

1 **REVISOR'S STATUTE**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Margaret Dayton**

5 House Sponsor: Ben C. Ferry

7 **LONG TITLE**

8 **General Description:**

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10 eliminating references to repealed provisions, making minor wording changes,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

12 **Highlighted Provisions:**

13 This bill:

14 ▶ modifies parts of the Utah Code to make technical corrections including
15 eliminating references to repealed provisions, making minor wording changes,
16 updating cross references, correcting numbering, and fixing errors that were created
17 from the previous year's session.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides an effective date.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **10-2-407**, as last amended by Laws of Utah 2009, Chapters 205 and 388

25 **13-34-105**, as last amended by Laws of Utah 2009, Chapter 372

26 **13-34-114**, as enacted by Laws of Utah 2002, Chapter 222

27 **13-42-111**, as last amended by Laws of Utah 2009, Chapters 183 and 229

28 **16-6a-401**, as last amended by Laws of Utah 2002, Chapters 197 and 222

29 **16-6a-1603**, as enacted by Laws of Utah 2000, Chapter 300

- 30 **16-10a-401**, as last amended by Laws of Utah 2002, Chapter 222
- 31 **16-11-16**, as last amended by Laws of Utah 2002, Chapter 222
- 32 **16-13-4**, as last amended by Laws of Utah 1992, Third Special Session, Chapter 6
- 33 **17-27a-306**, as last amended by Laws of Utah 2009, Chapters 205 and 388
- 34 **19-1-206**, as enacted by Laws of Utah 2009, Chapter 13
- 35 **23-28-202**, as enacted by Laws of Utah 2009, Chapter 273
- 36 **26-4-29**, as enacted by Laws of Utah 2009, Chapter 223
- 37 **26-8b-303**, as enacted by Laws of Utah 2009, Chapter 22
- 38 **26-21-25**, as enacted by Laws of Utah 2009, Chapter 36
- 39 **26-38-8**, as last amended by Laws of Utah 2006, Chapter 202
- 40 **30-3-40**, as enacted by Laws of Utah 2009, Chapter 193
- 41 **31A-36-102**, as last amended by Laws of Utah 2009, Chapter 355
- 42 **32A-14b-202**, as enacted by Laws of Utah 2009, Chapter 353
- 43 **34-46-102**, as enacted by Laws of Utah 2009, Chapter 174
- 44 **42-2-6.6**, as last amended by Laws of Utah 2009, Chapter 386
- 45 **48-2a-102**, as last amended by Laws of Utah 2002, Chapter 222
- 46 **48-2c-106**, as last amended by Laws of Utah 2009, Chapter 141
- 47 **51-9-408**, as last amended by Laws of Utah 2008, Chapters 3, 44, 250 and renumbered
- 48 and amended by Laws of Utah 2008, Chapter 382
- 49 **53-1-108**, as last amended by Laws of Utah 2008, Chapter 382
- 50 **53A-11a-301**, as enacted by Laws of Utah 2008, Chapter 197
- 51 **53C-1-201**, as last amended by Laws of Utah 2008, Chapters 300 and 382
- 52 **58-54-3**, as last amended by Laws of Utah 1996, Chapters 232 and 243
- 53 **59-11-102**, as last amended by Laws of Utah 2007, Chapter 306
- 54 **61-1-14**, as last amended by Laws of Utah 2009, Chapter 351
- 55 **62A-15-902**, as last amended by Laws of Utah 2008, Chapter 382
- 56 **63H-2-102**, as enacted by Laws of Utah 2009, Chapter 378
- 57 **63J-1-602**, as enacted by Laws of Utah 2009, Chapter 368

- 58 **63M-1-1502**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 59 **67-1a-6.5**, as repealed and reenacted by Laws of Utah 2009, Chapter 350
- 60 **67-4a-102 (Effective 07/01/11)**, as last amended by Laws of Utah 2009, Chapter 343
- 61 **76-5-404**, as last amended by Laws of Utah 2007, Chapter 339
- 62 **77-36-1**, as last amended by Laws of Utah 2008, Chapters 3 and 375
- 63 **78A-6-702**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 64 **78B-4-102**, as last amended by Laws of Utah 2009, Chapter 146
- 65 **78B-4-514**, as enacted by Laws of Utah 2009, Chapter 327
- 66 **79-2-402**, as renumbered and amended by Laws of Utah 2009, Chapter 344

67 REPEALS:

- 68 **26-8a-209**, as last amended by Laws of Utah 2009, Chapter 22



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

71 Section 1. Section **10-2-407** is amended to read:

72 **10-2-407. Protest to annexation petition -- Township planning commission**
 73 **recommendation -- Petition requirements -- Disposition of petition if no protest filed.**

74 (1) (a) A protest to an annexation petition under Section 10-2-403 may be filed by:

- 75 (i) the legislative body or governing board of an affected entity; or
 - 76 (ii) for a proposed annexation of an area within a county of the first class, the owners
- 77 of private real property that:

78 (A) is located in the unincorporated area within 1/2 mile of the area proposed for
79 annexation;

80 (B) covers at least 25% of the private land area located in the unincorporated area
81 within 1/2 mile of the area proposed for annexation; and

82 (C) is equal in value to at least 15% of all real property located in the unincorporated
83 area within 1/2 mile of the area proposed for annexation.

84 (b) (i) A planning commission of a township located in a county of the first class may
85 recommend to the legislative body of the county in which the township is located that the

86 county legislative body file a protest against a proposed annexation under this part of an area
87 located within the township.

88 (ii) (A) The township planning commission shall communicate each recommendation
89 under Subsection (1)(b)(i) in writing to the county legislative body within 30 days after the
90 city recorder or town clerk's certification of the annexation petition under Subsection
91 10-2-405(2) (c)(i).

92 (B) At the time the recommendation is communicated to the county legislative body
93 under Subsection (1)(b)(ii)(A), the township planning commission shall mail or deliver a copy
94 of the recommendation to the legislative body of the proposed annexing municipality and to
95 the contact sponsor.

96 (2) (a) Each protest under Subsection (1)(a) shall:

97 (i) be filed:

98 (A) no later than 30 days after the municipal legislative body's receipt of the notice of
99 certification under Subsection 10-2-405(2)(c)(i); and

100 (B) (I) in a county that has already created a commission under Section 10-2-409, with
101 the commission; or

102 (II) in a county that has not yet created a commission under Section 10-2-409, with the
103 clerk of the county in which the area proposed for annexation is located; [~~and~~]

104 (ii) state each reason for the protest of the annexation petition and, if the area proposed
105 to be annexed is located in a specified county, justification for the protest under the standards
106 established in this chapter;

107 (iii) if the area proposed to be annexed is located in a specified county, contain other
108 information that the commission by rule requires or that the party filing the protest considers
109 pertinent; and

110 (iv) the name and address of a contact person who is to receive notices sent by the
111 commission with respect to the protest proceedings.

112 (b) The party filing a protest under this section shall on the same date deliver or mail a
113 copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

114 (c) Each clerk who receives a protest under Subsection (2)(a)(i)(B)(II) shall:
115 (i) immediately notify the county legislative body of the protest; and
116 (ii) deliver the protest to the boundary commission within five days after:
117 (A) receipt of the protest, if the boundary commission has previously been created; or
118 (B) creation of the boundary commission under Subsection 10-2-409(1)(b), if the
119 boundary commission has not previously been created.

120 (d) Each protest of a proposed annexation of an area located in a county of the first
121 class under Subsection (1)(a)(ii) shall, in addition to the requirements of Subsections (2)(a)
122 and (b):

123 (i) indicate the typed or printed name and current residence address of each owner
124 signing the protest; and

125 (ii) designate one of the signers of the protest as the contact person and state the
126 mailing address of the contact person.

127 (3) (a) (i) If a protest is filed under this section:

128 (A) the municipal legislative body may, at its next regular meeting after expiration of
129 the deadline under Subsection (2)(a)(i)(A), deny the annexation petition; or

130 (B) if the municipal legislative body does not deny the annexation petition under
131 Subsection (3)(a)(i)(A), the municipal legislative body may take no further action on the
132 annexation petition until after receipt of the commission's notice of its decision on the protest
133 under Section 10-2-416.

134 (ii) If a municipal legislative body denies an annexation petition under Subsection
135 (3)(a)(i)(A), the municipal legislative body shall, within five days after the denial, send notice
136 of the denial in writing to:

137 (A) the contact sponsor of the annexation petition;

138 (B) the commission;

139 (C) each entity that filed a protest;

140 (D) if a protest was filed under Subsection (1)(a)(ii) for a proposed annexation of an
141 area located in a county of the first class, the contact person; and

142 (E) if any of the area proposed for annexation is within a township, the legislative
143 body of the county in which the township is located.

144 (b) (i) If no timely protest is filed under this section, the municipal legislative body
145 may, subject to Subsection (3)(b)(ii), approve the petition.

146 (ii) Before approving an annexation petition under Subsection (3)(b)(i), the municipal
147 legislative body shall:

148 (A) hold a public hearing; and

149 (B) at least seven days before the public hearing under Subsection (3)(b)(ii)(A):

150 (I) (Aa) publish notice of the hearing in a newspaper of general circulation within the
151 municipality and the area proposed for annexation; or

152 (Bb) if there is no newspaper of general circulation in those areas, post written notices
153 of the hearing in conspicuous places within those areas that are most likely to give notice to
154 residents within those areas; and

155 (II) publish notice of the hearing in accordance with Section 45-1-101.

156 (iii) Within 10 days after approving an annexation under Subsection (3)(b)(i) of an
157 area that is partly or entirely within a township, the municipal legislative body shall send
158 notice of the approval to the legislative body of the county in which the township is located.

159 Section 2. Section **13-34-105** is amended to read:

160 **13-34-105. Exempted institutions.**

161 (1) This chapter does not apply to the following institutions:

162 (a) a Utah institution directly supported, to a substantial degree, with funds provided
163 by:

164 (i) the state;

165 (ii) a local school district; or

166 (iii) other Utah governmental subdivision;

167 (b) an institution that offers instruction exclusively at or below the 12th grade level;

168 (c) a lawful enterprise that offers only professional review programs, such as C.P.A.
169 and bar examination review and preparation courses;

170 (d) a private, postsecondary educational institution that is owned, controlled, operated,
171 or maintained by a bona fide church or religious denomination, which is exempted from
172 property taxation under the laws of this state;

173 (e) subject to Subsection (3), a school or institution that is accredited by a regional or
174 national accrediting agency recognized by the United States Department of Education;

175 (f) subject to Subsection (4), a business organization, trade or professional association,
176 fraternal society, or labor union that:

177 (i) sponsors or conducts courses of instruction or study predominantly for bona fide
178 employees or members; and

179 (ii) does not, in advertising, describe itself as a school;

180 (g) an institution that exclusively offers general education courses or instruction solely
181 remedial, avocational, nonvocational, or recreational in nature, that does not:

182 (i) advertise occupation objectives; or

183 (ii) grant educational credentials;

184 (h) an institution that offers only workshops or seminars:

185 (i) lasting no longer than three calendar days; and

186 (ii) for which academic credit is not awarded;

187 (i) an institution that offers programs:

188 (i) in barbering, cosmetology, real estate, or insurance; and

189 (ii) that are regulated and approved by a state or federal governmental agency;

190 (j) an education provider certified by the Division of Real Estate under Section
191 61-2c-204.1;

192 (k) an institution that offers aviation training if the institution:

193 (i) (A) is approved under [~~Part 141,~~] Federal Aviation Regulations, 14 C.F.R.

194 [~~Chapter~~] Part 141; or

195 (B) provides aviation training under [~~Part 61,~~] Federal Aviation Regulations, 14
196 C.F.R. [~~Chapter~~] Part 61; and

197 (ii) exclusively offers aviation training that a student fully receives within 24 hours

198 after the student pays any tuition, fee, or other charge for the aviation training; and

199 (1) an institution that provides emergency medical services training if all of the
200 institution's instructors, course coordinators, and courses are approved by the Department of
201 Health.

202 (2) (a) If available evidence suggests that an exempt institution under this section is
203 not in compliance with the standards of registration under this chapter and applicable division
204 rules, the division shall contact the institution and, if appropriate, the state or federal
205 government agency to request corrective action.

206 (b) Subsection (2)(a) does not apply to an institution exempted under Subsection
207 (1)(e).

208 (3) An institution, branch, extension, or facility operating within the state that is
209 affiliated with an institution operating in another state must be separately approved by the
210 affiliate's regional or national accrediting agency to qualify for the exemption described in
211 Subsection (1)(e).

212 (4) For purposes of Subsection (1)(f), a business organization, trade or professional
213 association, fraternal society, or labor union is considered to be conducting the course
214 predominantly for bona fide employees or members if it hires a majority of the persons who:

215 (a) successfully complete its course of instruction or study with a reasonable degree of
216 proficiency; and

217 (b) apply for employment with that same entity.

218 Section 3. Section **13-34-114** is amended to read:

219 **13-34-114. Consent to use of educational terms in business names.**

220 (1) For purposes of this section:

221 (a) "Business name" means a name filed with the Division of Corporations and
222 Commercial Code under:

223 (i) Section 16-6a-401;

224 (ii) Section 16-10a-401;

225 (iii) Section 16-11-16;

- 226 (iv) Section 42-2-6.6;
- 227 (v) Section 48-2a-102; or
- 228 (vi) Section 48-2c-106.
- 229 (b) "Educational term" means the term:
 - 230 (i) "university";
 - 231 (ii) "college"; or
 - 232 (iii) "institute" or "institution."
- 233 (2) If a statute listed in Subsection (1)(a) requires the written consent of the division to
- 234 file a business name with the Division of Corporations and Commercial Code that includes an
- 235 educational term, the division may consent to the use of an educational term in accordance
- 236 with this statute.
- 237 (3) The division shall consent to the use of an educational term in a business name if
- 238 the person seeking to file the name:
 - 239 (a) is registered under this chapter;
 - 240 (b) is exempt from the chapter under Section 13-34-105; or
 - 241 (c) (i) is not engaged in educational activities; and
 - 242 (ii) does not represent that it is engaged in educational activities.
- 243 (4) The division may withhold consent to use of an educational term in a business
- 244 name if the person seeking to file the name:
 - 245 (a) offers, sells, or awards a degree or any other type of educational credential; and
 - 246 (b) fails to provide bona fide instruction through student-faculty interaction according
 - 247 to the standards and criteria established by the division under Subsection 13-34-104(5).
- 248 Section 4. Section **13-42-111** is amended to read:
 - 249 **13-42-111. Renewal of registration.**
 - 250 (1) A provider must obtain a renewal of its registration annually.
 - 251 (2) An application for renewal of registration as a provider must be in a form
 - 252 prescribed by the administrator, signed under penalty of perjury, and:
 - 253 (a) be filed no fewer than 30 and no more than 60 days before the registration expires;

254 (b) be accompanied by the fee established by the administrator in accordance with
255 Section 63J-1-504 and the bond required by Section 13-42-113;

256 (c) contain the matter required for initial registration as a provider by Subsections
257 13-42-106(8) and (9) and a financial statement, audited by an accountant licensed to conduct
258 audits, for the applicant's fiscal year immediately preceding the application;

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

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

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

266 (ii) issued by an insurance company authorized to do business in this state and rated at
267 least A or equivalent by a nationally recognized rating organization approved by the
268 administrator;

269 (iii) with a deductible not exceeding \$5,000;

270 (iv) payable for the benefit of the applicant, this state, and individuals who are
271 residents of this state, as their interests may appear; and

272 (v) not subject to cancellation by the applicant or the insurer until 60 days after written
273 notice has been given to the administrator;

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

277 (g) disclose, to the best of the applicant's knowledge, the gross amount of money
278 accumulated during the preceding 12 months pursuant to plans by or on behalf of individuals
279 who reside in this state and with whom the applicant has agreements; and

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

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

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

288 (5) If the administrator denies an application for renewal of registration as a provider,
289 the applicant, within 30 days after receiving notice of the denial, may appeal and request a
290 hearing pursuant to Title 63G, Chapter 4, Administrative Procedures Act. Subject to Section
291 13-42-134, while the appeal is pending the applicant shall continue to provide
292 debt-management services to individuals with whom it has agreements. If the denial is
293 affirmed, subject to the administrator's order and Section 13-42-134, the applicant shall
294 continue to provide debt-management services to individuals with whom it has agreements
295 until, with the approval of the administrator, it transfers the agreements to another registered
296 provider or returns to the individuals all unexpended money that is under the applicant's
297 control.

298 (6) (a) The administrator may waive or reduce the insurance requirement in
299 Subsection [~~13-42-111(1)(e)~~] (2)(e) if the provider does not:

300 (i) maintain control of a trust account or receive money paid by an individual pursuant
301 to a plan for distribution to creditors;

302 (ii) make payments to creditors on behalf of individuals;

303 (iii) collect fees by means of automatic payment from individuals; and

304 (iv) execute any powers of attorney that may be utilized by the provider to collect fees
305 from or expend funds on behalf of an individual.

306 (b) A waiver or reduction in insurance requirements allowed by the administrator
307 under Subsection (6)(a) shall balance the reduction in risk posed by a provider meeting the
308 stated requirements against any continued need for insurance against employee and director
309 dishonesty.

310 Section 5. Section **16-6a-401** is amended to read:

311 **16-6a-401. Corporate name.**

312 (1) The corporate name of a nonprofit corporation:

313 (a) may, but need not contain:

314 (i) the word "corporation," "incorporated," or "company"; or

315 (ii) an abbreviation of "corporation," "incorporated," or "company";

316 (b) may not contain any word or phrase that indicates or implies that it is organized for

317 any purpose other than one or more of the purposes contained in Section 16-6a-301 and its

318 articles of incorporation;

319 (c) except as authorized by the division under Subsection (2), shall be distinguishable,

320 as defined in Section 16-10a-401, from:

321 (i) the name of any domestic corporation incorporated in this state;

322 (ii) the name of any foreign corporation authorized to conduct affairs in this state;

323 (iii) the name of any domestic nonprofit corporation incorporated in this state;

324 (iv) the name of any foreign nonprofit corporation authorized to conduct affairs in this

325 state;

326 (v) the name of any domestic limited liability company formed in this state;

327 (vi) the name of any foreign limited liability company authorized to conduct affairs in

328 this state;

329 (vii) the name of any limited partnership formed or authorized to conduct affairs in

330 this state;

331 (viii) any name that is reserved under Section 16-6a-402 or 16-10a-402;

332 (ix) the name of any entity that has registered its name under Section 42-2-5;

333 (x) the name of any trademark or service mark registered by the division; or

334 (xi) any assumed name filed under Section 42-2-5;

335 (d) shall be, for purposes of recordation, either translated into English or transliterated

336 into letters of the English alphabet if it is not in English;

337 (e) without the written consent of the United States Olympic Committee, may not

338 contain the words:

339 (i) "Olympic";

340 (ii) "Olympiad"; or

341 (iii) "Citius Altius Fortius"; and

342 (f) without the written consent of the Division of Consumer Protection issued in
343 accordance with Section 13-34-114, may not contain the words:

344 (i) "university";

345 (ii) "college"; or

346 (iii) "institute" or "institution."

347 (2) The division may authorize the use of the name applied for if:

348 (a) the name is distinguishable from one or more of the names and trademarks
349 described in Subsection (1)(c) that are on the division's records; or

350 (b) if the applicant delivers to the division a certified copy of the final judgment of a
351 court of competent jurisdiction establishing the applicant's right to use the name applied for in
352 this state registered or reserved with the division pursuant to the laws of this state.

353 (3) A nonprofit corporation may use the name of another domestic or foreign
354 corporation that is used in this state if:

355 (a) the other corporation is incorporated or authorized to conduct affairs in this state;

356 and

357 (b) the proposed user corporation:

358 (i) has merged with the other corporation;

359 (ii) has been formed by reorganization of the other corporation; or

360 (iii) has acquired all or substantially all of the assets, including the corporate name, of
361 the other corporation.

362 (4) (a) A nonprofit corporation may apply to the division for authorization to file its
363 articles of incorporation under, or to register or reserve, a name that is not distinguishable
364 upon the division's records from one or more of the names described in Subsection (1).

365 (b) The division shall approve the application filed under Subsection (4)(a) if:

366 (i) the other person whose name is not distinguishable from the name under which the
367 applicant desires to file, or which the applicant desires to register or reserve:

368 (A) consents to the filing, registration, or reservation in writing; and

369 (B) submits an undertaking in a form satisfactory to the division to change its name to
370 a name that is distinguishable from the name of the applicant; or

371 (ii) the applicant delivers to the division a certified copy of the final judgment of a
372 court of competent jurisdiction establishing the applicant's right to make the requested filing
373 in this state under the name applied for.

374 (5) Only names of corporations may contain the:

375 (a) words "corporation," or "incorporated"; or

376 (b) abbreviation "corp." or "inc."

377 (6) The division may not issue a certificate of incorporation to any association
378 violating the provisions of this section.

379 Section 6. Section **16-6a-1603** is amended to read:

380 **16-6a-1603. Scope of inspection right.**

381 (1) A [~~director~~] director's or member's agent or attorney has the same inspection and
382 copying rights as the director or member.

383 (2) The right to copy records under Section 16-6a-1602 includes, if reasonable, the
384 right to receive copies made by photographic, xerographic, electronic, or other means.

385 (3) Except as provided in Section 16-6a-1606, the nonprofit corporation may impose a
386 reasonable charge covering the costs of labor and material for copies of any documents
387 provided to the director or member. The charge may not exceed the estimated cost of
388 production and reproduction of the records.

389 (4) The nonprofit corporation may comply with a director's or member's demand to
390 inspect the record of members under Subsection 16-6a-1601(3) by furnishing to the director or
391 member a list of directors or members that:

392 (a) complies with Subsection 16-6a-1601(3); and

393 (b) is compiled no earlier than the date of the director's or member's demand.

394 Section 7. Section **16-10a-401** is amended to read:

395 **16-10a-401. Corporate name.**

396 (1) The name of a corporation:

397 (a) except for the name of a depository institution as defined in Section 7-1-103, must
398 contain:

399 (i) the word:

400 (A) "corporation";

401 (B) "incorporated"; or

402 (C) "company";

403 (ii) the abbreviation:

404 (A) "corp.";

405 (B) "inc."; or

406 (C) "co."; or

407 (iii) words or abbreviations of like import to the words or abbreviations listed in
408 Subsections (1)(a)(i) and (ii) in another language;

409 (b) may not contain language stating or implying that the corporation is organized for
410 a purpose other than that permitted by:

411 (i) Section 16-10a-301; and

412 (ii) the corporation's articles of incorporation;

413 (c) without the written consent of the United States Olympic Committee, may not
414 contain the words:

415 (i) "Olympic";

416 (ii) "Olympiad"; or

417 (iii) "Citius Altius Fortius"; and

418 (d) without the written consent of the Division of Consumer Protection issued in
419 accordance with Section 13-34-114, may not contain the words:

420 (i) "university";

421 (ii) "college"; or

422 (iii) "institute" or "institution."

423 (2) Except as authorized by Subsections (3) and (4), the name of a corporation must be
424 distinguishable, as defined in Subsection (5), upon the records of the division from:

425 (a) the name of any domestic corporation incorporated in or foreign corporation
426 authorized to transact business in this state;

427 (b) the name of any domestic or foreign nonprofit corporation incorporated or
428 authorized to transact business in this state;

429 (c) the name of any domestic or foreign limited liability company formed or
430 authorized to transact business in this state;

431 (d) the name of any limited partnership formed or authorized to transact business in
432 this state;

433 (e) any name reserved or registered with the division for a corporation, limited liability
434 company, or general or limited partnership, under the laws of this state; and

435 (f) any business name, fictitious name, assumed name, trademark, or service mark
436 registered by the division.

437 (3) (a) A corporation may apply to the division for authorization to file its articles of
438 incorporation under, or to register or reserve, a name that is not distinguishable upon its
439 records from one or more of the names described in Subsection (2).

440 (b) The division shall approve the application filed under Subsection (3)(a) if:

441 (i) the other person whose name is not distinguishable from the name under which the
442 applicant desires to file, or which the applicant desires to register or reserve:

443 (A) consents to the filing, registration, or reservation in writing; and

444 (B) submits an undertaking in a form satisfactory to the division to change its name to
445 a name that is distinguishable from the name of the applicant; or

446 (ii) the applicant delivers to the division a certified copy of the final judgment of a
447 court of competent jurisdiction establishing the applicant's right to make the requested filing
448 in this state under the name applied for.

449 (4) A corporation may make a filing under the name, including the fictitious name, of

- 450 another domestic or foreign corporation that is used or registered in this state if:
- 451 (a) the other corporation is incorporated or authorized to transact business in this state;
- 452 and
- 453 (b) the filing corporation:
- 454 (i) has merged with the other corporation; or
- 455 (ii) has been formed by reorganization of the other corporation.
- 456 (5) (a) A name is distinguishable from other names, trademarks, and service marks on
- 457 the records of the division if it:
- 458 (i) contains one or more different letters or numerals; or
- 459 (ii) has a different sequence of letters or numerals from the other names on the
- 460 division's records.
- 461 (b) Differences which are not distinguishing are:
- 462 (i) the words or abbreviations of the words:
- 463 (A) "corporation";
- 464 (B) "company";
- 465 (C) "incorporated";
- 466 (D) "limited partnership";
- 467 (E) "L.P.";
- 468 (F) "limited";
- 469 (G) "Ltd.";
- 470 (H) "limited liability company";
- 471 (I) "limited company";
- 472 (J) "L.C."; or
- 473 (K) "L.L.C.";
- 474 (ii) the presence or absence of the words or symbols of the words "the," "and," or "a";
- 475 (iii) differences in punctuation and special characters;
- 476 (iv) differences in capitalization;
- 477 (v) differences between singular and plural forms of words for a corporation:

478 (A) incorporated in or authorized to do business in this state on or after May 4, 1998;

479 or

480 (B) that changes its name on or after May 4, 1998;

481 (vi) differences in whether the letters or numbers immediately follow each other or are

482 separated by one or more spaces if:

483 (A) the sequence of letters or numbers is identical; and

484 (B) the corporation:

485 (I) is incorporated in or authorized to do business in this state on or after May 3, 1999;

486 or

487 (II) changes its name on or after May 3, 1999; or

488 (vii) differences in abbreviations, for a corporation:

489 (A) incorporated in or authorized to do business in this state on or after May 1, 2000;

490 or

491 (B) that changes its name on or after May 1, 2000.

492 (c) The director of the division has the power and authority reasonably necessary to

493 interpret and efficiently administer this section and to perform the duties imposed on the

494 division by this section.

495 (6) A name that implies that the corporation is an agency of this state or of any of its

496 political subdivisions, if it is not actually such a legally established agency or subdivision, may

497 not be approved for filing by the division.

498 (7) (a) The requirements of Subsection (1)(d) do not apply to a corporation

499 incorporated in or authorized to do business in this state on or before May 4, 1998, until

500 December 31, 1998.

501 (b) On or after January 1, 1999, any corporation incorporated in or authorized to do

502 business in this state shall comply with the requirements of Subsection (1)(d).

503 Section 8. Section **16-11-16** is amended to read:

504 **16-11-16. Corporate name.**

505 (1) The name of each professional corporation as set forth in its articles of

506 incorporation:

507 (a) shall contain the terms:

508 (i) "professional corporation"; or

509 (ii) "P.C.";

510 (b) may not contain the words:

511 (i) "incorporated"; or

512 (ii) "inc.";

513 (c) may not contain language stating or implying that the professional corporation is
514 organized for a purpose other than that permitted by:

515 (i) Section 16-11-6; and

516 (ii) the professional corporation's articles of incorporation;

517 (d) without the written consent of the United States Olympic Committee, may not
518 contain the words:

519 (i) "Olympic";

520 (ii) "Olympiad"; or

521 (iii) "Citius Altius Fortius"; and

522 (e) without the written consent of the Division of Consumer Protection in accordance
523 with Section 13-34-114, may not contain the words:

524 (i) "university";

525 (ii) "college"; or

526 (iii) "institute" or "institution."

527 (2) The professional corporation may not imply by any word in the name that it is an
528 agency of the state or of any of its political subdivisions.

529 (3) A person, other than a professional corporation formed or registered under this
530 chapter, may not use in its name in this state any of the terms:

531 (a) "professional corporation"; or

532 (b) "P.C."

533 (4) Except as authorized by Subsection (5), the name of the professional corporation

534 must be distinguishable, as defined in Subsection (6), upon the records of the division from:

535 (a) the name of any domestic corporation incorporated in or foreign corporation
536 authorized to transact business in this state;

537 (b) the name of any domestic or foreign nonprofit corporation incorporated or
538 authorized to transact business in this state;

539 (c) the name of any domestic or foreign limited liability company formed or
540 authorized to transact business in this state;

541 (d) the name of any limited partnership formed or authorized to transact business in
542 this state;

543 (e) any name reserved or registered with the division for a corporation, limited liability
544 company, or general or limited partnership, under the laws of this state; and

545 (f) any business name, fictitious name, assumed name, trademark, or service mark
546 registered by the division.

547 (5) (a) A professional corporation may apply to the division for authorization to file its
548 articles of incorporation under, or to register or reserve, a name that is not distinguishable
549 upon its records from one or more of the names described in Subsection (4).

550 (b) The division shall approve the application filed under Subsection (5)(a) if:

551 (i) the other person whose name is not distinguishable from the name under which the
552 applicant desires to file, or which the applicant desires to register or reserve:

553 (A) consents to the filing, registration, or reservation in writing; and

554 (B) submits an undertaking in a form satisfactory to the division to change its name to
555 a name that is distinguishable from the name of the applicant; or

556 (ii) the applicant delivers to the division a certified copy of the final judgment of a
557 court of competent jurisdiction establishing the applicant's right to make the requested filing
558 in this state under the name applied for.

559 (6) (a) A name is distinguishable from other names, trademarks, and service marks
560 registered with the division if it:

561 (i) contains one or more different letters or numerals from other names upon the

562 division's records; or

563 (ii) has a different sequence of letter or numerals from the other names on the
564 division's records.

565 (b) The following differences are not distinguishable:

566 (i) the words or abbreviations of the words:

567 (A) "corporation";

568 (B) "incorporated";

569 (C) "company";

570 (D) "limited partnership";

571 (E) "limited";

572 (F) "L.P.";

573 (G) "Ltd.";

574 (H) "limited liability company";

575 (I) "limited company";

576 (J) "L.C."; or

577 (K) "L.L.C.";

578 (ii) the presence or absence of the words or symbols of the words "the," "and," "a," or
579 "plus";

580 (iii) differences in punctuation and special characters;

581 (iv) differences in capitalization; or

582 (v) differences in abbreviations.

583 (7) The director of the division shall have the power and authority reasonably
584 necessary to interpret and efficiently administer this section and to perform the duties imposed
585 upon the division by this section.

586 Section 9. Section **16-13-4** is amended to read:

587 **16-13-4. General powers of business development corporation.**

588 In furtherance of the purposes of a development corporation, and in addition to the
589 powers conferred on corporations by Title 16, Chapter 10a, Utah Revised Business

590 Corporation Act, such corporation, subject to the restrictions and limitations contained in this
591 act, shall have the following powers:

592 ~~[(a)]~~ (1) To borrow money from lenders, and otherwise incur indebtedness for any of
593 its purposes; to issue its bonds, debentures, notes, or other evidences of indebtedness whether
594 secured or unsecured therefor; and to secure the same by mortgage, pledge, deed of trust, or
595 other lien on its property, franchises, rights and privileges of every kind and nature or any part
596 thereof.

597 ~~[(b)]~~ (2) To lend money to, and to guarantee, indorse, or act as surety on the bonds,
598 notes, contracts, or other obligations of, or otherwise assist financially, any person, firm,
599 corporation, or association, and to establish and regulate the terms and conditions with respect
600 to any such loans or financial assistance and the charges for interest and service connected
601 therewith; provided, however, that the corporation shall not approve any application for a loan
602 unless and until the applicant shall have shown that the applicant has applied for the loan
603 through ordinary financial channels and that the loan has been refused by at least one financial
604 institution doing business in this state and, in the ordinary course of its business, granting
605 loans similar in amount and kind to the requested loan.

606 ~~[(c)]~~ (3) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey,
607 mortgage, lease, pledge, or otherwise dispose of, upon such terms and conditions as its board
608 of directors may deem advisable, real and personal property, together with such rights and
609 privileges as may be incidental and appurtenant thereto and the use thereof, including, but not
610 restricted to, any real or personal property acquired by such corporation from time to time in
611 the satisfaction of debts or enforcement of obligations.

612 ~~[(d)]~~ (4) To acquire the good will, business, rights, real and personal property, and
613 other assets, or any part thereof, of such persons, firms, corporations, joint stock companies,
614 associations, or trusts as may be in furtherance of the corporate purposes provided herein, and
615 to assume, undertake, guarantee, or pay the obligations, debts, and liabilities of any such
616 person, firm, corporation, joint stock company, association, or trust; to acquire improved or
617 unimproved real estate for the purpose of constructing industrial plants or other business

618 establishments thereon or for the purpose of disposing of such real estate to others for the
619 construction of industrial plants or other business establishments, and, in furtherance of the
620 corporate purposes, to acquire, construct, or reconstruct, alter, repair, maintain, operate, sell,
621 lease, or otherwise dispose of industrial plants or business establishments.

622 ~~[(e)]~~ (5) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge,
623 or otherwise dispose of the stock, shares, bonds, debentures, notes, or other securities and
624 evidences of interest in, or indebtedness of, any person, firm, corporation, joint stock
625 company, association, or trust, and while the owner or holder thereof, to exercise all the rights,
626 powers, and privileges of ownership, including the right to vote thereon, but nothing herein
627 provided shall authorize the holding of securities of or otherwise engaging directly or
628 indirectly in a business where such holding of securities or engaging in business is not
629 authorized for corporations by general law.

630 ~~[(f)]~~ (6) To cooperate with and avail itself of the facilities of state departments and
631 other government agencies; and to cooperate with and assist, and otherwise encourage, local
632 organizations in the various communities in the state in the promotion, assistance, and
633 development of the business prosperity and economic welfare of such communities and of the
634 state.

635 Section 10. Section **17-27a-306** is amended to read:

636 **17-27a-306. Townships.**

637 (1) (a) A township may be established as provided in this Subsection (1).

638 (b) A township may not be established unless the area to be included within the
639 proposed township:

640 (i) is unincorporated;

641 (ii) is contiguous; and

642 (iii) (A) contains:

643 (I) at least 20% but not more than 80% of:

644 (Aa) the total private land area in the unincorporated county; or

645 (Bb) the total value of locally assessed taxable property in the unincorporated county;

646 or

647 (II) (Aa) in a county of the first, second, or third class, at least 5% of the total
648 population of the unincorporated county; or

649 (Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population
650 of the unincorporated county; or

651 (B) has been declared by the United States Census Bureau as a census designated
652 place.

653 (c) (i) The process to establish a township is initiated by the filing of a petition with
654 the clerk of the county in which the proposed township is located.

655 (ii) A petition to establish a township may not be filed if it proposes the establishment
656 of a township that includes an area within a proposed township in a petition that has
657 previously been certified under Subsection (1)(~~f~~)(g), until after the canvass of an election on
658 the proposed township under Subsection (1)(~~h~~)(j).

659 (d) A petition under Subsection (1)(c) to establish a township shall:

660 (i) be signed by the owners of private real property that:

661 (A) is located within the proposed township;

662 (B) covers at least 10% of the total private land area within the proposed township;

663 and

664 (C) is equal in value to at least 10% of the value of all private real property within the
665 proposed township;

666 (ii) be accompanied by an accurate plat or map showing the boundary of the
667 contiguous area proposed to be established as a township;

668 (iii) indicate the typed or printed name and current residence address of each owner
669 signing the petition;

670 (iv) designate up to five signers of the petition as petition sponsors, one of whom shall
671 be designated as the contact sponsor, with the mailing address and telephone number of each
672 petition sponsor;

673 (v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the

674 petition for purposes of the petition; and

675 (vi) request the county legislative body to provide notice of the petition and of a public
676 hearing, hold a public hearing, and conduct an election on the proposal to establish a
677 township.

678 (e) Subsection 10-2-101(3) applies to a petition to establish a township to the same
679 extent as if it were an incorporation petition under Title 10, Chapter 2, Part 1, Incorporation.

680 (f) (i) Within seven days after the filing of a petition under Subsection (1)(c)
681 proposing the establishment of a township in a county of the first or second class, the county
682 clerk shall provide notice of the filing of the petition to:

683 (A) each owner of real property owning more than 1% of the assessed value of all real
684 property within the proposed township; and

685 (B) each owner of real property owning more than 850 acres of real property within
686 the proposed township.

687 (ii) A property owner may exclude all or part of the property owner's property from a
688 proposed township in a county of the first or second class:

689 (A) if:

690 (I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all
691 property within the proposed township;

692 (Iii) the property is nonurban; and

693 (IIIiii) the property does not or will not require municipal provision of municipal-type
694 services; or

695 (Bb) the property owner owns more than 850 acres of real property within the
696 proposed township; and

697 (II) exclusion of the property will not leave within the township an island of property
698 that is not part of the township; and

699 (B) by filing a notice of exclusion within 10 days after receiving the clerk's notice
700 under Subsection (1)(f)(i).

701 (iii) (A) The county legislative body shall exclude from the proposed township the

702 property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the
703 property meets the applicable requirements of Subsection (1)(f)(ii)(A).

704 (B) If the county legislative body excludes property from a proposed township under
705 Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion,
706 send written notice of its action to the contact sponsor.

707 (g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county
708 clerk shall:

709 (A) with the assistance of other county officers from whom the clerk requests
710 assistance, determine whether the petition complies with the requirements of Subsection
711 (1)(d); and

712 (B) (I) if the clerk determines that the petition complies with the requirements of
713 Subsection (1)(d):

714 (Aa) certify the petition and deliver the certified petition to the county legislative
715 body; and

716 (Bb) mail or deliver written notification of the certification to the contact sponsor; or

717 (II) if the clerk determines that the petition fails to comply with any of the
718 requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing
719 of the rejection and the reasons for the rejection.

720 (ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition
721 may be amended to correct the deficiencies for which it was rejected and then refiled with the
722 county clerk.

723 (h) (i) Within 90 days after a petition to establish a township is certified, the county
724 legislative body shall hold a public hearing on the proposal to establish a township.

725 (ii) A public hearing under Subsection (1)(h)(i) shall be:

726 (A) within the boundary of the proposed township; or

727 (B) if holding a public hearing in that area is not practicable, as close to that area as
728 practicable.

729 (iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the

730 county legislative body shall publish notice of the petition and the time, date, and place of the
731 public hearing:

732 (A) at least once in a newspaper of general circulation in the county; and

733 (B) as required in Section 45-1-101.

734 (i) Following the public hearing under Subsection (1)(h)(i), the county legislative body
735 shall arrange for the proposal to establish a township to be submitted to voters residing within
736 the proposed township at the next regular general election that is more than 90 days after the
737 public hearing.

738 (j) A township is established at the time of the canvass of the results of an election
739 under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal
740 to establish a township voted in favor of the proposal.

741 (k) (i) A township that was dissolved under Laws of Utah 1997, Chapter 389, is
742 reinstated as a township under this part with the same boundaries and name as before the
743 dissolution, if the former township consisted of a single, contiguous land area.

744 (ii) Notwithstanding Subsection (1)(k)(i), a county legislative body may enact an
745 ordinance establishing as a township under this part a former township that was dissolved
746 under Laws of Utah 1997, Chapter 389, even though the former township does not qualify to
747 be reinstated under Subsection (1)(k)(i).

748 (iii) A township reinstated under Subsection (1)(k)(i) or established under Subsection
749 (1)(k)(ii) is subject to the provisions of this part.

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

752 (2) The county legislative body may:

753 (a) assign to the countywide planning commission the duties established in this part
754 that would have been assumed by a township planning commission designated under
755 Subsection (2)(b); or

756 (b) designate and appoint a planning commission for the township.

757 (3) (a) An area within the boundary of a township may be withdrawn from the

758 township as provided in this Subsection (3).

759 (b) The process to withdraw an area from a township is initiated by the filing of a
760 petition with the clerk of the county in which the township is located.

761 (c) A petition under Subsection (3)(b) shall:

762 (i) be signed by the owners of private real property that:

763 (A) is located within the area proposed to be withdrawn from the township;

764 (B) covers at least 50% of the total private land area within the area proposed to be
765 withdrawn from the township; and

766 (C) is equal in value to at least 33% of the value of all private real property within the
767 area proposed to be withdrawn from the township;

768 (ii) state the reason or reasons for the proposed withdrawal;

769 (iii) be accompanied by an accurate plat or map showing the boundary of the
770 contiguous area proposed to be withdrawn from the township;

771 (iv) indicate the typed or printed name and current residence address of each owner
772 signing the petition;

773 (v) designate up to five signers of the petition as petition sponsors, one of whom shall
774 be designated as the contact sponsor, with the mailing address and telephone number of each
775 petition sponsor;

776 (vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing
777 the petition for purposes of the petition; and

778 (vii) request the county legislative body to withdraw the area from the township.

779 (d) Subsection 10-2-101(3) applies to a petition to withdraw an area from a township
780 to the same extent as if it were an incorporation petition under Title 10, Chapter 2, Part 1,
781 Incorporation.

782 (e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county
783 clerk shall:

784 (A) with the assistance of other county officers from whom the clerk requests
785 assistance, determine whether the petition complies with the requirements of Subsection

786 (3)(c); and

787 (B) (I) if the clerk determines that the petition complies with the requirements of
788 Subsection (3)(c):

789 (Aa) certify the petition and deliver the certified petition to the county legislative
790 body; and

791 (Bb) mail or deliver written notification of the certification to the contact sponsor; or

792 (II) if the clerk determines that the petition fails to comply with any of the
793 requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing
794 of the rejection and the reasons for the rejection.

795 (ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition
796 may be amended to correct the deficiencies for which it was rejected and then refiled with the
797 county clerk.

798 (f) (i) Within 60 days after a petition to withdraw an area from a township is certified,
799 the county legislative body shall hold a public hearing on the proposal to withdraw the area
800 from the township.

801 (ii) A public hearing under Subsection (3)(f)(i) shall be held:

802 (A) within the area proposed to be withdrawn from the township; or

803 (B) if holding a public hearing in that area is not practicable, as close to that area as
804 practicable.

805 (iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative
806 body shall:

807 (A) publish notice of the petition and the time, date, and place of the public hearing:

808 (I) at least once a week for three consecutive weeks in a newspaper of general
809 circulation in the township; and

810 (II) as required in Section 45-1-101 for three consecutive weeks; and

811 (B) mail a notice of the petition and the time, date, and place of the public hearing to
812 each owner of private real property within the area proposed to be withdrawn.

813 (g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county

814 legislative body shall make a written decision on the proposal to withdraw the area from the
815 township.

816 (ii) In making its decision as to whether to withdraw the area from the township, the
817 county legislative body shall consider:

818 (A) whether the withdrawal would leave the remaining township in a situation where
819 the future incorporation of an area within the township or the annexation of an area within the
820 township to an adjoining municipality would be economically or practically not feasible;

821 (B) if the withdrawal is a precursor to the incorporation or annexation of the
822 withdrawn area:

823 (I) whether the proposed subsequent incorporation or withdrawal:

824 (Aa) will leave or create an unincorporated island or peninsula; or

825 (Bb) will leave the county with an area within its unincorporated area for which the
826 cost, requirements, or other burdens of providing municipal services would materially increase
827 over previous years; and

828 (II) whether the municipality to be created or the municipality into which the
829 withdrawn area is expected to annex would be or is capable, in a cost effective manner, of
830 providing service to the withdrawn area that the county will no longer provide due to the
831 incorporation or annexation;

832 (C) the effects of a withdrawal on adjoining property owners, existing or projected
833 county streets or other public improvements, law enforcement, and zoning and other municipal
834 services provided by the county; and

835 (D) whether justice and equity favor the withdrawal.

836 (h) Upon the written decision of the county legislative body approving the withdrawal
837 of an area from a township, the area is withdrawn from the township and the township
838 continues as a township with a boundary that excludes the withdrawn area.

839 (4) (a) A township may be dissolved as provided in this Subsection (4).

840 (b) The process to dissolve a township is initiated by the filing of a petition with the
841 clerk of the county in which the township is located.

- 842 (c) A petition under Subsection (4)(b) shall:
- 843 (i) be signed by registered voters within the township equal in number to at least 25%
- 844 of all votes cast by voters within the township at the last congressional election;
- 845 (ii) state the reason or reasons for the proposed dissolution;
- 846 (iii) indicate the typed or printed name and current residence address of each person
- 847 signing the petition;
- 848 (iv) designate up to five signers of the petition as petition sponsors, one of whom shall
- 849 be designated as the contact sponsor, with the mailing address and telephone number of each
- 850 petition sponsor;
- 851 (v) authorize the petition sponsors to act on behalf of all persons signing the petition
- 852 for purposes of the petition; and
- 853 (vi) request the county legislative body to provide notice of the petition and of a public
- 854 hearing, hold a public hearing, and conduct an election on the proposal to dissolve the
- 855 township.
- 856 (d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county
- 857 clerk shall:
- 858 (A) with the assistance of other county officers from whom the clerk requests
- 859 assistance, determine whether the petition complies with the requirements of Subsection
- 860 (4)(c); and
- 861 (B) (I) if the clerk determines that the petition complies with the requirements of
- 862 Subsection (4)(c):
- 863 (Aa) certify the petition and deliver the certified petition to the county legislative
- 864 body; and
- 865 (Bb) mail or deliver written notification of the certification to the contact sponsor; or
- 866 (II) if the clerk determines that the petition fails to comply with any of the
- 867 requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing
- 868 of the rejection and the reasons for the rejection.
- 869 (ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition

870 may be amended to correct the deficiencies for which it was rejected and then refiled with the
871 county clerk.

872 (e) (i) Within 60 days after a petition to dissolve the township is certified, the county
873 legislative body shall hold a public hearing on the proposal to dissolve the township.

874 (ii) A public hearing under Subsection (4)(e)(i) shall be held:

875 (A) within the boundary of the township; or

876 (B) if holding a public hearing in that area is not practicable, as close to that area as
877 practicable.

878 (iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative
879 body shall publish notice of the petition and the time, date, and place of the public hearing at
880 least once a week for three consecutive weeks in a newspaper of general circulation in the
881 township.

882 (f) Following the public hearing under Subsection (4)(e)(i), the county legislative body
883 shall arrange for the proposal to dissolve the township to be submitted to voters residing
884 within the township at the next regular general election that is more than 90 days after the
885 public hearing.

886 (g) A township is dissolved at the time of the canvass of the results of an election
887 under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal
888 to dissolve the township voted in favor of the proposal.

889 Section 11. Section **19-1-206** is amended to read:

890 **19-1-206. Contracting powers of department -- Health insurance coverage.**

891 (1) For purposes of this section:

892 (a) "Employee" means an "employee," "worker," or "operative" as defined in Section
893 34A-2-104 who:

894 (i) works at least 30 hours per calendar week; and

895 (ii) meets employer eligibility waiting requirements for health care insurance which
896 may not exceed 90 days from the date of hire.

897 (b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

898 (c) "Qualified health insurance coverage" means a health benefit plan that at the time
899 the contract is entered into or renewed:

900 (i) (A) provides coverage that is actuarially equivalent to the current benefit plan
901 determined by the Children's Health Insurance Program under Section 26-40-106; and

902 (B) under which the employer pays at least 50% of the premium for the employee and
903 the dependents of the employee;

904 (ii) (A) is a federally qualified high deductible health plan that has:

905 (I) the lowest deductible permitted for a federally qualified high deductible health
906 plan; and

907 (II) an out of pocket maximum that does not exceed three times the amount of the
908 annual deductible; and

909 (B) under which the employer pays 75% of the premium for the employee and the
910 dependents of the employee; or

911 (iii) (A) provides coverage that is actuarially equivalent to 75% of the benefit plan
912 determined under Subsection (1)(c)(i); and

913 (B) under which the employer pays at least 75% of the premium of the employee and
914 the dependents of the employee.

915 (d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

916 (2) Except as provided in Subsection (3), this section applies to all contracts entered
917 into by or delegated to the department or a division or board of the department on or after July
918 1, 2009, if:

919 (a) the contract is for design or construction; and

920 (b) (i) the prime contract is in the amount of \$1,500,000 or greater; or

921 (ii) a subcontract is in the amount of \$750,000 or greater.

922 (3) This section does not apply to contracts entered into by the department or a
923 division or board of the department if:

924 (a) the application of this section jeopardizes the receipt of federal funds;

925 (b) the contract or agreement is between:

- 926 (i) the department or a division or board of the department; and
927 (ii) (A) another agency of the state;
928 (B) the federal government;
929 (C) another state;
930 (D) an interstate agency;
931 (E) a political subdivision of this state; or
932 (F) a political subdivision of another state;
- 933 (c) the executive director determines that applying the requirements of this section to a
934 particular contract interferes with the effective response to an immediate health and safety
935 threat from the environment; or
- 936 (d) the contract is:
937 (i) a sole source contract; or
938 (ii) an emergency procurement.
- 939 (4) (a) This section does not apply to a change order as defined in Section
940 ~~[63G-6-102]~~ 63G-6-103, or a modification to a contract, when the contract does not meet the
941 initial threshold required by Subsection (2).
- 942 (b) A person who intentionally uses change orders or contract modifications to
943 circumvent the requirements of Subsection (2) is guilty of an infraction.
- 944 (5) (a) A contractor subject to Subsection (2) shall demonstrate to the executive
945 director that the contractor has and will maintain an offer of qualified health insurance
946 coverage for the contractor's employees and the employees' dependents during the duration of
947 the contract.
- 948 (b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall
949 demonstrate to the executive director that the subcontractor has and will maintain an offer of
950 qualified health insurance coverage for the subcontractor's employees and the employees'
951 dependents during the duration of the contract.
- 952 (c) (i) (A) A contractor who fails to comply with Subsection (5)(a) during the duration
953 of the contract is subject to penalties in accordance with administrative rules adopted by the

954 department under Subsection (6).

955 (B) A contractor is not subject to penalties for the failure of a subcontractor to meet
956 the requirements of Subsection (5)(b).

957 (ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during
958 the duration of the contract is subject to penalties in accordance with administrative rules
959 adopted by the department under Subsection (6).

960 (B) A subcontractor is not subject to penalties for the failure of a contractor to meet
961 the requirements of Subsection (5)(a).

962 (6) The department shall adopt administrative rules:

963 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

964 (b) in coordination with:

965 (i) a public transit district in accordance with Section 17B-2a-818.5;

966 (ii) the Department of Natural Resources in accordance with Section 79-2-404;

967 (iii) the State Building Board in accordance with Section 63A-5-205;

968 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

969 (v) the Department of Transportation in accordance with Section 72-6-107.5; and

970 (vi) the Legislature's Administrative Rules Review Committee; and

971 (c) which establish:

972 (i) the requirements and procedures a contractor must follow to demonstrate to the
973 public transit district compliance with this section which shall include:

974 (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a)
975 or (b) more than twice in any 12-month period; and

976 (B) that the actuarially equivalent determination required in Subsection (1) is met by
977 the contractor if the contractor provides the department or division with a written statement of
978 actuarial equivalency from either the Utah Insurance Department or an actuary selected by the
979 contractor or the contractor's insurer; and

980 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
981 violates the provisions of this section, which may include:

982 (A) a three-month suspension of the contractor or subcontractor from entering into
983 future contracts with the state upon the first violation;

984 (B) a six-month suspension of the contractor or subcontractor from entering into
985 future contracts with the state upon the second violation;

986 (C) an action for debarment of the contractor or subcontractor in accordance with
987 Section 63G-6-804 upon the third or subsequent violation; and

988 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50%
989 of the amount necessary to purchase qualified health insurance coverage for an employee and
990 the dependents of an employee of the contractor or subcontractor who was not offered
991 qualified health insurance coverage during the duration of the contract.

992 (7) (a) In addition to the penalties imposed under Subsection (6)(c), a contractor or
993 subcontractor who violates the provisions of this section shall be liable to the employee for
994 health care costs not covered by insurance.

995 (b) An employee has a private right of action only against the employee's employer to
996 enforce the provisions of this Subsection (7).

997 (8) Any penalties imposed and collected under this section shall be deposited into the
998 Medicaid Restricted Account created in Section 26-18-402.

999 (9) The failure of a contractor or subcontractor to provide health insurance as required
1000 by this section:

1001 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
1002 or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8,
1003 Legal and Contractual Remedies; and

1004 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1005 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
1006 or construction.

1007 Section 12. Section **23-28-202** is amended to read:

1008 **23-28-202. Removing property from a migratory bird production area.**

1009 (1) A landowner may file a revision notice with the county recorder of the county in

1010 which the migratory bird production area is located to remove land from a migratory bird
1011 production area.

1012 (2) The revision notice shall contain:

1013 (a) a legal description of the land removed from the migratory bird production area;

1014 and

1015 (b) the name of the owner or owners of the land removed from the migratory bird
1016 production area.

1017 (3) A person who files a revision notice under this section shall give a copy of the
1018 revision notice within 10 days of its filing to the legislative body of the county in which the
1019 migratory bird production area is located.

1020 (4) If removing land from a migratory bird production area results in a migratory bird
1021 production area of less than 300 contiguous acres:

1022 (a) the migratory bird production area ceases to exist; and

1023 (b) the landowner shall:

1024 (i) notify each landowner within the former migratory bird production area; and

1025 (ii) file the revision notice required by this section for the entire migratory bird
1026 production area.

1027 Section 13. Section **26-4-29** is amended to read:

1028 **26-4-29. Application for permit to render a dead body unavailable for**
1029 **postmortem examination -- Fees.**

1030 (1) Upon receiving an application by a person for a permit to render a dead body
1031 unavailable for postmortem investigation, the medical examiner shall review the application to
1032 determine whether:

1033 (a) the person is authorized by law to render the dead body unavailable for postmortem
1034 investigation in the manner specified in the application; and

1035 (b) there is a need to delay any action that will render the dead body unavailable for
1036 postmortem investigation until a postmortem investigation or an autopsy of the dead body is
1037 performed by the medical examiner.

- 1038 (2) Except as provided in Subsection (4), within three days after receiving an
1039 application described in Subsection (1), the medical examiner shall:
- 1040 (a) make the determinations described in Subsection (1); and
1041 (b) (i) issue a permit to render the dead body unavailable for postmortem investigation
1042 in the manner specified in the application; or
1043 (ii) deny the permit.
- 1044 (3) The medical examiner may [~~only~~] deny a permit to render a dead body unavailable
1045 for postmortem investigation only if:
- 1046 (a) the applicant is not authorized by law to render the dead body unavailable for
1047 postmortem investigation in the manner specified in the application;
1048 (b) the medical examiner determines that there is a need to delay any action that will
1049 render the dead body unavailable for postmortem investigation; or
1050 (c) the applicant fails to pay the fee described in Subsection (5).
- 1051 (4) If the medical examiner cannot in good faith make the determinations described in
1052 Subsection (1) within three days after receiving an application described in Subsection (1), the
1053 medical examiner shall notify the applicant:
- 1054 (a) that more time is needed to make the determinations described in Subsection (1);
1055 and
1056 (b) of the estimated amount of time needed before the determinations described in
1057 Subsection (1) can be made.
- 1058 (5) The medical examiner may charge a fee, pursuant to Section 63J-1-504, to recover
1059 the costs of fulfilling the duties of the medical examiner described in this section.

1060 Section 14. Section **26-8b-303** is amended to read:

1061 **26-8b-303. Duties of emergency medical dispatch centers.**

1062 [~~Beginning on September 1, 2009, an~~] An emergency medical dispatch center shall:

- 1063 (1) implement a system to receive and manage the information reported to the
1064 emergency medical dispatch center under Section [~~26-8a-209 or~~] 26-8b-301;
1065 (2) record in the system described in Subsection (1), all information received under

1066 Section [~~26-8a-209 or~~] 26-8b-301 [as follows: (a) if the information is received under
1067 Subsection ~~26-8a-209(5)~~, within 30 days after the day on which the information is received; or
1068 (b) if the information is received under Subsection ~~26-8a-209(6)~~ or Section ~~26-8b-301~~,]
1069 within 14 days after the day on which the information is received;

1070 (3) inform a person who calls to report a potential incident of sudden cardiac arrest of
1071 the location of any nearby AED; and

1072 (4) provide the information contained in the system described in Subsection (1), upon
1073 request, to:

1074 (a) the bureau; or

1075 (b) another emergency medical dispatch center.

1076 Section 15. Section **26-21-25** is amended to read:

1077 **26-21-25. Patient identity protection.**

1078 (1) As used in this section:

1079 (a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor
1080 Act.

1081 (b) "Health professional office" means:

1082 (i) a physician's office; or

1083 (ii) a dental office.

1084 (c) "Medical facility" means:

1085 (i) a general acute hospital;

1086 (ii) a specialty hospital;

1087 (iii) a home health agency;

1088 (iv) a hospice;

1089 (v) a nursing care facility;

1090 (vi) a residential-assisted living facility;

1091 (vii) a birthing center;

1092 (viii) an ambulatory surgical facility;

1093 (ix) a small health care facility;

- 1094 (x) an abortion clinic;
 - 1095 (xi) a facility owned or operated by a health maintenance organization;
 - 1096 (xii) an end stage renal disease facility;
 - 1097 (xiii) a health care clinic; or
 - 1098 (xiv) any other health care facility that the committee designates by rule.
- 1099 (2) (a) In order to discourage identity theft and health insurance fraud, and to reduce
1100 the risk of medical errors caused by incorrect medical records, a medical facility or a health
1101 professional office shall request identification from an individual prior to providing in-patient
1102 or out-patient services to the individual.
- 1103 (b) If the individual who will receive services from the medical facility or a health
1104 professional office lacks the legal capacity to consent to treatment, the medical facility or a
1105 health professional office shall request identification:
- 1106 (i) for the individual who lacks the legal capacity to consent to treatment; and
 - 1107 (ii) from the individual who consents to treatment on behalf of the individual
1108 described in Subsection (2)(b)(i).
- 1109 (3) A medical facility or a health professional office:
- 1110 (a) that is subject to EMTALA:
 - 1111 (i) may not refuse services to an individual on the basis that the individual did not
1112 provide identification when requested; and
 - 1113 (ii) shall post notice in its emergency department that informs a patient of the patient's
1114 right to treatment for an emergency medical condition under EMTALA;
 - 1115 (b) may not be penalized for failing to ask for identification;
 - 1116 (c) is not subject to a private right of action for failing to ask for identification; and
 - 1117 (d) may document or confirm patient identity by:
 - 1118 (i) photograph;
 - 1119 (ii) fingerprinting;
 - 1120 (iii) palm scan; or
 - 1121 (iv) other reasonable means.

- 1122 (4) The identification described in this ~~[bill]~~ section:
- 1123 (a) is intended to be used for medical records purposes only; and
- 1124 (b) shall be kept in accordance with the requirements of the Health Insurance
- 1125 Portability and Accountability Act of 1996.
- 1126 Section 16. Section **26-38-8** is amended to read:
- 1127 **26-38-8. Penalties.**
- 1128 (1) A first violation of Section 26-38-3 [~~or 26-38-4~~] is subject to a civil penalty of not
- 1129 more than \$100.
- 1130 (2) Any second or subsequent violation of Section 26-38-3 [~~or 26-38-4~~] is subject to a
- 1131 civil penalty of not less than \$100 and not more than \$500.
- 1132 Section 17. Section **30-3-40** is amended to read:
- 1133 **30-3-40. Custody and parent-time when one parent is a service member.**
- 1134 (1) As used in this section:
- 1135 (a) "Deployment" means the temporary transfer of a service member serving in an
- 1136 active duty status to another location in support of combat or some other military operation.
- 1137 (b) "Mobilization" means the call up of a National Guard or Reserve service member
- 1138 to extended active duty status, but does not include National Guard or Reserve annual training.
- 1139 (c) "Service member" means a person who is:
- 1140 (i) a member of the Utah National Guard;
- 1141 (ii) a member of a Reserve component based in the state; or
- 1142 (iii) a member of the Armed Forces of the United States on active duty and stationed
- 1143 in this state.
- 1144 (d) "Temporary duty" means the transfer of a service member from a military base to a
- 1145 different location, often another base, for a set period of time to accomplish training or to
- 1146 assist in the performance of a noncombat mission.
- 1147 (2) In the absence of a parenting plan or other agreement between the parties covering
- 1148 such situations:
- 1149 (a) A service member who is a custodial parent of minor children in this state, and

1150 who is deployed, mobilized, or ordered to temporary duty at another location shall, if possible,
1151 contact the noncustodial parent as soon as practicable after receiving orders. The service
1152 member shall inform the noncustodial parent of the approximate dates the service member will
1153 be away, if known.

1154 (i) Unless the noncustodial parent has supervised or limited parent-time, if willing and
1155 able, the noncustodial parent may provide care for any minor children during the time the
1156 service member is away. The noncustodial parent shall notify the custodial parent of [~~their~~
1157 the noncustodial parent's willingness to provide care as soon as practicable, but not less than
1158 five days before the service member is required to leave. If the noncustodial parent will
1159 provide care while the service member is away, the parents shall arrange a time and place for
1160 the delivery of the children to the noncustodial parent.

1161 (ii) If the noncustodial parent is unwilling or unable to provide care for any minor
1162 children during the time the service member is away, the service member may make specific
1163 arrangements for the housing and care of the minor children during the time the service
1164 member will be away. Notice of arrangements made by the service member shall be provided
1165 to the noncustodial parent and may not deprive the noncustodial parent of parent-time during
1166 the same time period.

1167 (b) If a service member who is a noncustodial parent is deployed, mobilized, or
1168 ordered to temporary duty at another location, his or her parent-time rights may be exercised
1169 by a family member with a close and substantial relationship to the minor child for the
1170 duration of the service member's absence. The service member shall provide the custodial
1171 parent with written notice of arrangements made regarding the exercise of parent-time in the
1172 service member's absence.

1173 (3) A temporary exchange of physical custody under this section may not alter the
1174 original custody order of the court.

1175 (4) In addition to the arrangements made for the care of minor children under this
1176 section, both parents shall comply with the provisions of Section 78B-12-108.

1177 (5) A service member who is deployed, mobilized, or ordered to temporary duty may

1178 not be deprived of custodial or parent-time rights while unavailable pursuant to military
1179 orders. Any petition, motion, or action brought by a parent or guardian before a court
1180 attempting to deprive or alter custody or parent-time rights shall be stayed in accordance with
1181 Section 39-7-105 and the Federal Servicemembers Civil Relief Act, 50 U.S.C. Appx. 521.

1182 Section 18. Section **31A-36-102** is amended to read:

1183 **31A-36-102. Definitions.**

1184 As used in this chapter:

1185 (1) (a) "Advertising" means a communication placed before the public to:

1186 (i) create an interest in a life settlement; or

1187 (ii) induce a person pursuant to a life settlement to sell, assign, devise, bequest, or
1188 transfer the death benefit or ownership of:

1189 (A) a policy; or

1190 (B) an interest in a policy.

1191 (b) "Advertising" includes the following, if the requirements of Subsection (1)(a) are
1192 met:

1193 (i) a written, electronic, or printed communication;

1194 (ii) a communication by means of a recorded telephone message;

1195 (iii) a communication transmitted on radio, television, the Internet, or similar
1196 communications media; and

1197 (iv) a film strip, motion picture, or video.

1198 (2) "Business of life settlements" includes the following:

1199 (a) offering a life settlement;

1200 (b) soliciting a life settlement;

1201 (c) negotiating a life settlement;

1202 (d) procuring a life settlement;

1203 (e) effectuating a life settlement;

1204 (f) purchasing a life settlement;

1205 (g) investing in a life settlement;

- 1206 (h) financing a life settlement;
- 1207 (i) monitoring a life settlement;
- 1208 (j) tracking a life settlement;
- 1209 (k) underwriting a life settlement;
- 1210 (l) selling a life settlement;
- 1211 (m) transferring a life settlement;
- 1212 (n) assigning a life settlement;
- 1213 (o) pledging a life settlement;
- 1214 (p) hypothecating a life settlement; or
- 1215 (q) in any other manner acquiring an interest in a policy by means of a life settlement.
- 1216 (3) "Chronically ill" means:
 - 1217 (a) being unable to perform at least two activities of daily living, such as eating,
 - 1218 toileting, moving from one place to another, bathing, dressing, or continence;
 - 1219 (b) requiring substantial supervision for protection from threats to health and safety
 - 1220 because of severe cognitive impairment; or
 - 1221 (c) having a level of disability similar to that described in Subsection (3)(a).
- 1222 (4) "Depository institution" is as defined in Section 7-1-103.
- 1223 (5) (a) "Financing entity" means a person:
 - 1224 (i) who has direct ownership in a policy that is the subject of a life settlement;
 - 1225 (ii) whose principal activity related to a life settlement is providing money to effect the
 - 1226 life settlement or the purchase of one or more settled policies; and
 - 1227 (iii) who has an agreement in writing with one or more licensed life settlement
 - 1228 providers to finance the acquisition of one or more life settlements.
- 1229 (b) "Financing entity" includes, if the requirements of Subsection (5)(a) are met, the
- 1230 following:
 - 1231 (i) an underwriter;
 - 1232 (ii) a placement agent;
 - 1233 (iii) an enhancer of credit;

- 1234 (iv) a lender;
- 1235 (v) a purchaser of securities; and
- 1236 (vi) a purchaser of a policy from a life settlement provider.
- 1237 (c) "Financing entity" does not include:
- 1238 (i) a nonaccredited investor; or
- 1239 (ii) a life settlement purchaser.
- 1240 (6) "Form" means, in addition to a form as defined in Section 31A-1-301:
- 1241 (a) a life settlement;
- 1242 (b) a disclosure to an owner;
- 1243 (c) a notice of intent to settle; or
- 1244 (d) a verification of coverage.
- 1245 (7) "Life expectancy" means the mean number of months an individual insured under
- 1246 a policy to be settled can be expected to live considering medical records and appropriate
- 1247 experiential data.
- 1248 (8) (a) "Life settlement" means a written agreement:
- 1249 (i) between an owner and a life settlement provider; and
- 1250 (ii) for the payment of anything of value, that is less than the expected death benefit of
- 1251 the policy, in exchange for the owner assigning, selling, transferring, devising, releasing, or
- 1252 bequeathing, at the time of or after the exchange, the death benefit or ownership of:
- 1253 (A) any portion of a policy; or
- 1254 (B) a beneficial interest in the policy.
- 1255 (b) "Life settlement" includes:
- 1256 (i) the transfer for compensation or value of ownership or beneficial interest in a trust
- 1257 or other entity that owns a policy if the trust or other entity is formed or operated for the
- 1258 principal purpose of acquiring one or more policies; or
- 1259 (ii) a premium finance loan made for a policy by a lender to an owner on, before, or
- 1260 after the date of issuance of the policy if the owner:
- 1261 (A) receives on the date of the premium finance loan a guarantee of a future life

1262 settlement value of the policy; or

1263 (B) agrees on the date of the premium finance loan to sell the policy or any portion of
1264 the policy's death benefit on a date following the issuance of the policy.

1265 (c) An agreement described in Subsection (8)(a) is a "life settlement" even if it is
1266 referred to by a different name, including:

1267 (i) a "~~life~~ viatical settlement"; or

1268 (ii) a "senior settlement."

1269 (d) "Life settlement" does not include:

1270 (i) a loan or accelerated death benefit by an insurer pursuant to the terms of a policy;

1271 (ii) loan proceeds that are used solely to pay:

1272 (A) premiums for a policy; and

1273 (B) the loan costs or other expenses incurred by the lender, including:

1274 (I) interest;

1275 (II) an arrangement fee;

1276 (III) a use fee;

1277 (IV) closing costs;

1278 (V) attorney fees and expenses;

1279 (VI) trustee fees and expenses; and

1280 (VII) third party collateral provider fees and expenses, including fees payable to a
1281 letter of credit issuer;

1282 (iii) (A) a loan made by a licensed lender in which the licensed lender takes an interest
1283 in a policy solely to secure repayment of a loan; or

1284 (B) the transfer of a policy by a lender, if:

1285 (I) the loan is:

1286 (Aa) a loan described in Subsection (8)(d)(iii)(A); or

1287 (Bb) a premium finance loan that is not a life settlement;

1288 (II) the loan is defaulted on;

1289 (III) the policy is transferred; and

1290 (IV) neither the default itself nor the transfer of the policy in connection with the
1291 default is pursuant to an agreement with any other person for the purpose of evading
1292 regulation under this chapter;

1293 (iv) an agreement where all the participants in the agreement:
1294 (A) (I) are closely related to the insured by blood or law; or
1295 (II) have a lawful substantial economic interest in the continued life, health, and bodily
1296 safety of the person insured; and
1297 (B) are trusts established primarily for the benefit of the participants in the agreement;

1298 (v) a designation, consent, or agreement by an insured who is an employee of an
1299 employer in connection with the purchase by the employer, or trust established by the
1300 employer, of life insurance on the life of the employee; or
1301 (vi) a business succession planning arrangement not made for the purpose of evading
1302 regulation under this chapter:

1303 (A) (I) between one or more shareholders in a corporation; or
1304 (II) between a corporation and:
1305 (Aa) one or more of its shareholders; or
1306 (Bb) one or more trusts established by its shareholders;

1307 (B) (I) between one or more partners in a partnership; or
1308 (II) between a partnership and:
1309 (Aa) one or more of its partners; or
1310 (Bb) one or more trusts established by its partners; or

1311 (C) (I) between one or more members in a limited liability company; or
1312 (II) between a limited liability company and:
1313 (Aa) one or more of its members; or
1314 (Bb) one or more trusts established by its members.

1315 (9) (a) "Life settlement producer" means a person licensed in the state as a life
1316 insurance producer that on behalf of an owner and for consideration offers or attempts to
1317 negotiate a life settlement between the owner and one or more life settlement providers.

1318 (b) "Life settlement producer" does not include an attorney licensed to practice law in
1319 any state, a certified public accountant, or a financial planner accredited by a nationally
1320 recognized accrediting agency:

- 1321 (i) that is retained to represent an owner; and
- 1322 (ii) whose compensation is not paid directly or indirectly by:
 - 1323 (A) a life settlement provider; or
 - 1324 (B) a life settlement purchaser.

1325 (10) (a) "Life settlement provider" means a person other than an owner that enters into
1326 or effectuates a life settlement.

1327 (b) "Life settlement provider" does not include:

1328 (i) a licensed lender that takes an assignment of a policy as security for a loan,
1329 including a:

- 1330 (A) depository institution; or
- 1331 (B) lender that makes a premium finance loan that is not described in Subsection
1332 (8)(b)(ii);

1333 (ii) the issuer of a policy;

1334 (iii) an authorized or eligible insurer that provides stop-loss coverage to:

- 1335 (A) a life settlement provider;
- 1336 (B) a life settlement purchaser;
- 1337 (C) a financing entity;
- 1338 (D) a special purpose entity; or
- 1339 (E) a related provider trust;

1340 (iv) a financing entity;

1341 (v) a special purpose entity;

1342 (vi) a related provider trust;

1343 (vii) a life settlement purchaser; or

1344 (viii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A

1345 that purchases a settled policy from a life settlement provider.

- 1346 (11) (a) "Life settlement purchaser" means a person that, to derive an economic
1347 benefit:
- 1348 (i) provides a sum of money as consideration for a policy or an interest in the death
1349 benefits of a policy; or
- 1350 (ii) owns, acquires, or is entitled to a beneficial interest in a trust that:
- 1351 (A) owns a life settlement; or
- 1352 (B) is the beneficiary of a policy that has been or will be the subject of a life
1353 settlement.
- 1354 (b) "Life settlement purchaser" does not include:
- 1355 (i) a life settlement provider;
- 1356 (ii) a life settlement producer;
- 1357 (iii) an accredited investor as defined in Regulation D, Rule 501, 17 C.F.R. Sec.
1358 230.501;
- 1359 (iv) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 1360 (v) a financing entity;
- 1361 (vi) a special purpose entity; or
- 1362 (vii) a related provider trust.
- 1363 (12) (a) "Owner" means any of the following who resides in this state and seeks to
1364 enter into a life settlement:
- 1365 (i) the owner of a policy; or
- 1366 (ii) the holder of a certificate of insurance under a policy of group insurance.
- 1367 (b) "Owner" is not limited to a person who is terminally ill or chronically ill except
1368 when the limitation is expressly provided in this chapter.
- 1369 (c) "Owner" does not include:
- 1370 (i) a life settlement provider;
- 1371 (ii) a life settlement producer;
- 1372 (iii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 1373 (iv) a financing entity;

- 1374 (v) a special purpose entity; or
1375 (vi) a related provider trust.
- 1376 (13) "Policy" means:
1377 (a) an individual or group life insurance policy;
1378 (b) a group certificate for life insurance; or
1379 (c) a contract or arrangement of life insurance, whether or not delivered or issued for
1380 delivery in Utah:
1381 (i) affecting the rights of a resident of Utah; or
1382 (ii) bearing a reasonable relation to Utah.
- 1383 (14) "Premium finance loan" is a loan made primarily for the purpose of making
1384 premium payments on a policy if the loan is secured by an interest in the policy.
- 1385 (15) "Related provider trust" means a trust established by a licensed life settlement
1386 provider or a financing entity solely to hold the ownership of or beneficial interests in
1387 purchased policies in connection with financing.
- 1388 (16) "Settled policy" means a policy that is acquired by a life settlement provider
1389 pursuant to a life settlement.
- 1390 (17) "Special purpose entity" means an entity formed by a licensed life settlement
1391 provider solely to enable the life settlement provider to gain access to institutional markets for
1392 capital.
- 1393 (18) (a) "Stranger-originated life insurance" means an act, practice, or arrangement to
1394 initiate a policy for the benefit of a third party investor or other person who has no insurable
1395 interest in the insured resulting in the requirements of Section 31A-21-104 not being met.
- 1396 (b) "Stranger-originated life insurance" includes when:
1397 (i) a policy is purchased with resources or guarantees from or through a person who, at
1398 the time of policy origination, could not lawfully initiate the policy itself; and
1399 (ii) at the time of policy origination, there is an agreement, whether oral or written, to
1400 directly or indirectly transfer to a third party the ownership of a policy, policy benefits, or
1401 both.

- 1402 (c) "Stranger-originated life insurance" does not include:
- 1403 (i) a life settlement that complies with:
- 1404 (A) this chapter; and
- 1405 (B) Section 31A-21-104; or
- 1406 (ii) an act, practice, or arrangement described in Subsection (8)(d).
- 1407 (19) "Terminally ill" means having a condition that reasonably may be expected to
- 1408 result in death within 24 months.

1409 Section 19. Section **32A-14b-202** is amended to read:

1410 **32A-14b-202. Bringing an action.**

1411 (1) Subject to the other provisions of this section, a retail licensee to whom a minor is

1412 liable under Section 32A-14b-201 may bring an action in a court of competent jurisdiction to

1413 collect the amount described in Section 32A-14b-201.

1414 (2) The action allowed under this section may be brought against:

1415 (a) the minor; or

1416 (b) if the minor is less than 18 years of age, a parent or guardian of the minor.

1417 (3) An action under this chapter may not be commenced more than two years after the

1418 day on which the applicable fine is imposed by the commission.

1419 (4) Nothing in this chapter precludes a cause of action or additional recovery against a

1420 minor under law other than this chapter.

1421 (5) Notwithstanding the other provisions of this part:

1422 (a) the state or an agency of the state is not liable under this part when a state agency

1423 has legal or protective custody of, or has guardianship of a minor at the time:

1424 (i) the minor engages in conduct with regard to a violation related to a minor; or

1425 (ii) an applicable fine is imposed on the retail licensee by the commission; and

1426 (b) a retail [~~liquor~~] licensee may not bring an action against the state or an agency of

1427 the state under the circumstances described in Subsection (5)(a).

1428 Section 20. Section **34-46-102** is amended to read:

1429 **34-46-102. Definitions.**

1430 As used in this chapter:

1431 (1) "Applicant" means an individual that provides information to an employer for the
1432 purpose of obtaining employment.

1433 (2) "Division" means the Labor Commission's Division of Antidiscrimination and
1434 Labor.

1435 (3) "Employer" means a person employing 15 or more employees within the state for
1436 each working day in each of 20 calendar weeks or more in the current or preceding calendar
1437 year.

1438 (4) "Employment selection process" means the process by which an employer selects
1439 an individual to be an employee for the employer.

1440 ~~[(5) "Employment test" means a structured, systematic instrument used to assess an
1441 applicant's personality or behavior in a specific circumstance, such as a personality test.]~~

1442 [(6)] (5) "Initial selection process" means the receipt of information in a record from
1443 an applicant that the employer uses to determine whether the applicant will be considered for a
1444 second review for the position for which the applicant is applying.

1445 [(7)] (6) "Record" means information that is:

1446 (a) inscribed on a tangible medium; or

1447 (b) (i) received or stored in an electronic or other medium; and

1448 (ii) retrievable in perceivable form.

1449 Section 21. Section **42-2-6.6** is amended to read:

1450 **42-2-6.6. Assumed name.**

1451 (1) The assumed name:

1452 (a) may not contain any word or phrase that indicates or implies that the business is
1453 organized for any purpose other than one or more of the purposes contained in its application;

1454 (b) shall be distinguishable from any registered name or trademark of record in the
1455 offices of the Division of Corporations and Commercial Code, as defined in Subsection
1456 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code
1457 pursuant to Subsection (2);

1458 (c) without the written consent of the United States Olympic Committee, may not
1459 contain the words:

- 1460 (i) "Olympic";
- 1461 (ii) "Olympiad"; or
- 1462 (iii) "Citius Altius Fortius";

1463 (d) without the written consent of the Division of Consumer Protection issued in
1464 accordance with Section 13-34-114, may not contain the words:

- 1465 (i) "university";
- 1466 (ii) "college"; or
- 1467 (iii) "institute" or "institution"; and

1468 (e) an assumed name authorized for use in this state on or after May 1, 2000, may not
1469 contain the words:

- 1470 (i) "incorporated";
- 1471 (ii) "inc."; or
- 1472 (iii) a variation of "incorporated" or "inc."

1473 (2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in
1474 Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of
1475 the name by a corporation as defined in:

- 1476 (a) Subsection 16-6a-102(25);
- 1477 (b) Subsection 16-6a-102(34);
- 1478 (c) Subsection 16-10a-102(11); or
- 1479 (d) Subsection 16-10a-102(20).

1480 (3) The Division of Corporations and Commercial Code shall authorize the use of the
1481 name applied for if:

1482 (a) the name is distinguishable from one or more of the names and trademarks that are
1483 on the division's records; or

1484 (b) the applicant delivers to the division a certified copy of the final judgment of a
1485 court of competent jurisdiction establishing the applicant's right to use the name applied for in

1486 this state.

1487 (4) The assumed name, for purposes of recordation, shall be either translated into
1488 English or transliterated into letters of the English alphabet if it is not in English.

1489 (5) The Division of Corporations and Commercial Code may not approve an
1490 application for an assumed name to any person violating this section.

1491 (6) The director of the Division of Corporations and Commercial Code shall have the
1492 power and authority reasonably necessary to interpret and efficiently administer this section
1493 and to perform the duties imposed on the division by this section.

1494 (7) A name that implies by any word in the name that it is an agency of the state or of
1495 any of its political subdivisions, if it is not actually such a legally established agency, may not
1496 be approved for filing by the Division of Corporations and Commercial Code.

1497 (8) Section 16-10a-403 applies to this chapter.

1498 (9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a
1499 certificate of assumed and of true name with the Division of Corporations and Commercial
1500 Code on or before May 4, 1998, until December 31, 1998.

1501 (b) On or after January 1, 1999, any person who carries on, conducts, or transacts
1502 business in this state under an assumed name shall comply with the requirements of
1503 Subsection (1)(d).

1504 Section 22. Section **48-2a-102** is amended to read:

1505 **48-2a-102. Name.**

1506 (1) The name of each limited partnership as set forth in its certificate of limited
1507 partnership:

1508 (a) shall contain the terms:

1509 (i) "limited partnership";

1510 (ii) "limited";

1511 (iii) "L.P."; or

1512 (iv) "Ltd.";

1513 (b) may not contain the name of a limited partner unless:

- 1514 (i) it is the name of a general partner;
- 1515 (ii) it is the corporate name of a corporate general partner; or
- 1516 (iii) the business of the limited partnership had been carried on under that name before
- 1517 the admission of that limited partner;
- 1518 (c) may not contain:
- 1519 (i) the words:
- 1520 (A) "association";
- 1521 (B) "corporation"; or
- 1522 (C) "incorporated";
- 1523 (ii) any abbreviation of a word listed in this Subsection (1)(c); or
- 1524 (iii) any word or abbreviation that is of like import to the words listed in Subsection
- 1525 (1)(c)(i) in any other language;
- 1526 (d) without the written consent of the United States Olympic Committee, may not
- 1527 contain the words:
- 1528 (i) "Olympic";
- 1529 (ii) "Olympiad"; or
- 1530 (iii) "Citius Altius Fortius"; and
- 1531 (e) without the written consent of the Division of Consumer Protection issued in
- 1532 accordance with Section 13-34-114, may not contain the words:
- 1533 (i) "university";
- 1534 (ii) "college"; or
- 1535 (iii) "institute" or "institution."
- 1536 (2) (a) A person or entity other than a limited partnership formed or registered under
- 1537 this title may not use in its name in this state any of the terms:
- 1538 (i) "limited";
- 1539 (ii) "limited partnership";
- 1540 (iii) "Ltd."; or
- 1541 (iv) "L.P."

- 1542 (b) Notwithstanding Subsection (2)(a):
- 1543 (i) a foreign corporation whose actual name includes the word "limited" or "Ltd." may
- 1544 use its actual name in this state if it also uses:
- 1545 (A) "corporation";
- 1546 (B) "incorporated"; or
- 1547 (C) any abbreviation of a word listed in this Subsection (2)(b)(i);
- 1548 (ii) a limited liability company may use in its name in this state the terms:
- 1549 (A) "limited";
- 1550 (B) "limited company";
- 1551 (C) "L.C.";
- 1552 (D) "L.L.C.";
- 1553 (E) "LC"; or
- 1554 (F) "LLC"; and
- 1555 (iii) a limited liability partnership may use the terms "limited liability partnership,"
- 1556 "L.L.P.," or "LLP" in the manner allowed in Section 48-1-45.
- 1557 (3) Except as authorized by Subsection (4), the name of a limited partnership must be
- 1558 distinguishable as defined in Subsection (5) upon the records of the division from:
- 1559 (a) the name of any limited partnership formed or authorized to transact business in
- 1560 this state;
- 1561 (b) the corporate name of any corporation incorporated or authorized to transact
- 1562 business in this state;
- 1563 (c) any limited partnership name reserved under this chapter;
- 1564 (d) any corporate name reserved under Title 16, Chapter 10a, Utah Revised Business
- 1565 Corporation Act;
- 1566 (e) any fictitious name adopted by a foreign corporation or limited partnership
- 1567 authorized to transact business in this state because its real name is unavailable;
- 1568 (f) any corporate name of a not-for-profit corporation incorporated or authorized to
- 1569 transact business in this state; and

1570 (g) any assumed business name, trademark, or service mark registered by the division.

1571 (4) (a) A limited partnership may apply to the division for approval to file its
1572 certificate under, or to reserve, a name that is not distinguishable upon the division's records
1573 from one or more of the names described in Subsection (3).

1574 (b) The division shall approve of the name for which application is made under
1575 Subsection (4)(a) if:

1576 (i) the other person whose name is not distinguishable from the name under which the
1577 applicant desires to file:

1578 (A) consents to the filing in writing; and

1579 (B) submits an undertaking in a form satisfactory to the division to change its name to
1580 a name that is distinguishable from the name of the applicant; or

1581 (ii) the applicant delivers to the division a certified copy of the final judgment of a
1582 court of competent jurisdiction establishing the applicant's right to use in this state the name
1583 for which the application is made.

1584 (5) A name is distinguishable from other names, trademarks, and service marks
1585 registered with the division if it contains one or more different letters or numerals from other
1586 names upon the division's records.

1587 (6) The following differences are not distinguishing:

1588 (a) the terms:

1589 (i) "corporation";

1590 (ii) "incorporated";

1591 (iii) "company";

1592 (iv) "limited partnership";

1593 (v) "limited";

1594 (vi) "L.P."; or

1595 (vii) "Ltd.";

1596 (b) an abbreviation of a word listed in Subsection (6)(a);

1597 (c) the presence or absence of the words or symbols of the words "the," "and," "a," or

1598 "plus";
1599 (d) differences in punctuation and special characters;
1600 (e) differences in capitalization;
1601 (f) differences between singular and plural forms of words for a limited partnership:
1602 (i) formed in or registered as a foreign limited partnership in this state on or after May
1603 4, 1998; or
1604 (ii) that changes its name on or after May 4, 1998;
1605 (g) differences in whether the letters or numbers immediately follow each other or are
1606 separated by one or more spaces if:
1607 (i) the sequence of letters or numbers is identical; and
1608 (ii) the limited partnership:
1609 (A) is formed in or registered as a foreign limited partnership in this state on or after
1610 May 3, 1999; or
1611 (B) changes its name on or after May 3, 1999; or
1612 (h) differences in abbreviations, for a limited partnership:
1613 (i) formed in or registered as a foreign limited partnership in this state on or after May
1614 1, 2000; or
1615 (ii) that changes its name on or after May 1, 2000.
1616 (7) The director of the division shall have the power and authority reasonably
1617 necessary to interpret and efficiently administer this section and to perform the duties imposed
1618 upon the division by this section.
1619 (8) A name that implies that the limited partnership is an agency of this state or any of
1620 its political subdivisions, if it is not actually such a legally established agency or subdivision,
1621 may not be approved for filing by the division.
1622 (9) (a) The requirements of Subsection (1)(e) do not apply to a limited partnership that
1623 is formed in or registered as a foreign limited partnership in this state on or before May 4,
1624 1998, until December 31, 1998.
1625 (b) On or after January 1, 1999, any limited partnership formed in or registered as a

1626 foreign limited partnership in this state shall comply with the requirements of Subsection
1627 (1)(e).

1628 Section 23. Section **48-2c-106** is amended to read:

1629 **48-2c-106. Name -- Exclusive right.**

1630 (1) Except as provided in Subsection (8), the name of a company as set forth in the
1631 articles of organization:

1632 (a) shall contain the terms:

1633 (i) "limited company";

1634 (ii) "limited liability company";

1635 (iii) "L.C." or "LC"; or

1636 (iv) "L.L.C." or "LLC";

1637 (b) may not contain:

1638 (i) the terms:

1639 (A) "association";

1640 (B) "corporation";

1641 (C) "incorporated";

1642 (D) "limited partnership";

1643 (E) "limited";

1644 (F) "L.P."; or

1645 (G) "Ltd."; or

1646 (ii) words or an abbreviation with a similar meaning in any other language;

1647 (c) without the written consent of the United States Olympic Committee, may not

1648 contain the words:

1649 (i) "Olympic";

1650 (ii) "Olympiad"; or

1651 (iii) "Citius Altius Fortius"; and

1652 (d) without the written consent of the Division of Consumer Protection in accordance

1653 with Section 13-34-114, may not contain the words:

- 1654 (i) "university";
1655 (ii) "college"; or
1656 (iii) "institute" or "institution".
- 1657 (2) (a) A person, other than a company formed under this chapter or a foreign
1658 company authorized to transact business in this state, may not use in its name in this state any
1659 of the terms:
- 1660 (i) "limited liability company";
1661 (ii) "limited company";
1662 (iii) "L.L.C.";
1663 (iv) "L.C.";
1664 (v) "LLC"; or
1665 (vi) "LC".
- 1666 (b) Notwithstanding Subsection (2)(a):
- 1667 (i) a foreign corporation whose actual name includes the word "limited" or "Ltd." may
1668 use its actual name in this state if it also uses:
- 1669 (A) "corporation" or "corp."; or
1670 (B) "incorporated" or "inc."; and
- 1671 (ii) a limited liability partnership may use in its name the terms:
- 1672 (A) "limited liability partnership";
1673 (B) "L.L.P."; or
1674 (C) "LLP".
- 1675 (3) Except as authorized by Subsection (4), the name of a company must be
1676 distinguishable as defined in Subsection (5) upon the records of the division from:
- 1677 (a) the actual name, reserved name, or fictitious or assumed name of any entity
1678 registered with the division; or
1679 (b) any tradename, trademark, or service mark registered with the division.
- 1680 (4) (a) A company may apply to the division for approval to file its articles of
1681 organization under or to reserve a name that is not distinguishable upon the division's records

1682 from one or more of the names described in Subsection (3).

1683 (b) The division shall approve the name for which the company applies under

1684 Subsection (4)(a) if:

1685 (i) the other person whose name is not distinguishable from the name under which the
1686 applicant desires to file:

1687 (A) consents to the filing in writing; and

1688 (B) submits an undertaking in a form satisfactory to the division to change its name to
1689 a name that is distinguishable from the name of the applicant; or

1690 (ii) the applicant delivers to the division a certified copy of the final judgment of a
1691 court of competent jurisdiction establishing the applicant's right to use the name in this state.

1692 (5) A name is distinguishable from other names, trademarks, and service marks
1693 registered with the division if it contains one or more different words, letters, or numerals from
1694 other names upon the division's records.

1695 (6) The following differences are not distinguishing:

1696 (a) the terms:

1697 (i) "corporation";

1698 (ii) "incorporated";

1699 (iii) "company";

1700 (iv) "limited partnership";

1701 (v) "limited";

1702 (vi) "L.P." or "LP";

1703 (vii) "Ltd.";

1704 (viii) "limited liability company";

1705 (ix) "limited company";

1706 (x) "L.C." or "LC"; or

1707 (xi) "L.L.C." or "LLC";

1708 (b) an abbreviation of a word listed in Subsection (6)(a);

1709 (c) the presence or absence of the words or symbols of the words "the," "and," "a," or

1710 "plus";
1711 (d) differences in punctuation and special characters;
1712 (e) differences in capitalization; or
1713 (f) for a company that is formed in this state on or after May 4, 1998, or registered as a
1714 foreign company in this state on or after May 4, 1998, differences between singular and plural
1715 forms of words.

1716 (7) A name that implies that a company is an agency of this state or any of its political
1717 subdivisions, if it is not actually a legally established agency or political subdivision, may not
1718 be approved for filing by the division.

1719 (8) The name of a low-profit limited liability company shall contain the abbreviation
1720 "L3C" or "l3c".

1721 Section 24. Section **51-9-408** is amended to read:

1722 **51-9-408. Children's Legal Defense Account.**

1723 (1) There is created a restricted account within the General Fund known as the
1724 Children's Legal Defense Account.

1725 (2) The purpose of the Children's Legal Defense Account is to provide for programs
1726 that protect and defend the rights, safety, and quality of life of children.

1727 (3) The Legislature shall appropriate money from the account for the administrative
1728 and related costs of the following programs:

1729 (a) implementing the Mandatory Educational Course on Children's Needs for
1730 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
1731 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation Pilot Program -
1732 Child Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18;

1733 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,
1734 78A-2-227, 78A-6-321, 78A-6-902, and 78B-3-102; the training of ~~[guardian]~~ guardians ad
1735 ~~[items]~~ litem and volunteers as provided in Section 78A-6-902; and termination of parental
1736 rights as provided in Sections 78A-6-117, 78A-6-118, and 78A-6-1103, and Title 78A,
1737 Chapter 6, Part 5, Termination of Parental Rights Act. This account may not be used to

1738 supplant funding for the guardian ad litem program in the juvenile court as provided in
1739 Section 78A-6-902; and

1740 (c) implementing and administering the Expedited Parent-time Enforcement Program
1741 as provided in Section 30-3-38.

1742 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
1743 Account and used only for the purposes provided in Subsections (3)(a) through (c):

1744 (a) the additional \$10 fee withheld on every marriage license issued in the state of
1745 Utah as provided in Section 17-16-21; and

1746 (b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any
1747 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

1748 (5) The Division of Finance shall allocate the monies described in Subsection (4) from
1749 the General Fund to the Children's Legal Defense Account.

1750 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30
1751 of any fiscal year shall lapse into the General Fund.

1752 Section 25. Section **53-1-108** is amended to read:

1753 **53-1-108. Commissioner's powers and duties.**

1754 (1) In addition to the responsibilities contained in this title, the commissioner shall:

1755 (a) administer and enforce this title and Title 41, Chapter 12a, Financial
1756 Responsibility of Motor Vehicle Owners and Operators Act;

1757 (b) appoint deputies, inspectors, examiners, clerical workers, and other employees as
1758 required to properly discharge the duties of the department;

1759 (c) make rules:

1760 (i) governing emergency use of signal lights on private vehicles; and

1761 (ii) allowing privately owned vehicles to be designated for part-time emergency use, as
1762 provided in Section 41-6a-310;

1763 (d) set standards for safety belt systems, as required by Section 41-6a-1803;

1764 (e) serve as the [~~chairman~~] cochair of the [~~Disaster Emergency Advisory~~] Emergency
1765 Management Administration Council, as required by Section 63K-3-201;

1766 (f) designate vehicles as "authorized emergency vehicles," as required by Section
1767 41-6a-102; and

1768 (g) on or before January 1, 2003, adopt a written policy that prohibits the stopping,
1769 detention, or search of any person when the action is solely motivated by considerations of
1770 race, color, ethnicity, age, or gender.

1771 (2) The commissioner may:

1772 (a) subject to the approval of the governor, establish division headquarters at various
1773 places in the state;

1774 (b) issue to a special agent a certificate of authority to act as a peace officer and
1775 revoke that authority for cause, as authorized in Section 56-1-21.5;

1776 (c) create specialized units within the commissioner's office for conducting internal
1777 affairs and aircraft operations as necessary to protect the public safety;

1778 (d) cooperate with any recognized agency in the education of the public in safety and
1779 crime prevention and participate in public or private partnerships, subject to Subsection (3);

1780 (e) cooperate in applying for and distributing highway safety program funds; and

1781 (f) receive and distribute federal funding to further the objectives of highway safety in
1782 compliance with the Federal Assistance Management Program Act.

1783 (3) (a) Money may not be expended under Subsection (2)(d) for public safety
1784 education unless it is specifically appropriated by the Legislature for that purpose.

1785 (b) Any recognized agency receiving state money for public safety shall file with the
1786 auditor of the state an itemized statement of all its receipts and expenditures.

1787 Section 26. Section **53A-11a-301** is amended to read:

1788 **53A-11a-301. Bullying and hazing policy.**

1789 (1) On or before September 1, 2009, each school board shall adopt a bullying [or] and
1790 hazing policy.

1791 (2) The policy shall:

1792 (a) be developed only with input from:

1793 (i) students;

- 1794 (ii) parents;
- 1795 (iii) teachers;
- 1796 (iv) school administrators;
- 1797 (v) school staff; or
- 1798 (vi) local law enforcement agencies;
- 1799 (b) be implemented in an ongoing, consistent, and nondiscriminatory manner;
- 1800 (c) be integrated with existing school discipline policies and violence prevention
- 1801 efforts; and
- 1802 (d) provide protection to a student, regardless of the student's legal status.
- 1803 (3) The policy shall include the following components:
- 1804 (a) definitions of bullying and hazing that, at a minimum, include the conduct
- 1805 described in the definitions of bullying and hazing under Section 53A-11a-102;
- 1806 (b) the prohibitions described in Part 2, Prohibitions;
- 1807 (c) a description of the action that may be taken, and consequences or penalties that
- 1808 may be imposed, for engaging in prohibited bullying, hazing, or retaliation against a school
- 1809 employee or student for reporting bullying or hazing, which shall include:
- 1810 (i) suspension; or
- 1811 (ii) dissolution of a team, organization, or other group;
- 1812 (d) procedures for protecting:
- 1813 (i) a victim of bullying or hazing from being subjected to further bullying or hazing;
- 1814 and
- 1815 (ii) a school employee or student from retaliation for reporting bullying or hazing;
- 1816 (e) procedures for promptly reporting to law enforcement all acts of bullying, hazing,
- 1817 or retaliation that constitute criminal activity;
- 1818 (f) procedures for promptly investigating and responding to reports of bullying,
- 1819 hazing, or retaliation;
- 1820 (g) procedures allowing for anonymous reporting of bullying, hazing, or retaliation;
- 1821 (h) specification of the persons responsible for taking, investigating, and responding to

1822 reports of bullying, hazing, or retaliation;

1823 (i) a procedure for referring a victim of bullying or hazing to counseling;

1824 (j) involving the parents or guardians of a perpetrator or victim of bullying, hazing, or
1825 retaliation in the process of responding to, and resolving, conduct prohibited by this chapter;

1826 (k) to the extent permitted by federal and state law, including the federal Family
1827 Educational and Privacy Rights Act of 1974, as amended, a procedure informing the parents
1828 or guardians of a student who is a victim of bullying or hazing of the actions taken against the
1829 perpetrators of the bullying or hazing;

1830 (l) procedures and plans for publicizing the policy to school employees, students, and
1831 parents and guardians of students; and

1832 (m) procedures and plans for training school employees and students in recognizing
1833 and preventing bullying, hazing, or retaliation.

1834 (4) A copy of the policy shall be included in student conduct handbooks and employee
1835 handbooks.

1836 (5) A policy may not permit formal disciplinary action that is based solely on an
1837 anonymous report of bullying, hazing, or retaliation.

1838 (6) Nothing in this chapter is intended to infringe upon the right of a school employee
1839 or student to exercise their right of free speech.

1840 Section 27. Section **53C-1-201** is amended to read:

1841 **53C-1-201. Creation of administration -- Purpose -- Director.**

1842 (1) (a) There is established within state government the School and Institutional Trust
1843 Lands Administration.

1844 (b) The administration shall manage all school and institutional trust lands and assets
1845 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
1846 of Revenue from Trust Lands, and Sections 51-7a-201 and 51-7a-202.

1847 (2) The administration is an independent state agency and not a division of any other
1848 department.

1849 (3) (a) It is subject to the usual legislative and executive department controls except as

1850 provided in this Subsection (3).

1851 (b) (i) The director may make rules as approved by the board that allow the
1852 administration to classify a business proposal submitted to the administration as protected
1853 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

1854 (ii) The administration shall return the proposal to the party who submitted the
1855 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access
1856 and Management Act, if the administration determines not to proceed with the proposal.

1857 (iii) The administration shall classify the proposal pursuant to law if it decides to
1858 proceed with the proposal.

1859 (iv) Section 63G-2-403 does not apply during the review period.

1860 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah
1861 Administrative Rulemaking Act, except that the administration is not subject to Subsections
1862 63G-3-301(6) and (7), and the director, with the board's approval, may establish a procedure
1863 for the expedited approval of rules, based on written findings by the director showing:

1864 (i) the changes in business opportunities affecting the assets of the trust;

1865 (ii) the specific business opportunity arising out of those changes which may be lost
1866 without the rule or changes to the rule;

1867 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met
1868 without causing the loss of the specific opportunity;

1869 (iv) approval by at least five board members; and

1870 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
1871 reasons and justifications for its findings, with the Division of Administrative Rules and
1872 notified interested parties as provided in Subsection 63G-3-301~~(9)~~(10).

1873 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State
1874 Personnel Management Act, except as provided in this Subsection (3)(d).

1875 (ii) The board may approve, upon recommendation of the director, that exemption for
1876 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to
1877 enable the administration to efficiently fulfill its responsibilities under the law. The director

1878 shall consult with the executive director of the Department of Human Resource Management
1879 prior to making such a recommendation.

1880 (iii) The positions of director, deputy director, associate director, assistant director,
1881 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
1882 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

1883 (iv) Salaries for exempted positions, except for the director, shall be set by the
1884 director, after consultation with the executive director of the Department of Human Resource
1885 Management, within ranges approved by the board. The board and director shall consider
1886 salaries for similar positions in private enterprise and other public employment when setting
1887 salary ranges.

1888 (v) The board may create an annual incentive and bonus plan for the director and other
1889 administration employees designated by the board, based upon the attainment of financial
1890 performance goals and other measurable criteria defined and budgeted in advance by the
1891 board.

1892 (e) The administration shall comply with Title 63G, Chapter 6, Utah Procurement
1893 Code, except where the board approves, upon recommendation of the director, exemption from
1894 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,
1895 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
1896 efficiently fulfill its responsibilities under the law.

1897 (f) (i) The board and director shall review the exceptions under this Subsection (3) and
1898 make recommendations for any modification, if required, which the Legislature would be
1899 asked to consider during its annual general session.

1900 (ii) The board and director may include in their recommendations any other proposed
1901 exceptions from the usual executive and legislative controls the board and director consider
1902 necessary to accomplish the purpose of this title.

1903 (4) The administration is managed by a director of school and institutional trust lands
1904 appointed by a majority vote of the board of trustees with the consent of the governor.

1905 (5) (a) The board of trustees shall provide policies for the management of the

1906 administration and for the management of trust lands and assets.

1907 (b) The board shall provide policies for the ownership and control of Native American
1908 remains that are discovered or excavated on school and institutional trust lands in consultation
1909 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
1910 Native American Grave Protection and Repatriation Act. The director may make rules in
1911 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement
1912 policies provided by the board regarding Native American remains.

1913 (6) In connection with joint ventures for the development of trust lands and minerals
1914 approved by the board under Sections 53C-1-303 and 53C-2-401, the administration may
1915 become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised
1916 Limited Liability Company Act, and is considered a person under Section 48-2c-102.

1917 Section 28. Section **58-54-3** is amended to read:

1918 **58-54-3. Board created -- Membership -- Duties.**

1919 (1) There is created a Radiology Technologist Licensing Board consisting of seven
1920 members as follows:

1921 (a) four licensed radiology technologists;

1922 (b) one licensed radiology practical technician;

1923 (c) one radiologist; and

1924 (d) one member from the general public.

1925 (2) The board shall be appointed in accordance with Section 58-1-201.

1926 (3) The duties and responsibilities of the board shall be in accordance with Sections
1927 58-1-202 and 58-1-203.

1928 (4) In accordance with Subsection 58-1-203~~[(6)](1)(f)~~, there is established an advisory
1929 peer committee to the board consisting of eight members broadly representative of the state
1930 and including:

1931 (a) one licensed physician and surgeon who is not a radiologist and who uses
1932 radiology equipment in a rural office-based practice, appointed from among recommendations
1933 of the Physicians Licensing Board;

- 1934 (b) one licensed physician and surgeon who is not a radiologist and who uses
1935 radiology equipment in an urban office-based practice, appointed from among
1936 recommendations of the Physicians Licensing Board;
- 1937 (c) one licensed physician and surgeon who is a radiologist practicing in radiology,
1938 appointed from among recommendations of the Physicians Licensing Board;
- 1939 (d) one licensed osteopathic physician, appointed from among recommendations of
1940 the Osteopathic Physicians Licensing Board;
- 1941 (e) one licensed chiropractic physician, appointed from among recommendations of
1942 the Chiropractors Licensing Board;
- 1943 (f) one licensed podiatric physician, appointed from among recommendations of the
1944 Podiatric Physician Board;
- 1945 (g) one representative of the state agency with primary responsibility for regulation of
1946 sources of radiation, recommended by that agency; and
- 1947 (h) one representative of a general acute hospital, as defined in Section 26-21-2, that is
1948 located in a rural area of the state.
- 1949 (5) (a) Except as required by Subsection (5)(b), members of the advisory peer
1950 committee shall be appointed to four-year terms by the director in collaboration with the board
1951 from among the recommendations.
- 1952 (b) Notwithstanding the requirements of Subsection (5)(a), the director shall, at the
1953 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1954 committee members are staggered so that approximately half of the committee is appointed
1955 every two years.
- 1956 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
1957 appointed for the unexpired term.
- 1958 (6) (a) (i) Members who are not government employees shall receive no compensation
1959 or benefits for their services, but may receive per diem and expenses incurred in the
1960 performance of the member's official duties at the rates established by the Division of Finance
1961 under Sections 63A-3-106 and 63A-3-107.

1962 (ii) Members may decline to receive per diem and expenses for their service.
1963 (b) (i) State government officer and employee members who do not receive salary, per
1964 diem, or expenses from their agency for their service may receive per diem and expenses
1965 incurred in the performance of their official duties from the committee at the rates established
1966 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1967 (ii) State government officer and employee members may decline to receive per diem
1968 and expenses for their service.

1969 (7) The duties, responsibilities, and scope of authority of the advisory peer committee
1970 are:

1971 (a) to advise the board with respect to the board's fulfillment of its duties, functions,
1972 and responsibilities under Sections 58-1-202 and 58-1-203; and

1973 (b) to advise the division with respect to the examination the division is to adopt by
1974 rule, by which a radiology practical technician may qualify for licensure under Section
1975 58-54-5.

1976 Section 29. Section **59-11-102** is amended to read:

1977 **59-11-102. Definitions.**

1978 As used in this chapter:

1979 (1) "Decedent" means a deceased natural person.

1980 (2) "Federal credit" means the maximum amount of the credit for ~~[estate]~~ state death
1981 taxes allowed by Section 2011 in respect to a decedent's taxable estate.

1982 (3) "Gross estate" means "gross estate" as defined in Section 2031, Internal Revenue
1983 Code.

1984 (4) "Nonresident" means a decedent who was domiciled outside of this state at the
1985 time of death.

1986 (5) "Other state" means any state in the United States other than this state, the District
1987 of Columbia, or any possession or territory of the United States.

1988 (6) "Person" includes any natural person, corporation, association, partnership, joint
1989 venture, syndicate, estate, trust, or other entity under which business or other activities may be

1990 conducted.

1991 (7) "Personal representative" means the executor, administrator, or trustee of a
1992 decedent's estate, or, if there is no executor, administrator, or trustee appointed, qualified, and
1993 acting within this state, then any person in actual or constructive possession of any property of
1994 the decedent.

1995 (8) "Resident" means a decedent who was domiciled in this state at the time of death.

1996 (9) "Section 2011" means "Section 2011," Internal Revenue Code.

1997 (10) "Taxable estate" means "taxable estate" as defined in Section 2051, Internal
1998 Revenue Code.

1999 (11) "Transfer" means "transfer" as described in Section 2001, Internal Revenue Code.
2000 Section 30. Section **61-1-14** is amended to read:

2001 **61-1-14. Exemptions.**

2002 (1) The following securities are exempt from Sections 61-1-7 and 61-1-15:

2003 (a) a security, including a revenue obligation, issued or guaranteed by the United
2004 States, a state, a political subdivision of a state, or an agency or corporate or other
2005 instrumentality of one or more of the foregoing, or a certificate of deposit for any of the
2006 foregoing;

2007 (b) a security issued or guaranteed by Canada, a Canadian province, a political
2008 subdivision of a Canadian province, an agency or corporate or other instrumentality of one or
2009 more of the foregoing, or another foreign government with which the United States currently
2010 maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer
2011 or guarantor;

2012 (c) a security issued by and representing an interest in or a debt of, or guaranteed by, a
2013 depository institution organized under the laws of the United States, or a depository institution
2014 or trust company supervised under the laws of a state;

2015 (d) a security issued or guaranteed by a public utility or a security regulated in respect
2016 of its rates or in its issuance by a governmental authority of the United States, a state, Canada,
2017 or a Canadian province;

2018 (e) (i) a federal covered security specified in the Securities Act of 1933, Section
2019 18(b)(1), 15 U.S.C. Section 77r(b)(1), or by rule adopted under that provision;

2020 (ii) a security listed or approved for listing on another securities market specified by
2021 rule under this chapter;

2022 (iii) any of the following with respect to a security described in Subsection (1)(e)(i) or
2023 (ii):

2024 (A) a put or a call option contract;

2025 (B) a warrant; or

2026 (C) a subscription right on or with respect to the security;

2027 (iv) an option or similar derivative security on a security or an index of securities or
2028 foreign currencies issued by a clearing agency that is:

2029 (A) registered under the Securities Exchange Act of 1934; and

2030 (B) listed or designated for trading on a national securities exchange, or a facility of a
2031 national securities association registered under the Securities Exchange Act of 1934;

2032 (v) an offer or sale, of the underlying security in connection with the offer, sale, or
2033 exercise of an option or other security that was exempt when the option or other security was
2034 written or issued; or

2035 (vi) an option or a derivative security designated by the Securities and Exchange
2036 Commission under Securities Exchange Act of 1934, Section 9(b), 15 U.S.C. Section 78i(b);

2037 (f) (i) a security issued by a person organized and operated not for private profit but
2038 exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or
2039 reformatory purposes, or as a chamber of commerce or trade or professional association; and

2040 (ii) a security issued by a corporation organized under Title 3, Chapter 1, General
2041 Provisions Relating to Agricultural Cooperative Associations, and a security issued by a
2042 corporation to which that chapter is made applicable by compliance with Section 3-1-21;

2043 (g) an investment contract issued in connection with an employees' stock purchase,
2044 option, savings, pension, profit-sharing, or similar benefit plan;

2045 (h) a security issued by an investment company that is registered, or that has filed a

2046 registration statement, under the Investment Company Act of 1940; and

2047 (i) a security as to which the director, by rule or order, finds that registration is not
2048 necessary or appropriate for the protection of investors.

2049 (2) The following transactions are exempt from Sections 61-1-7 and 61-1-15:

2050 (a) an isolated nonissuer transaction, whether effected through a broker-dealer or not;

2051 (b) a nonissuer transaction in an outstanding security, if as provided by rule of the
2052 division:

2053 (i) information about the issuer of the security as required by the division is currently
2054 listed in a securities manual recognized by the division, and the listing is based upon such
2055 information as required by rule of the division; or

2056 (ii) the security has a fixed maturity or a fixed interest or dividend provision and there
2057 is no default during the current fiscal year or within the three preceding fiscal years, or during
2058 the existence of the issuer and any predecessors if less than three years, in the payment of
2059 principal, interest, or dividends on the security;

2060 (c) a nonissuer transaction effected by or through a registered broker-dealer pursuant
2061 to an unsolicited order or offer to buy;

2062 (d) a transaction between the issuer or other person on whose behalf the offering is
2063 made and an underwriter, or among underwriters;

2064 (e) a transaction in a bond or other evidence of indebtedness secured by a real or
2065 chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if
2066 the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences
2067 of indebtedness secured thereby, is offered and sold as a unit;

2068 (f) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in
2069 bankruptcy, guardian, or conservator;

2070 (g) a transaction executed by a bona fide pledgee without a purpose of evading this
2071 chapter;

2072 (h) an offer or sale to one of the following whether the purchaser is acting for itself or
2073 in a fiduciary capacity:

- 2074 (i) a depository institution;
- 2075 (ii) a trust company;
- 2076 (iii) an insurance company;
- 2077 (iv) an investment company as defined in the Investment Company Act of 1940;
- 2078 (v) a pension or profit-sharing trust;
- 2079 (vi) other financial institution or institutional investor; or
- 2080 (vii) a broker-dealer;
- 2081 (i) an offer or sale of a preorganization certificate or subscription if:
- 2082 (i) no commission or other remuneration is paid or given directly or indirectly for
- 2083 soliciting a prospective subscriber;
- 2084 (ii) the number of subscribers acquiring a legal or beneficial interest therein does not
- 2085 exceed 10;
- 2086 (iii) there is no general advertising or solicitation in connection with the offer or sale;
- 2087 and
- 2088 (iv) no payment is made by a subscriber;
- 2089 (j) subject to Subsection (6), a transaction pursuant to an offer by an issuer of its
- 2090 securities to its existing securities holders, if:
- 2091 (i) no commission or other remuneration, other than a standby commission is paid or
- 2092 given directly or indirectly for soliciting a security holder in this state; and
- 2093 (ii) the transaction constitutes:
- 2094 (A) the conversion of convertible securities;
- 2095 (B) the exercise of nontransferable rights or warrants;
- 2096 (C) the exercise of transferable rights or warrants if the rights or warrants are
- 2097 exercisable not more than 90 days after their issuance;
- 2098 (D) the purchase of securities under a preemptive right; or
- 2099 (E) a transaction other than one specified in Subsections (2)(j)(ii)(A) through (D) if:
- 2100 (I) the division is furnished with:
- 2101 (Aa) a general description of the transaction;

2102 (Bb) the disclosure materials to be furnished to the issuer's securities holders in the
2103 transaction; and

2104 (Cc) a non-refundable fee; and

2105 (II) the division does not, by order, deny or revoke the exemption within 20 working
2106 days after the day on which the filing required by Subsection (2)(j)(ii)(E)(I) is complete;

2107 (k) an offer, but not a sale, of a security for which a registration statement is filed
2108 under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in
2109 effect and no public proceeding or examination looking toward such an order is pending;

2110 (l) a distribution of securities as a dividend if the person distributing the dividend is
2111 the issuer of the securities distributed;

2112 (m) a nonissuer transaction effected by or through a registered broker-dealer where the
2113 broker-dealer or issuer files with the division, and the broker-dealer maintains in the
2114 broker-dealer's records, and makes reasonably available upon request to a person expressing an
2115 interest in a proposed transaction in the security with the broker-dealer information prescribed
2116 by the division under its rules;

2117 (n) a transaction not involving a public offering;

2118 (o) an offer or sale of "condominium units" or "time period units" as those terms are
2119 defined in Title 57, Chapter 8, Condominium Ownership Act, whether or not to be sold by
2120 installment contract, if the following are complied with:

2121 (i) Title 57, Chapter 8, Condominium Ownership Act, or if the units are located in
2122 another state, the condominium act of that state;

2123 (ii) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

2124 (iii) Title 57, Chapter 19, Timeshare and Camp Resort Act; and

2125 (iv) Title 70C, Utah Consumer Credit Code;

2126 (p) a transaction or series of transactions involving a merger, consolidation,
2127 reorganization, recapitalization, reclassification, or sale of assets, if the consideration for
2128 which, in whole or in part, is the issuance of securities of a person or persons, and if:

2129 (i) the transaction or series of transactions is incident to a vote of the securities holders

2130 of each person involved or by written consent or resolution of some or all of the securities
2131 holders of each person involved;

2132 (ii) the vote, consent, or resolution is given under a provision in:

2133 (A) the applicable corporate statute or other controlling statute;

2134 (B) the controlling articles of incorporation, trust indenture, deed of trust, or
2135 partnership agreement; or

2136 (C) the controlling agreement among securities holders;

2137 (iii) (A) one person involved in the transaction is required to file proxy or
2138 informational materials under Section 14(a) or (c) of the Securities Exchange Act of 1934 or
2139 Section 20 of the Investment Company Act of 1940 and has so filed;

2140 (B) one person involved in the transaction is an insurance company that is exempt
2141 from filing under Section 12(g)(2)(G) of the Securities Exchange Act of 1934, and has filed
2142 proxy or informational materials with the appropriate regulatory agency or official of its
2143 domiciliary state; or

2144 (C) all persons involved in the transaction are exempt from filing under Section
2145 12(g)(1) of the Securities Exchange Act of 1934, and file with the division such proxy or
2146 informational material as the division requires by rule;

2147 (iv) the proxy or informational material is filed with the division and distributed to all
2148 securities holders entitled to vote in the transaction or series of transactions at least 10 working
2149 days prior to any necessary vote by the securities holders or action on any necessary consent or
2150 resolution; and

2151 (v) the division does not, by order, deny or revoke the exemption within 10 working
2152 days after filing of the proxy or informational materials;

2153 (q) subject to Subsection (7), a transaction pursuant to an offer to sell securities of an
2154 issuer if:

2155 (i) the transaction is part of an issue in which there are not more than 15 purchasers in
2156 this state, other than those designated in Subsection (2)(h), during any 12 consecutive months;

2157 (ii) no general solicitation or general advertising is used in connection with the offer to

2158 sell or sale of the securities;

2159 (iii) no commission or other similar compensation is given, directly or indirectly, to a
2160 person other than a broker-dealer or agent licensed under this chapter, for soliciting a
2161 prospective purchaser in this state;

2162 (iv) the seller reasonably believes that all the purchasers in this state are purchasing for
2163 investment; and

2164 (v) the transaction is part of an aggregate offering that does not exceed \$1,000,000, or
2165 a greater amount as prescribed by a division rule, during any 12 consecutive months;

2166 (r) a transaction involving a commodity contract or commodity option;

2167 (s) a transaction in a security, whether or not the security or transaction is otherwise
2168 exempt if:

2169 (i) the transaction is:

2170 (A) in exchange for one or more outstanding securities, claims, or property interests;

2171 or

2172 (B) partly for cash and partly in exchange for one or more outstanding securities,
2173 claims, or property interests; and

2174 (ii) the terms and conditions are approved by the director after a hearing under Section
2175 ~~[61-1a-408]~~ 61-1-11.1;

2176 (t) a transaction incident to a judicially approved reorganization in which a security is
2177 issued:

2178 (i) in exchange for one or more outstanding securities, claims, or property interests; or
2179 (ii) partly for cash and partly in exchange for one or more outstanding securities,
2180 claims, or property interests;

2181 (u) a nonissuer transaction by a federal covered investment adviser with investments
2182 under management in excess of \$100,000,000 acting in the exercise of discretionary authority
2183 in a signed record for the account of others; and

2184 (v) a transaction as to which the division finds that registration is not necessary or
2185 appropriate for the protection of investors.

2186 (3) A person filing an exemption notice or application shall pay a filing fee as
2187 determined under Section 61-1-18.4.

2188 (4) Upon approval by a majority of the commission, the director, by means of an
2189 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
2190 Procedures Act, may deny or revoke an exemption specified in Subsection (1)(f) or (g) or in
2191 Subsection (2) with respect to:

2192 (a) a specific security, transaction, or series of transactions; or

2193 (b) a person or issuer, an affiliate or successor to a person or issuer, or an entity
2194 subsequently organized by or on behalf of a person or issuer generally and may impose a fine
2195 if the director finds that the order is in the public interest and that:

2196 (i) the application for or notice of exemption filed with the division is incomplete in a
2197 material respect or contains a statement which was, in the light of the circumstances under
2198 which it was made, false or misleading with respect to a material fact;

2199 (ii) this chapter, or a rule, order, or condition lawfully imposed under this chapter has
2200 been willfully violated in connection with the offering or exemption by:

2201 (A) the person filing an application for or notice of exemption;

2202 (B) the issuer, a partner, officer, or director of the issuer, a person occupying a similar
2203 status or performing similar functions, or a person directly or indirectly controlling or
2204 controlled by the issuer, but only if the person filing the application for or notice of exemption
2205 is directly or indirectly controlled by or acting for the issuer; or

2206 (C) an underwriter;

2207 (iii) subject to Subsection (8), the security for which the exemption is sought is the
2208 subject of an administrative stop order or similar order, or a permanent or temporary
2209 injunction or a court of competent jurisdiction entered under another federal or state act
2210 applicable to the offering or exemption;

2211 (iv) the issuer's enterprise or method of business includes or would include activities
2212 that are illegal where performed;

2213 (v) the offering has worked, has tended to work, or would operate to work a fraud

2214 upon purchasers;

2215 (vi) the offering is or was made with unreasonable amounts of underwriters' and
2216 sellers' discounts, commissions, or other compensation, or promoters' profits or participation,
2217 or unreasonable amounts or kinds of options;

2218 (vii) an exemption is sought for a security or transaction that is not eligible for the
2219 exemption; or

2220 (viii) the proper filing fee, if required, has not been paid.

2221 (5) (a) An order under Subsection (4) may not operate retroactively.

2222 (b) A person may not be considered to have violated Section 61-1-7 or 61-1-15 by
2223 reason of an offer or sale effected after the entry of an order under this Subsection (5) if the
2224 person sustains the burden of proof that the person did not know, and in the exercise of
2225 reasonable care could not have known, of the order.

2226 (6) The exemption created by Subsection (2)(j) is not available for an offer or sale of a
2227 security to an existing securities holder who has acquired the holder's security from the issuer
2228 in a transaction in violation of Section 61-1-7.

2229 (7) As to a security, a transaction, or a type of security or transaction, the division
2230 may:

2231 (a) withdraw or further condition the exemption described in Subsection (2)(q); or

2232 (b) waive one or more of the conditions described in Subsection (2)(q).

2233 (8) (a) The director may not institute a proceeding against an effective exemption
2234 under Subsection (4)(b) more than one year from the day on which the order or injunction on
2235 which the director relies is issued.

2236 (b) The director may not enter an order under Subsection (4)(b) on the basis of an
2237 order or injunction entered under another state act unless that order or injunction is issued on
2238 the basis of facts that would constitute a ground for a stop order under this section at the time
2239 the director enters the order.

2240 Section 31. Section **62A-15-902** is amended to read:

2241 **62A-15-902. Design and operation -- Security.**

2242 (1) The forensic mental health facility is a secure treatment facility.

2243 (2) (a) The forensic mental health facility accommodates the following populations:

2244 (i) prison inmates displaying mental illness, as defined in Section 62A-15-602,

2245 necessitating treatment in a secure mental health facility;

2246 (ii) criminally adjudicated persons found guilty and mentally ill or guilty and mentally

2247 ill at the time of the offense undergoing evaluation for mental illness under Title 77, Chapter

2248 16a, Commitment and Treatment of Mentally Ill Persons;

2249 (iii) criminally adjudicated persons undergoing evaluation for competency or found

2250 guilty and mentally ill or guilty and mentally ill at the time of the offense under Title 77,

2251 Chapter 16a, Commitment and Treatment of Mentally Ill Persons, who also have mental

2252 retardation;

2253 (iv) persons undergoing evaluation for competency or found by a court to be

2254 incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry Into Sanity of

2255 Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;

2256 (v) persons who are civilly committed to the custody of a local mental health authority

2257 in accordance with Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental

2258 Health Facilities, and who may not be properly supervised by the Utah State Hospital because

2259 of a lack of necessary security, as determined by the superintendent or the superintendent's

2260 designee; and

2261 (vi) persons ordered to commit themselves to the custody of the Division of Substance

2262 Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation

2263 or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

2264 (b) Placement of an offender in the forensic mental health facility under any category

2265 described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's

2266 status as established by the court at the time of adjudication.

2267 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2268 department shall make rules providing for the allocation of beds to the categories described in

2269 Subsection (2)(a).

- 2270 (3) The department shall:
- 2271 (a) own and operate the forensic mental health facility;
- 2272 (b) provide and supervise administrative and clinical staff; and
- 2273 (c) provide security staff who are trained as psychiatric technicians.
- 2274 (4) Pursuant to Subsection 62A-15-603(3) the executive director shall designate
- 2275 individuals to perform security functions for the state hospital.

2276 Section 32. Section **63H-2-102** is amended to read:

2277 **63H-2-102. Definitions.**

2278 As used in this chapter:

2279 (1) "Authority" means the Utah Generated Renewable Energy Electricity Network
2280 Authority created in Section 63H-2-201.

2281 (2) "Authority bond" means a bond issued by the authority in accordance with Part 4,
2282 Bonding.

2283 (3) "Board" means the board created under Section 63H-2-202.

2284 (4) "Community" means the county, city, or town in which is located a qualifying
2285 transmission project financed by an authority bond.

2286 (5) "Electric interlocal entity" means an interlocal entity defined in Section 11-13-103.

2287 (6) "Independent state agency" is as defined in Section 63E-1-102.

2288 (7) "Public entity" means:

2289 (a) the United States or an agency of the United States;

2290 (b) the state or an agency of the state;

2291 (c) a political subdivision of the state or an agency of a political subdivision of the
2292 state;

2293 (d) another state or an agency of that state; or

2294 (e) a political subdivision of another state or an agency of that political subdivision.

2295 (8) "Qualifying transmission project" means a transmission project approved by the
2296 board in accordance with Part 3, Qualifying Transmission Projects.

2297 (9) "Record" means information that is:

- 2298 (a) inscribed on a tangible medium; or
- 2299 (b) (i) stored in an electronic or other medium; and
- 2300 (ii) retrievable in perceivable form.
- 2301 (10) "Related facility" means a facility related to the effective operation of a
- 2302 transmission line although the facility is not directly a part of a transmission line, including:
- 2303 (a) a substation; or
- 2304 (b) an access road.
- 2305 (11) "Renewable energy source" is as defined in Section 10-19-102.
- 2306 (12) "Transmission project" means a project that is designed to:
- 2307 (a) increase capacity for transmission of electric power or energy to an electric load:
- 2308 (i) within this state; or
- 2309 (ii) outside of the state; or
- 2310 (b) otherwise increase the capability of an existing electric transmission line or related
- 2311 facility to transmit electric power and energy from a renewable energy ~~[resource]~~ source to an
- 2312 electric load:
- 2313 (i) within this state; or
- 2314 (ii) outside of the state.
- 2315 (13) "Wholesale electrical cooperative" is as defined in Section 54-2-1.
- 2316 Section 33. Section **63J-1-602** is amended to read:
- 2317 **63J-1-602. Nonlapsing accounts and funds.**
- 2318 (1) The following revenue collections, appropriations from a fund or account, and
- 2319 appropriations to a program are nonlapsing:
- 2320 (a) appropriations made to the Legislature and its committees;
- 2321 (b) funds collected by the grain grading program, as provided in Section 4-2-2;
- 2322 (c) the Salinity Offset Fund created in Section 4-2-8.5;
- 2323 (d) the Invasive Species Mitigation Fund created in Section 4-2-8.7;
- 2324 (e) funds collected by pesticide dealer license registration fees, as provided in Section
- 2325 4-14-3;

- 2326 (f) funds collected by pesticide applicator business registration fees, as provided in
2327 Section 4-14-13;
- 2328 (g) the Rangeland Improvement Fund created in Section 4-20-2;
- 2329 (h) funds deposited as dedicated credits under the Insect Infestation Emergency
2330 Control Act, as provided in Section 4-35-6;
- 2331 (i) the Percent-for-Art Program created in Section 9-6-404;
- 2332 (j) the Centennial History Fund created in Section 9-8-604;
- 2333 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;
- 2334 (l) the Navajo Revitalization Fund created in Section 9-11-104;
- 2335 (m) the LeRay McAllister Critical Land Conservation Program created in Section
2336 11-38-301;
- 2337 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;
- 2338 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided
2339 in Section 19-6-120;
- 2340 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and
2341 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;
- 2342 (q) award monies under the Crime Reduction Assistance Program, as provided under
2343 Section 24-1-19;
- 2344 (r) funds collected from the emergency medical services grant program, as provided in
2345 Section 26-8a-207;
- 2346 (s) fees and other funding available to purchase training equipment and to administer
2347 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;
- 2348 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the
2349 federal Social Security Act, as provided in Section 26-18-3;
- 2350 (u) the Utah Health Care Workforce Financial Assistance Program created in Section
2351 26-46-102;
- 2352 (v) monies collected from subscription fees for publications prepared or distributed by
2353 the insurance commissioner, as provided in Section 31A-2-208;

- 2354 (w) monies received by the Insurance Department for administering, investigating
2355 under, and enforcing the Insurance Fraud Act, as provided in Section 31A-31-108;
- 2356 (x) certain monies received for penalties paid under the Insurance Fraud Act, as
2357 provided in Section 31A-31-109;
- 2358 (y) the fund for operating the state's Federal Health Care Tax Credit Program, as
2359 provided in Section 31A-38-104;
- 2360 (z) certain funds in the Department of Workforce Services' program for the education,
2361 training, and transitional counseling of displaced homemakers, as provided in Section
2362 35A-3-114;
- 2363 (aa) the Employment Security Administration Fund created in Section 35A-4-505;
- 2364 (bb) the Special Administrative Expense Fund created in Section 35A-4-506;
- 2365 (cc) funding for a new program or agency that is designated as nonlapsing under
2366 Section 36-24-101;
- 2367 (dd) the Oil and Gas Conservation Account created in Section 40-6-14.5;
- 2368 (ee) funds available to the State Tax Commission for purchase and distribution of
2369 license plates and decals, as provided in Section 41-1a-1201;
- 2370 (ff) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
2371 provided in Section 41-1a-1221;
- 2372 (gg) certain fees collected for administering and enforcing the Motor Vehicle Business
2373 Regulation Act, as provided in Section 41-3-601;
- 2374 (hh) certain fees for the cost of electronic payments under the Motor Vehicle Business
2375 Regulation Act, as provided in Section 41-3-604;
- 2376 (ii) the Off-Highway Access and Education Restricted Account created in Section
2377 41-22-19.5;
- 2378 (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
2379 provided in Section 41-22-36;
- 2380 (kk) monies collected under the Notaries Public Reform Act, as provided under
2381 46-1-23;

2382 (ll) certain funds associated with the Law Enforcement Operations Account, as
2383 provided in Section 51-9-411;

2384 (mm) the Public Safety Honoring Heroes Restricted Account created in Section
2385 53-1-118;

2386 (nn) funding for the Search and Rescue Financial Assistance Program, as provided in
2387 Section 53-2-107;

2388 (oo) appropriations made to the Department of Public Safety from the Department of
2389 Public Safety Restricted Account, as provided in Section 53-3-106;

2390 (pp) appropriations to the Motorcycle Rider Education Program, as provided in
2391 Section 53-3-905;

2392 (qq) fees collected by the State Fire Marshal Division under the Utah Fire Prevention
2393 and Safety Act, as provided in Section 53-7-314;

2394 (rr) the DNA Specimen Restricted Account created in Section 53-10-407;

2395 (ss) the minimum school program, as provided in Section 53A-17a-105;

2396 (tt) certain funds appropriated from the Uniform School Fund to the State Board of
2397 Education for new teacher bonus and performance-based compensation plans, as provided in
2398 Section 53A-17a-148;

2399 (uu) certain funds appropriated from the Uniform School Fund to the State Board of
2400 Education for implementation of proposals to improve mathematics achievement test scores,
2401 as provided in Section 53A-17a-152;

2402 (vv) the School Building Revolving Account created in Section 53A-21-401;

2403 (ww) monies received by the State Office of Rehabilitation for the sale of certain
2404 products or services, as provided in Section 53A-24-105;

2405 (xx) the State Board of Regents, as provided in Section 53B-6-104;

2406 (yy) certain funds appropriated from the General Fund to the State Board of Regents
2407 for teacher preparation programs, as provided in Section 53B-6-104;

2408 (zz) a certain portion of monies collected for administrative costs under the School
2409 Institutional Trust Lands Management Act, as provided under Section 53C-3-202;

2410 (aaa) certain surcharges on residence and business telecommunications access lines
2411 imposed by the Public Service Commission, as provided in Section 54-8b-10;

2412 (bbb) certain fines collected by the Division of Occupational and Professional
2413 Licensing for violation of unlawful or unprofessional conduct that are used for education and
2414 enforcement purposes, as provided in Section 58-17b-505;

2415 (ccc) the Nurse Education and Enforcement Fund created in Section 58-31b-103;

2416 (ddd) funding of the controlled substance database, as provided in Section 58-37-7.7;

2417 (eee) the Certified Nurse Midwife Education and Enforcement Fund created in Section
2418 58-44a-103;

2419 (fff) funding for the building inspector's education program, as provided in Section
2420 58-56-9;

2421 (ggg) certain fines collected by the Division of Occupational and Professional
2422 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
2423 provided in Section 58-63-103;

2424 (hhh) the Professional Geologist Education and Enforcement Fund created in Section
2425 58-76-103;

2426 (iii) certain monies in the Water Resources Conservation and Development Fund, as
2427 provided in Section 59-12-103;

2428 (jjj) funds paid to the Division of Real Estate for the cost of a criminal background
2429 check for broker and sales agent licenses, as provided in Section 61-2-9;

2430 (kkk) the Utah Housing Opportunity Restricted Account created in Section 61-2-28;

2431 (III) funds paid to the Division of Real Estate for the cost of a criminal background
2432 check for a mortgage loan license, as provided in Section 61-2c-202;

2433 (mmm) funds paid to the Division of Real Estate in relation to examination of records
2434 in an investigation, as provided in Section 61-2c-401;

2435 (nnn) certain funds donated to the Department of Human Services, as provided in
2436 Section 62A-1-111;

2437 (ooo) certain funds donated to the Division of Child and Family Services, as provided

2438 in Section 62A-4a-110;

2439 ~~[(ppp) the Mental Health Therapist Grant and Scholarship Program, as provided in~~
2440 ~~Section 62A-13-109;]~~

2441 ~~[(qqq)]~~ (ppp) assessments for DUI violations that are forwarded to an account created
2442 by a county treasurer, as provided in Section 62A-15-503;

2443 ~~[(rrr)]~~ (qqq) appropriations to the Division of Services for People with Disabilities, as
2444 provided in Section 62A-5-102;

2445 ~~[(sss)]~~ (rrr) certain donations to the Division of Substance Abuse and Mental Health,
2446 as provided in Section 62A-15-103;

2447 ~~[(ttt)]~~ (sss) certain funds received by the Division of Parks and Recreation from the
2448 sale or disposal of buffalo, as provided under Section 63-11-19.2;

2449 ~~[(uuu)]~~ (ttt) revenue for golf user fees at the Wasatch Mountain State Park, Palisades
2450 State Park, or Jordan River State Park, as provided under Section 63-11-19.5;

2451 ~~[(vvv)]~~ (uuu) revenue for golf user fees at the Green River State Park, as provided
2452 under Section 63-11-19.6;

2453 ~~[(www)]~~ (vvv) the Centennial Nonmotorized Paths and Trail Crossings Program
2454 created under Section 63-11a-503;

2455 ~~[(xxx)]~~ (www) the Bonneville Shoreline Trail Program created under Section
2456 63-11a-504;

2457 ~~[(yyy)]~~ (xxx) the account for the Utah Geological Survey, as provided in Section
2458 63-73-10;

2459 ~~[(zzz)]~~ (yyy) the Risk Management Fund created under Section 63A-4-201;

2460 ~~[(aaaa)]~~ (zzz) the Child Welfare Parental Defense Fund created in Section
2461 63A-11-203;

2462 ~~[(bbbb)]~~ (aaaa) the Constitutional Defense Restricted Account created in Section
2463 63C-4-103;

2464 ~~[(eeee)]~~ (bbbb) a portion of the funds appropriated to the Utah Seismic Safety
2465 Commission, as provided in Section 63C-6-104;

2466 [~~(ddd)~~] (cccc) funding for the Medical Education Program administered by the
2467 Medical Education Council, as provided in Section 63C-8-102;

2468 [~~(eeee)~~] (dddd) certain monies payable for commission expenses of the Pete Suazo
2469 Utah Athletic Commission, as provided under Section 63C-11-301;

2470 [~~(ffff)~~] (eeee) funds collected for publishing the Division of Administrative Rules'
2471 publications, as provided in Section 63G-3-402;

2472 [~~(gggg)~~] (ffff) the appropriation to fund the Governor's Office of Economic
2473 Development's Enterprise Zone Act, as provided in Section 63M-1-416;

2474 [~~(hhhh)~~] (gggg) the Tourism Marketing Performance Account, as provided in Section
2475 63M-1-1406;

2476 [~~(iiii)~~] (hhhh) certain funding for rural development provided to the Office of Rural
2477 Development in the Governor's Office of Economic Development, as provided in Section
2478 63M-1-1604;

2479 [~~(jjjj)~~] (iiii) certain monies in the Development for Disadvantaged Rural Communities
2480 Restricted Account, as provided in Section 63M-1-2003;

2481 [~~(kkkk)~~] (jjjj) appropriations to the Utah Science Technology and Research Governing
2482 Authority, created under Section 63M-2-301, as provided under Section 63M-3-302;

2483 [~~(HHH)~~] (kkkk) certain monies in the Rural Broadband Service Fund, as provided in
2484 Section 63M-1-2303;

2485 [~~(mmmm)~~] (llll) funds collected from monthly offender supervision fees, as provided
2486 in Section 64-13-21.2;

2487 [~~(nnnn)~~] (mmmm) funds collected by the housing of state probationary inmates or
2488 state parole inmates, as provided in Subsection 64-13e-104(2);

2489 [~~(oooo)~~] (nnnn) the Sovereign Lands Management account created in Section
2490 65A-5-1;

2491 [~~(pppp)~~] (oooo) certain forestry and fire control funds utilized by the Division of
2492 Forestry, Fire, and State Lands, as provided in Section 65A-8-103;

2493 [~~(qqqq)~~] (pppp) the Department of Human Resource Management user training

2494 program, as provided in Section 67-19-6;
2495 [~~(rrrr)~~] (qqqq) funds for the University of Utah Poison Control Center program, as
2496 provided in Section 69-2-5.5;
2497 [~~(ssss)~~] (rrrr) appropriations to the Transportation Corridor Preservation Revolving
2498 Loan Fund, as provided in Section 72-2-117;
2499 [~~(tttt)~~] (ssss) appropriations to the Local Transportation Corridor Preservation Fund, as
2500 provided in Section 72-2-117.5;
2501 [~~(uuuu)~~] (tttt) appropriations to the Tollway Restricted Special Revenue Fund, as
2502 provided in Section 77-2-120;
2503 [~~(vvvv)~~] (uuuu) appropriations to the Aeronautics Construction Revolving Loan Fund,
2504 as provided in Section 77-2-122;
2505 [~~(wwww)~~] (vvvv) appropriations to the State Park Access Highways Improvement
2506 Program, as provided in Section 72-3-207;
2507 [~~(xxxx)~~] (wwww) the Traffic Noise Abatement Program created in Section 72-6-112;
2508 [~~(yyyy)~~] (xxxx) certain funds received by the Office of the State Engineer for well
2509 drilling fines or bonds, as provided in Section 73-3-25;
2510 [~~(zzzz)~~] (yyyy) certain monies appropriated to increase the carrying capacity of the
2511 Jordan River that are transferred to the Division of Parks and Recreation, as provided in
2512 Section 73-10e-1;
2513 [~~(aaaa)~~] (zzzz) certain fees for the cost of electronic payments under the State
2514 Boating Act, as provided in Section 73-18-25;
2515 [~~(bbbb)~~] (aaaa) certain monies appropriated from the Water Resources Conservation
2516 and Development Fund, as provided in Section 73-23-2;
2517 [~~(eeee)~~] (bbbb) the Lake Powell Pipeline Project Operation and Maintenance Fund
2518 created in Section 73-28-404;
2519 [~~(ddd)~~] (cccc) certain funds in the Water Development and Flood Mitigation
2520 Reserve Account, as provided in Section 73-103-1;
2521 [~~(eeee)~~] (dddd) certain funds appropriated for compensation for special prosecutors,

2522 as provided in Section 77-10a-19;

2523 [(ffff)] (eeee) the Indigent Aggravated Murder Defense Trust Fund created in
2524 Section 77-32-601;

2525 [(ggggg)] (ffff) the Indigent Felony Defense Trust Fund created in Section 77-32-701;
2526 [(hhhh)] (ggggg) funds donated or paid to a juvenile court by private sources, as
2527 provided in Subsection 78A-6-203(c);

2528 [(iiii)] (hhhhh) a state rehabilitative employment program, as provided in Section
2529 78A-6-210; and

2530 [(jjjj)] (iiii) fees from the issuance and renewal of licenses for certified court
2531 interpreters, as provided in Section 78B-1-146.

2532 (2) No revenue collection, appropriation from a fund or account, or appropriation to a
2533 program may be treated as nonlapsing unless:

2534 (a) it is expressly referenced by this section;

2535 (b) it is designated in a condition of appropriation in the appropriations bill; or

2536 (c) nonlapsing authority is granted under Section 63J-1-603.

2537 (3) Each legislative appropriations subcommittee shall review the accounts and funds
2538 that have been granted nonlapsing authority under this section or Section 63J-1-603.

2539 Section 34. Section **63M-1-1502** is amended to read:

2540 **63M-1-1502. Definitions.**

2541 As used in this part:

2542 (1) "Advisory board" means the Utah Pioneer Communities [~~Program~~] Advisory
2543 Board created in Section 63M-1-1503 within the office.

2544 (2) "Community" means a city, county, town, or any combination of these.

2545 (3) "Revitalization" means the process of engaging in activities to increase economic
2546 activity while preserving and building upon a location's historically significant characteristics.

2547 Section 35. Section **67-1a-6.5** is amended to read:

2548 **67-1a-6.5. Certification of local entity boundary actions.**

2549 (1) As used in this section:

- 2550 (a) "Applicable certificate" means:
- 2551 (i) for the impending incorporation of a city, town, local district, or conservation
2552 district, a certificate of incorporation;
- 2553 (ii) for the impending creation of a county, school district, special service district,
2554 community development and renewal agency, or interlocal entity, a certificate of creation;
- 2555 (iii) for the impending annexation of territory to an existing local entity, a certificate
2556 of annexation;
- 2557 (iv) for the impending withdrawal or disconnection of territory from an existing local
2558 entity, a certificate of withdrawal or disconnection, respectively;
- 2559 (v) for the impending consolidation of multiple local entities, a certificate of
2560 consolidation;
- 2561 (vi) for the impending division of a local entity into multiple local entities, a certificate
2562 of division;
- 2563 (vii) for the impending adjustment of a common boundary between local entities, a
2564 certificate of boundary adjustment; and
- 2565 (viii) for the impending dissolution of a local entity, a certificate of dissolution.
- 2566 (b) "Approved final local entity plat" means a final local entity plat, as defined in
2567 Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by
2568 the county surveyor.
- 2569 (c) "Approving authority" has the same meaning as defined in Section 17-23-20.
- 2570 (d) "Boundary action" has the same meaning as defined in Section 17-23-20.
- 2571 (e) "Center" means the Automated Geographic Reference Center created under Section
2572 63F-1-506.
- 2573 (f) "Community development and renewal agency" has the same meaning as defined
2574 in Section 17C-1-102.
- 2575 (g) "Conservation district" has the same meaning as defined in Section 17D-3-102.
- 2576 (h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.
- 2577 (i) "Local district" has the same meaning as defined in Section 17B-1-102.

2578 (j) "Local entity" means a county, city, town, school district, local district, community
2579 development and renewal agency, special service district, conservation district, or interlocal
2580 entity.

2581 (k) "Notice of an impending boundary action" means a written notice, as described in
2582 Subsection (3), that provides notice of an impending boundary action.

2583 (l) "Special service district" has the same meaning as defined in Section 17D-1-102.

2584 (2) Within 10 days after receiving a notice of an impending boundary action, the
2585 lieutenant governor shall:

2586 (a) (i) issue the applicable certificate, if:

2587 (A) the lieutenant governor determines that the notice of an impending boundary
2588 action meets the requirements of Subsection (3); and

2589 (B) except in the case of an impending local entity dissolution, the notice of an
2590 impending boundary action is accompanied by an approved final local entity plat;

2591 (ii) send the applicable certificate to the local entity's approving authority;

2592 (iii) return the original of the approved final local entity plat to the local entity's
2593 approving authority;

2594 (iv) send a copy of the applicable certificate and approved final local entity plat to:

2595 (A) the State Tax Commission;

2596 (B) the center; and

2597 (C) the county assessor, county surveyor, county auditor, and county attorney of each
2598 county in which the property depicted on the approved final local entity plat is located; and

2599 (v) send a copy of the applicable certificate to the state auditor, if the boundary action
2600 that is the subject of the applicable certificate is:

2601 (A) the incorporation or creation of a new local entity;

2602 (B) the consolidation of multiple local entities;

2603 (C) the division of a local entity into multiple local entities; or

2604 (D) the dissolution of a local entity; or

2605 (b) (i) send written notification to the approving authority that the lieutenant governor

2606 is unable to issue the applicable certificate, if:

2607 (A) the lieutenant governor determines that the notice of an impending boundary
2608 action does not meet the requirements of Subsection (3); or

2609 (B) the notice of an impending boundary action is:

2610 (I) not accompanied by an approved final local entity plat; or

2611 (II) accompanied by a plat or final local entity plat that has not been [~~certified~~
2612 approved as a final local entity plat by the county surveyor under Section 17-23-20; and

2613 (ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor
2614 is unable to issue the applicable certificate.

2615 (3) Each notice of an impending boundary action shall:

2616 (a) be directed to the lieutenant governor;

2617 (b) contain the name of the local entity or, in the case of an incorporation or creation,
2618 future local entity, whose boundary is affected or established by the boundary action;

2619 (c) describe the type of boundary action for which an applicable certificate is sought;
2620 and

2621 (d) (i) contain a statement, signed and verified by the approving authority, certifying
2622 that all requirements applicable to the boundary action have been met; or

2623 (ii) in the case of the dissolution of a municipality, be accompanied by a certified copy
2624 of the court order approving the dissolution of the municipality.

2625 (4) The lieutenant governor may require the approving authority to submit a paper or
2626 electronic copy of a notice of an impending boundary action and approved final local entity
2627 plat in conjunction with the filing of the original of those documents.

2628 (5) (a) The lieutenant governor shall:

2629 (i) keep, index, maintain, and make available to the public each notice of an
2630 impending boundary action, approved final local entity plat, applicable certificate, and other
2631 document that the lieutenant governor receives or generates under this section;

2632 (ii) make a copy of each document listed in Subsection (5)(a)(i) available on the
2633 Internet for 12 months after the lieutenant governor receives or generates the document;

2634 (iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any
2635 person who requests a paper copy; and

2636 (iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to
2637 any person who requests a certified copy.

2638 (b) The lieutenant governor may charge a reasonable fee for a paper copy or certified
2639 copy of a document that the lieutenant governor provides under this Subsection (5).

2640 Section 36. Section **67-4a-102 (Effective 07/01/11)** is amended to read:

2641 **67-4a-102 (Effective 07/01/11). Definitions.**

2642 As used in this chapter:

2643 (1) "Administrator" means the deputy state treasurer assigned by the state treasurer to
2644 administer the law governing unclaimed property in Utah.

2645 (2) "Apparent owner" means the person whose name appears on the records of the
2646 holder as the person entitled to property held, issued, or owing by the holder.

2647 (3) (a) "Bank draft" means a check, draft, or similar instrument on which a banking or
2648 financial organization is directly liable.

2649 (b) "Bank draft" includes:

2650 (i) a cashier's check; and

2651 (ii) a certified check.

2652 (c) "Bank draft" does not include:

2653 (i) a traveler's check; or

2654 (ii) a money order.

2655 (4) "Banking organization" means:

2656 (a) a bank;

2657 (b) an industrial bank;

2658 (c) a trust company;

2659 (d) a savings bank; or

2660 (e) any organization defined by other law as a bank or banking organization.

2661 (5) "Business association" means a nonpublic corporation, joint stock company,

2662 investment company, business trust, partnership, or association for business purposes of two
2663 or more individuals, whether or not for profit, including:

- 2664 (a) a banking organization;
- 2665 (b) a financial organization;
- 2666 (c) an insurance company; or
- 2667 (d) a utility.

2668 (6) "Cashier's check" means a check that:

- 2669 (a) is drawn by a banking organization on itself;
- 2670 (b) is signed by an officer of the banking organization; and
- 2671 (c) authorizes payment of the amount shown on its face to the payee.

2672 (7) "Class action" means a legal action:

- 2673 (a) certified by the court as a class action; or
- 2674 (b) treated by the court as a class action without being formally certified as a class
2675 action.

2676 (8) (a) "Deposit in a financial institution" means a demand, savings, or matured time
2677 deposit with a banking or financial organization.

2678 (b) "Deposit in a financial institution" includes:

- 2679 (i) any interest or dividends on a deposit; and
- 2680 (ii) a deposit that is automatically renewable.

2681 (9) "Domicile" means:

- 2682 (a) the state of incorporation of a corporation; and
- 2683 (b) the state of the principal place of business of an unincorporated person.

2684 (10) "Financial organization" means:

- 2685 (a) a savings and loan association; or
- 2686 (b) a credit union.

2687 (11) "Gift card" means a payment device such as a plastic card that:

- 2688 (a) is usable at:
 - 2689 (i) a single merchant;

- 2690 (ii) an affiliated group of merchants; or
- 2691 (iii) multiple, unaffiliated merchants;
- 2692 (b) contains a means for the electronic storage of information including:
- 2693 (i) a microprocessor chip;
- 2694 (ii) a magnetic stripe; or
- 2695 (iii) a bar code;
- 2696 (c) is prefunded before it is used, whether or not monies may be added to the payment
- 2697 device after it is used; and
- 2698 (d) is redeemable for goods or services.
- 2699 (12) "Government entity" means:
- 2700 (a) the state;
- 2701 (b) an administrative unit of the state;
- 2702 (c) a political subdivision of the state;
- 2703 (d) an administrative unit of a political subdivision of the state; or
- 2704 (e) an officer or employee of an entity described in Subsections (12)(a) through (d).
- 2705 (13) "Holder" means a person, wherever organized or domiciled, who is:
- 2706 (a) in possession of property belonging to another;
- 2707 (b) a trustee;
- 2708 (c) indebted to another on an obligation; or
- 2709 (d) charged with the duty of paying or delivering intangible property under Section
- 2710 67-4a-302.
- 2711 (14) "Insurance company" means an association, corporation, fraternal or mutual
- 2712 benefit organization, whether or not for profit, that is engaged in providing insurance
- 2713 coverage, including:
- 2714 (a) accident insurance;
- 2715 (b) burial insurance;
- 2716 (c) casualty insurance;
- 2717 (d) credit life insurance;

- 2718 (e) contract performance insurance;
- 2719 (f) dental insurance;
- 2720 (g) fidelity insurance;
- 2721 (h) fire insurance;
- 2722 (i) health insurance;
- 2723 (j) hospitalization insurance;
- 2724 (k) illness insurance;
- 2725 (l) life insurance, including endowments and annuities;
- 2726 (m) malpractice insurance;
- 2727 (n) marine insurance;
- 2728 (o) mortgage insurance;
- 2729 (p) surety insurance; and
- 2730 (q) wage protection insurance.
- 2731 (15) (a) "Intangible property" includes:
- 2732 (i) money, a check, a draft, a deposit in a financial institution, interest, a dividend, and
- 2733 income;
- 2734 (ii) a credit balance, a customer ~~[payment]~~ overpayment, a security deposit, a refund,
- 2735 unpaid wages, an unused airline ticket, and an unidentified remittance;
- 2736 (iii) a stock, a mutual fund, and other intangible ownership interests in a business
- 2737 association;
- 2738 (iv) monies deposited to redeem a stock, bond, or coupon, and other securities or to
- 2739 make a distribution;
- 2740 (v) a bond, note, and any other debt obligation;
- 2741 (vi) an amount due and payable under the terms of an insurance policy;
- 2742 (vii) an amount distributable from a trust or custodial fund established under a plan to
- 2743 provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit
- 2744 sharing, employee savings, supplemental unemployment insurance or similar benefits; and
- 2745 (viii) an amount distributable from a mineral interest in land.

2746 (b) "Intangible property" does not include patronage capital of an electric, telephone,
2747 and agricultural cooperative.

2748 (16) "Last-known address" means a description of the location of the apparent owner
2749 sufficient for the purpose of the delivery of mail.

2750 (17) "Mineral" means oil, gas, uranium, sulphur, lignite, coal, and any other substance
2751 that is ordinarily and naturally considered a mineral, regardless of the depth at which the oil,
2752 gas, uranium, sulphur, lignite, coal, or other substance is found.

2753 (18) "Mineral proceeds" includes:

2754 (a) all obligations to pay resulting from the production and sale of minerals, including:

2755 (i) net revenue interest;

2756 (ii) royalties;

2757 (iii) overriding royalties;

2758 (iv) production payments; and

2759 (v) joint operating agreements; and

2760 (b) all obligations for the acquisition and retention of a mineral lease, including:

2761 (i) bonuses;

2762 (ii) delay rentals;

2763 (iii) shut-in royalties; and

2764 (iv) minimum royalties.

2765 (19) (a) "Money order" means a negotiable draft issued by a business association for
2766 which the business association is not directly liable.

2767 (b) "Money order" does not mean a cashier's check.

2768 (20) "Net intangible property" means intangible property that is held, issued, or owing
2769 in the ordinary course of a holder's business:

2770 (a) plus any income or increment derived from the intangible property; and

2771 (b) less any lawful charges.

2772 (21) "Owner" means:

2773 (a) a depositor in the case of a deposit;

- 2774 (b) a beneficiary in the case of a trust other than a deposit in trust;
- 2775 (c) a creditor, claimant, or payee in the case of other intangible property; or
- 2776 (d) a person or that person's legal representative having a legal or equitable interest in
- 2777 property subject to this chapter.

2778 (22) (a) "Ownership purchase funds" means any funds paid toward the purchase of a

2779 share, a mutual investment certificate, or any other interest in a banking or financial

2780 organization.

2781 (b) "Ownership purchase funds" includes any interest or dividends paid on those

2782 funds.

2783 (23) "Person" means:

- 2784 (a) an individual;
- 2785 (b) a business association;
- 2786 (c) a government entity;
- 2787 (d) a public corporation;
- 2788 (e) a public authority;
- 2789 (f) an estate;
- 2790 (g) a trust;
- 2791 (h) two or more persons having a joint or common interest; or
- 2792 (i) any other legal or commercial entity.

2793 (24) "State" means any state, district, commonwealth, territory, insular possession, or

2794 any other area subject to the legislative authority of the United States.

2795 (25) "Utility" means a person who owns or operates for public use any plant,

2796 equipment, property, franchise, or license for:

- 2797 (a) the transmission of communications, including cable television; or
- 2798 (b) the production, storage, transmission, sale, delivery, or furnishing of electricity,
- 2799 water, steam, or gas.

2800 Section 37. Section **76-5-404** is amended to read:

2801 **76-5-404. Forcible sexual abuse.**

2802 (1) A person commits forcible sexual abuse if the victim is 14 years of age or older
2803 and, under circumstances not amounting to rape, object rape, sodomy, or attempted rape or
2804 sodomy, the actor touches the anus, buttocks, or any part of the genitals of another, or touches
2805 the breast of a female, or otherwise takes indecent liberties with another, or causes another to
2806 take indecent liberties with the actor or another, with intent to cause substantial emotional or
2807 bodily pain to any person or with the intent to arouse or gratify the sexual desire of any person,
2808 without the consent of the other, regardless of the sex of any participant.

2809 (2) Forcible sexual abuse is:

2810 (a) except as provided in Subsection (2)(b), a felony of the second degree, punishable
2811 by a term of imprisonment of not less than one year nor more than 15 years; or

2812 (b) except as provided in Subsection (3), a felony of the first degree, punishable by a
2813 term of imprisonment for 15 years and which may be for life, if the trier of fact finds that
2814 during the course of the commission of the forcible sexual abuse the defendant caused serious
2815 bodily injury to another.

2816 (3) If, when imposing a sentence under Subsection (2)(b), a court finds that a lesser
2817 term than the term described in Subsection (2)(b) is in the interests of justice and states the
2818 reasons for this finding on the record, the court may impose a term of imprisonment of not less
2819 than:

2820 (a) 10 years and which may be for life; or

2821 (b) six years and which may be for life.

2822 (4) Imprisonment under Subsection (2)(b) or (3) is mandatory in accordance with
2823 Section 76-3-406.

2824 Section 38. Section **77-36-1** is amended to read:

2825 **77-36-1. Definitions.**

2826 As used in this chapter:

2827 (1) "Cohabitant" has the same meaning as in Section 78B-7-102.

2828 (2) "Department" means the Department of Public Safety.

2829 (3) "Divorced" means an individual who has obtained a divorce under Title 30,

2830 Chapter 3, Divorce.

2831 (4) "Domestic violence" means any criminal offense involving violence or physical
2832 harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to
2833 commit a criminal offense involving violence or physical harm, when committed by one
2834 cohabitant against another. "Domestic violence" also means commission or attempt to
2835 commit, any of the following offenses by one cohabitant against another:

2836 (a) aggravated assault, as described in Section 76-5-103;

2837 (b) assault, as described in Section 76-5-102;

2838 (c) criminal homicide, as described in Section 76-5-201;

2839 (d) harassment, as described in Section 76-5-106;

2840 (e) electronic communication harassment, as described in Section 76-9-201;

2841 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
2842 76-5-301, 76-5-301.1, and 76-5-302;

2843 (g) mayhem, as described in Section 76-5-105;

2844 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
2845 Title 76, Chapter 5a, Sexual Exploitation of Children;

2846 (i) stalking, as described in Section 76-5-106.5;

2847 (j) unlawful detention, as described in Section 76-5-304;

2848 (k) violation of a protective order or ex parte protective order, as described in Section
2849 76-5-108;

2850 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
2851 Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

2852 (m) possession of a deadly weapon with intent to assault, as described in Section
2853 76-10-507;

2854 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
2855 person, building, or vehicle, as described in Section 76-10-508;

2856 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly
2857 conduct is the result of a plea agreement in which the defendant was originally charged with

2858 any of the domestic violence offenses otherwise described in this Subsection [~~(2)~~] (4).
 2859 Conviction of disorderly conduct as a domestic violence offense, in the manner described in
 2860 this Subsection [~~(2)~~] (4)(o), does not constitute a misdemeanor crime of domestic violence
 2861 under 18 U.S.C. Section 921, and is exempt from the provisions of the federal Firearms Act,
 2862 18 U.S.C. Section 921 et seq.; or

2863 (p) child abuse as described in Section 76-5-109.1.

2864 (5) "Marital status" means married and living together, divorced, separated, or not
 2865 married.

2866 (6) "Married and living together" means a man and a woman whose marriage was
 2867 solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

2868 (7) "Not married" means any living arrangement other than married and living
 2869 together, divorced, or separated.

2870 (8) "Separated" means a man and a woman who have had their marriage solemnized
 2871 under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

2872 (9) "Victim" means a cohabitant who has been subjected to domestic violence.

2873 Section 39. Section **78A-6-702** is amended to read:

2874 **78A-6-702. Serious youth offender -- Procedure.**

2875 (1) Any action filed by a county attorney, district attorney, or attorney general
 2876 charging a minor 16 years of age or older with a felony shall be by criminal information and
 2877 filed in the juvenile court if the information charges any of the following offenses:

2878 (a) any felony violation of:

2879 (i) Section 76-6-103, aggravated arson;

2880 (ii) Subsection 76-5-103(1)(a), aggravated assault, involving intentionally causing
 2881 serious bodily injury to another;

2882 (iii) Section 76-5-302, aggravated kidnaping;

2883 (iv) Section 76-6-203, aggravated burglary;

2884 (v) Section 76-6-302, aggravated robbery;

2885 (vi) Section 76-5-405, aggravated sexual assault;

2886 (vii) Section ~~[76-10-508]~~ 76-10-508.1, felony discharge of a firearm ~~[from a vehicle]~~;

2887 (viii) Section 76-5-202, attempted aggravated murder; or

2888 (ix) Section 76-5-203, attempted murder; or

2889 (b) an offense other than those listed in Subsection (1)(a) involving the use of a
2890 dangerous weapon which would be a felony if committed by an adult, and the minor has been
2891 previously adjudicated or convicted of an offense involving the use of a dangerous weapon
2892 which also would have been a felony if committed by an adult.

2893 (2) All proceedings before the juvenile court related to charges filed under Subsection
2894 (1) shall be conducted in conformity with the rules established by the Utah Supreme Court.

2895 (3) (a) If the information alleges the violation of a felony listed in Subsection (1), the
2896 state shall have the burden of going forward with its case and the burden of proof to establish
2897 probable cause to believe that one of the crimes listed in Subsection (1) has been committed
2898 and that the defendant committed it. If proceeding under Subsection (1)(b), the state shall
2899 have the additional burden of proving by a preponderance of the evidence that the defendant
2900 has previously been adjudicated or convicted of an offense involving the use of a dangerous
2901 weapon.

2902 (b) If the juvenile court judge finds the state has met its burden under this Subsection
2903 (3), the court shall order that the defendant be bound over and held to answer in the district
2904 court in the same manner as an adult unless the juvenile court judge finds that all of the
2905 following conditions exist:

2906 (i) the minor has not been previously adjudicated delinquent for an offense involving
2907 the use of a dangerous weapon which would be a felony if committed by an adult;

2908 (ii) that if the offense was committed with one or more other persons, the minor
2909 appears to have a lesser degree of culpability than the codefendants; and

2910 (iii) that the minor's role in the offense was not committed in a violent, aggressive, or
2911 premeditated manner.

2912 (c) Once the state has met its burden under this Subsection (3) as to a showing of
2913 probable cause, the defendant shall have the burden of going forward and presenting evidence

2914 as to the existence of the above conditions.

2915 (d) If the juvenile court judge finds by clear and convincing evidence that all the
2916 above conditions are satisfied, the court shall so state in its findings and order the minor held
2917 for trial as a minor and shall proceed upon the information as though it were a juvenile
2918 petition.

2919 (4) If the juvenile court judge finds that an offense has been committed, but that the
2920 state has not met its burden of proving the other criteria needed to bind the defendant over
2921 under Subsection (1), the juvenile court judge shall order the defendant held for trial as a
2922 minor and shall proceed upon the information as though it were a juvenile petition.

2923 (5) At the time of a bind over to district court a criminal warrant of arrest shall issue.
2924 The defendant shall have the same right to bail as any other criminal defendant and shall be
2925 advised of that right by the juvenile court judge. The juvenile court shall set initial bail in
2926 accordance with Title 77, Chapter 20, Bail.

2927 (6) If an indictment is returned by a grand jury charging a violation under this section,
2928 the preliminary examination held by the juvenile court judge need not include a finding of
2929 probable cause that the crime alleged in the indictment was committed and that the defendant
2930 committed it, but the juvenile court shall proceed in accordance with this section regarding the
2931 additional considerations listed in Subsection (3)(b).

2932 (7) When a defendant is charged with multiple criminal offenses in the same
2933 information or indictment and is bound over to answer in the district court for one or more
2934 charges under this section, other offenses arising from the same criminal episode and any
2935 subsequent misdemeanors or felonies charged against him shall be considered together with
2936 those charges, and where the court finds probable cause to believe that those crimes have been
2937 committed and that the defendant committed them, the defendant shall also be bound over to
2938 the district court to answer for those charges.

2939 (8) A minor who is bound over to answer as an adult in the district court under this
2940 section or on whom an indictment has been returned by a grand jury is not entitled to a
2941 preliminary examination in the district court.

2942 (9) Allegations contained in the indictment or information that the defendant has
2943 previously been adjudicated or convicted of an offense involving the use of a dangerous
2944 weapon, or is 16 years of age or older, are not elements of the criminal offense and do not need
2945 to be proven at trial in the district court.

2946 (10) If a minor enters a plea to, or is found guilty of, any of the charges filed or any
2947 other offense arising from the same criminal episode, the district court retains jurisdiction over
2948 the minor for all purposes, including sentencing.

2949 (11) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice
2950 Services regain jurisdiction and any authority previously exercised over the minor when there
2951 is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

2952 Section 40. Section **78B-4-102** is amended to read:

2953 **78B-4-102. Liability protection for volunteers -- Exceptions.**

2954 (1) Except as provided in Subsection (2), no volunteer providing services for a
2955 nonprofit organization incurs any legal liability for any act or omission of the volunteer while
2956 providing services for the nonprofit organization and no volunteer incurs any personal
2957 financial liability for any tort claim or other action seeking damage for an injury arising from
2958 any act or omission of the volunteer while providing services for the nonprofit organization if:

2959 (a) the individual was acting in good faith and reasonably believed he was acting
2960 within the scope of his official functions and duties with the nonprofit organization; and

2961 (b) the damage or injury was not caused by an intentional or knowing act by the
2962 volunteer which constitutes illegal, willful, or wanton misconduct.

2963 (2) The protection against volunteer liability provided by this section does not apply:

2964 (a) to injuries resulting from a volunteer's operation of a motor vehicle, a vessel,
2965 aircraft or other vehicle for which a pilot or operator's license is required;

2966 (b) when a suit is brought by an authorized officer of a state or local government to
2967 enforce a federal, state, or local law; or

2968 (c) where the nonprofit organization for which the volunteer is working fails to
2969 provide a financially secure source of recovery for individuals who suffer injuries as a result of

2970 actions taken by the volunteer on behalf of the nonprofit organization.

2971 (3) Nothing in this section shall bar an action by a volunteer against an organization,
2972 its officers, or other persons who intentionally or knowingly misrepresent that a financially
2973 secure source of recovery does or will exist during a period when such a source does not or
2974 will not in fact exist.

2975 (4) Nothing in this section shall be construed to place a duty upon a nonprofit
2976 organization to provide a financially secure source of recovery.

2977 (5) The granting of immunity from liability to a volunteer under this section does not
2978 [~~effect~~] affect the liability of the nonprofit organization providing the financially secure source
2979 of recovery.

2980 Section 41. Section **78B-4-514** is amended to read:

2981 **78B-4-514. Definitions -- Immunity for architects and engineers during**
2982 **emergencies.**

2983 (1) As used in this section:

2984 (a) "Architect" means a person licensed in accordance with Title 58, Chapter 3a,
2985 Architects Licensing Act.

2986 (b) "Declared state of emergency" means a state of emergency declared by the
2987 governor of this state or by the chief executive officer of a political subdivision, in accordance
2988 with Title [~~63A~~] 63K, Chapter 4, Disaster Response and Recovery Act.

2989 (c) "Professional engineer" means a person licensed in accordance with Title 58,
2990 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

2991 (d) "Public official" means an appointed or elected federal, state, or local official,
2992 including building inspectors and police and fire chiefs, acting within the scope and
2993 jurisdiction of [~~their~~] the official's authority during a declared emergency.

2994 (2) An architect or professional engineer, acting in good faith and within the scope of
2995 [~~their~~] his or her respective [~~licenses~~] license, is not liable for:

2996 (a) any acts, errors, or omissions; or

2997 (b) personal injury, wrongful death, property damage, or any other loss arising from

2998 architectural or engineering services provided by the architect or engineer:

2999 (i) as a non-paid volunteer at the request of a public official; and

3000 (ii) during, or for 90 days following, a declared state of emergency.

3001 (3) Nothing in Subsection (2) shall be construed to provide immunity to an architect

3002 or engineer for architectural or engineering services that are not within the scope of licensure.

3003 Section 42. Section **79-2-402** is amended to read:

3004 **79-2-402. Outdoor recreation facilities -- Participation in federal programs --**

3005 **Comprehensive plan.**

3006 (1) The executive director may, by following the procedures and requirements of Title

3007 63J, Chapter 5, Federal Funds Procedures Act, seek a federal grant or loan or participation in a

3008 federal program to plan and develop an outdoor recreation resource, including:

3009 (a) acquiring land or water; or

3010 (b) acquiring an interest in land or water.

3011 (2) (a) The executive director, in cooperation with the state planning coordinator and

3012 the state agency or political subdivision responsible for planning, acquisition, and

3013 development of outdoor recreation resources, may prepare, maintain, and update a

3014 comprehensive plan for the outdoor recreation resources of the state.

3015 (b) The executive director shall submit the plan and any plan amendment to the

3016 governor for the governor's review and approval.

3017 (3) By following the procedures and requirements of Title 63J, Chapter 5, Federal

3018 Funds Procedures Act, the executive director may:

3019 (a) apply to a United States [~~officer or~~] agency for participation in or the receipt of aid

3020 from a federal program regarding outdoor recreation;

3021 (b) in cooperation with other state agencies, enter into a contract or agreement with the

3022 United States or a United States agency;

3023 (c) keep financial and other records; and

3024 (d) furnish necessary reports to the United States official or agency.

3025 (4) In connection with obtaining the benefits of an outdoor recreation program, the

3026 executive director shall coordinate the department's activities with and represent the interests
3027 of all state agencies and political subdivisions having an interest in the planning, development,
3028 and maintenance of the outdoor recreation resource or facility.

3029 (5) The department may act as the agent of the state or a political subdivision to
3030 receive and to disburse federal money in accordance with the comprehensive plan.

3031 (6) The executive director may not make a commitment or enter into an agreement as
3032 authorized by this section and neither shall the governor approve a commitment or agreement
3033 unless sufficient funds are available to the department for meeting the state's share, if any, of
3034 project costs.

3035 (7) To the extent necessary to assure the proper operation and maintenance of areas
3036 and facilities acquired or developed pursuant to a program participated in by the state under
3037 this section, the areas and facilities shall be publicly maintained for outdoor recreation
3038 purposes.

3039 (8) The executive director may enter into and administer an agreement with the United
3040 States or a United States agency with the governor's approval for planning, acquisition, and
3041 development projects involving participating federal-aid funds on behalf of a political
3042 subdivision, if the political subdivision gives necessary assurance to the executive director
3043 that:

3044 (a) the political subdivision has available sufficient funds to meet the political
3045 subdivision's share, if any, of the cost of the project; and

3046 (b) the political subdivision will operate and maintain an acquired or developed area at
3047 the expense of the political subdivision for public outdoor recreation use.

3048 **Section 43. Repealer.**

3049 This bill repeals:

3050 **Section 26-8a-209, Fully automated external defibrillator statewide database.**

3051 **Section 44. Effective date.**

3052 This bill takes effect on May 11, 2010, except that the amendments to Section
3053 67-4a-102 (Effective 07/01/11) take effect on July 1, 2011.

3054