16)(a) through (d) under the law governing the person's status.

- 927 (17) "Policy board," "policy commission," or "policy council" means a board,
928 commission, or council that:
- 929 (a) is authorized to make policy for the benefit of the general public;
930 (b) is created by, and whose duties are provided by, the constitution or statute; and
931 (c) performs its duties according to its own rules without supervision other than under
932 the general control of another person as provided by statute.
- 933 (18) "Population" is shown by the most recent state or national census, unless expressly
934 provided otherwise.
- 935 (19) "Process" means a writ or summons issued in the course of a judicial proceeding.
- 936 (20) "Property" includes both real and personal property.
- 937 (21) "Real estate" or "real property" includes:
- 938 (a) land;
939 (b) a tenement;
940 (c) a hereditament;
941 (d) a water right;
942 (e) a possessory right; and
943 (f) a claim.
- 944 (22) "Review board," "review commission," and "review council" mean a board,
945 commission, committee, or council that:
- 946 (a) is authorized to approve policy made for the benefit of the general public by another
947 body or person;
- 948 (b) is created by, and whose duties are provided by, statute; and
949 (c) performs its duties according to its own rules without supervision other than under
950 the general control of another person as provided by statute.
- 951 (23) "Road" includes:
- 952 (a) a public bridge;
953 (b) a county way;
954 (c) a county road;
955 (d) a common road; and
956 (e) a state road.
- 957 (24) "Signature" includes a name, mark, or sign written with the intent to authenticate

958 an instrument or writing.

959 (25) "State," when applied to the different parts of the United States, includes a state,
960 district, or territory of the United States,

961 (26) "Swear" includes "affirm."

962 (27) "Testify" means to make an oral statement under oath or affirmation.

963 (28) "United States" includes each state, district, and territory of the United States of
964 America.

965 (29) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless
966 the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

967 (a) on the day on which the 1953 recodification of the Utah Code was enacted; or

968 (b) (i) after the day described in Subsection (29)(a); and

969 (ii) before the most recent amendment to the referenced portion of the 1953
970 recodification of the Utah Code.

971 (30) "Vessel," when used with reference to shipping, includes a steamboat, canal boat,
972 and every structure adapted to be navigated from place to place.

973 (31) "Will" includes a codicil.

974 (32) "Writ" means an order or precept in writing, issued in the name of:

975 (a) the state;

976 (b) a court; or

977 (c) a judicial officer.

978 (33) "Writing" includes:

979 (a) printing;

980 (b) handwriting; and

981 (c) information stored in an electronic or other medium if the information is retrievable
982 in a perceivable format.

983 Section 10. Section **68-3-14** is amended to read:

984 **68-3-14. Annual reports -- Executive summary -- Electronic copy.**

985 Whenever an annual report to the Legislature and to the governor, or to either one, is
986 required by [~~these statutes~~] a statute in the Utah Code, that requirement may be fulfilled by:

987 (1) sending an executive summary, highlighting the contents of the annual report and
988 the address of the electronic or hard copy of the annual report to each legislator and to the

989 governor, or to either one, as required by the statute;

990 (2) providing an electronic copy of the annual report on the state's Internet site; and

991 (3) providing the executive summary and the address of the electronic copy of the
992 annual report to the Office of Legislative Research and General Counsel, if the annual report is
993 required to be provided to the Legislature.

994 Section 11. Section **76-6-506** is amended to read:

995 **76-6-506. Financial transaction card offenses -- Definitions.**

996 As used in this part:

997 (1) "Authorized credit card merchant" means a person [~~as defined in Section 68-3-12~~]
998 who is authorized by an issuer to furnish money, goods, services, or anything else of value
999 upon presentation of a financial transaction card by a card holder and to present valid credit
1000 card sales drafts to the issuer for payment.

1001 (2) "Automated banking device" means any machine which, when properly activated
1002 by a financial transaction card or a personal identification code, may be used for any of the
1003 purposes for which a financial transaction card may be used.

1004 (3) "Card holder" means any person or organization named on the face of a financial
1005 transaction card to whom or for whose benefit a financial transaction card is issued.

1006 (4) "Credit card sales draft" means any sales slip, draft, or other written or electronic
1007 record of a sale of money, goods, services, or anything else of value made or purported to be
1008 made to or at the request of a card holder with a financial transaction card, financial transaction
1009 card credit number, or personal identification code, whether the record of the sale or purported
1010 sale is evidenced by a sales draft, voucher, or other similar document in writing or
1011 electronically recorded and transmitted.

1012 (5) "Financial transaction card" means:

1013 (a) any credit card, credit plate, bank services card, banking card, check guarantee card,
1014 debit card, telephone credit card, or any other card, issued by an issuer for the use of the card
1015 holder in obtaining money, goods, services, or anything else of value on credit, or in certifying
1016 or guaranteeing to a person or business the availability to the card holder of the funds on
1017 deposit that are equal to or greater than the amount necessary to honor a draft or check payable
1018 to the order of the person or business; or

1019 (b) any instrument or device used in providing the card holder access to a demand or

1020 time deposit account for the purpose of making deposits of money or checks in the account, or
1021 withdrawing funds from the account in the form of money, money orders, travelers' checks or
1022 other form representing value, or transferring funds from any demand or time deposit account
1023 to any credit card account in full or partial satisfaction of any outstanding balance existing in
1024 the credit card account.

1025 (6) "Issuer" means a business organization or financial institution or its agent that
1026 issues a financial transaction card.

1027 (7) "Personal identification code" means any numerical or alphabetical code assigned
1028 to a card holder by the issuer to permit the authorized electronic use of the holder's financial
1029 transaction card.

1030 Section 12. Section **78B-6-1402** is amended to read:

1031 **78B-6-1402. Definitions.**

1032 As used in this part:

1033 (1) "Action involving public participation in the process of government" means any
1034 lawsuit, cause of action, claim, cross-claim, counterclaim, or other judicial pleading or filing
1035 requesting relief to which this act applies.

1036 (2) "Government" includes a branch, department, agency, instrumentality, official,
1037 employee, agent, or other person acting under color of law of the United States, a state, or
1038 subdivision of a state or other public authority.

1039 (3) "Moving party" means any person on whose behalf the motion is filed.

1040 [~~(4) "Person" means the same as defined in Section 68-3-12.~~]

1041 [~~(5)~~ (4) "Process of government" means the mechanisms and procedures by which the
1042 legislative and executive branches of government make decisions, and the activities leading up
1043 to the decisions, including the exercise by a citizen of the right to influence those decisions
1044 under the First Amendment to the U.S. Constitution.

1045 [~~(6)~~ (5) "Responding party" means any person against whom the motion described in
1046 Section 78B-6-1403 is filed.

1047 [~~(7) "State" means the same as defined in Section 68-3-12.~~]

Legislative Review Note
as of 1-21-10 1:15 PM

Office of Legislative Research and General Counsel

H.B. 236 - Statutory Construction Amendments

Fiscal Note

2010 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.
