

REVISOR'S STATUTE

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: Ben C. Ferry

LONG TITLE

General Description:

This bill modifies parts of the Utah Code to make technical corrections including eliminating references to repealed provisions, making minor wording changes, updating cross references, and correcting numbering.

Highlighted Provisions:

This bill:

- ▶ modifies parts of the Utah Code to make technical corrections including eliminating references to repealed provisions, making minor wording changes, updating cross references, correcting numbering, and fixing errors that were created from the previous year's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

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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

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 city

90 recorder or town clerk's certification of the annexation petition under Subsection 10-2-405(2)
91 (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 the
95 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) and
122 (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 body
143 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 area
157 that is partly or entirely within a township, the municipal legislative body shall send notice of
158 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 C.F.R.
- 196 [~~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 (l) 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 not
- 203 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 (1)(e).
- 207 (3) An institution, branch, extension, or facility operating within the state that is
- 208 affiliated with an institution operating in another state must be separately approved by the
- 209 affiliate's regional or national accrediting agency to qualify for the exemption described in
- 210 Subsection (1)(e).
- 211 (4) For purposes of Subsection (1)(f), a business organization, trade or professional
- 212 association, fraternal society, or labor union is considered to be conducting the course
- 213 predominantly for bona fide employees or members if it hires a majority of the persons who:

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

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

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

218 **13-34-114. Consent to use of educational terms in business names.**

219 (1) For purposes of this section:

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

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

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

224 (iii) Section 16-11-16;

225 (iv) Section 42-2-6.6;

226 (v) Section 48-2a-102; or

227 (vi) Section 48-2c-106.

228 (b) "Educational term" means the term:

229 (i) "university";

230 (ii) "college"; or

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

232 (2) If a statute listed in Subsection (1)(a) requires the written consent of the division to
233 file a business name with the Division of Corporations and Commercial Code that includes an
234 educational term, the division may consent to the use of an educational term in accordance with
235 this statute.

236 (3) The division shall consent to the use of an educational term in a business name if
237 the person seeking to file the name:

238 (a) is registered under this chapter;

239 (b) is exempt from the chapter under Section 13-34-105; or

240 (c) (i) is not engaged in educational activities; and

241 (ii) does not represent that it is engaged in educational activities.

242 (4) The division may withhold consent to use of an educational term in a business
243 name if the person seeking to file the name:

244 (a) offers, sells, or awards a degree or any other type of educational credential; and

245 (b) fails to provide bona fide instruction through student-faculty interaction according
246 to the standards and criteria established by the division under Subsection 13-34-104(5).

247 Section 4. Section **13-42-111** is amended to read:

248 **13-42-111. Renewal of registration.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

305 (b) A waiver or reduction in insurance requirements allowed by the administrator under
306 Subsection (6)(a) shall balance the reduction in risk posed by a provider meeting the stated

307 requirements against any continued need for insurance against employee and director
308 dishonesty.

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

310 **16-6a-401. Corporate name.**

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

312 (a) may, but need not contain:

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

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

315 (b) may not contain any word or phrase that indicates or implies that it is organized for
316 any purpose other than one or more of the purposes contained in Section 16-6a-301 and its
317 articles of incorporation;

318 (c) except as authorized by the division under Subsection (2), shall be distinguishable,
319 as defined in Section 16-10a-401, from:

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

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

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

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

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

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

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

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

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

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

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

334 (d) shall be, for purposes of recordation, either translated into English or transliterated
335 into letters of the English alphabet if it is not in English;

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

- 338 (i) "Olympic";
- 339 (ii) "Olympiad"; or
- 340 (iii) "Citius Altius Fortius"; and
- 341 (f) without the written consent of the Division of Consumer Protection issued in
- 342 accordance with Section 13-34-114, may not contain the words:
 - 343 (i) "university";
 - 344 (ii) "college"; or
 - 345 (iii) "institute" or "institution."
- 346 (2) The division may authorize the use of the name applied for if:
 - 347 (a) the name is distinguishable from one or more of the names and trademarks
 - 348 described in Subsection (1)(c) that are on the division's records; or
 - 349 (b) if the applicant delivers to the division a certified copy of the final judgment of a
 - 350 court of competent jurisdiction establishing the applicant's right to use the name applied for in
 - 351 this state registered or reserved with the division pursuant to the laws of this state.
- 352 (3) A nonprofit corporation may use the name of another domestic or foreign
- 353 corporation that is used in this state if:
 - 354 (a) the other corporation is incorporated or authorized to conduct affairs in this state;
 - 355 and
 - 356 (b) the proposed user corporation:
 - 357 (i) has merged with the other corporation;
 - 358 (ii) has been formed by reorganization of the other corporation; or
 - 359 (iii) has acquired all or substantially all of the assets, including the corporate name, of
 - 360 the other corporation.
- 361 (4) (a) A nonprofit corporation may apply to the division for authorization to file its
- 362 articles of incorporation under, or to register or reserve, a name that is not distinguishable upon
- 363 the division's records from one or more of the names described in Subsection (1).
 - 364 (b) The division shall approve the application filed under Subsection (4)(a) if:
 - 365 (i) the other person whose name is not distinguishable from the name under which the
 - 366 applicant desires to file, or which the applicant desires to register or reserve:
 - 367 (A) consents to the filing, registration, or reservation in writing; and
 - 368 (B) submits an undertaking in a form satisfactory to the division to change its name to

369 a name that is distinguishable from the name of the applicant; or

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

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

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

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

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

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

379 **16-6a-1603. Scope of inspection right.**

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

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

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

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

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

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

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

394 **16-10a-401. Corporate name.**

395 (1) The name of a corporation:

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

398 (i) the word:

399 (A) "corporation";

400 (B) "incorporated"; or
401 (C) "company";
402 (ii) the abbreviation:
403 (A) "corp.";
404 (B) "inc."; or
405 (C) "co."; or
406 (iii) words or abbreviations of like import to the words or abbreviations listed in
407 Subsections (1)(a)(i) and (ii) in another language;
408 (b) may not contain language stating or implying that the corporation is organized for a
409 purpose other than that permitted by:
410 (i) Section 16-10a-301; and
411 (ii) the corporation's articles of incorporation;
412 (c) without the written consent of the United States Olympic Committee, may not
413 contain the words:
414 (i) "Olympic";
415 (ii) "Olympiad"; or
416 (iii) "Citius Altius Fortius"; and
417 (d) without the written consent of the Division of Consumer Protection issued in
418 accordance with Section 13-34-114, may not contain the words:
419 (i) "university";
420 (ii) "college"; or
421 (iii) "institute" or "institution."
422 (2) Except as authorized by Subsections (3) and (4), the name of a corporation must be
423 distinguishable, as defined in Subsection (5), upon the records of the division from:
424 (a) the name of any domestic corporation incorporated in or foreign corporation
425 authorized to transact business in this state;
426 (b) the name of any domestic or foreign nonprofit corporation incorporated or
427 authorized to transact business in this state;
428 (c) the name of any domestic or foreign limited liability company formed or authorized
429 to transact business in this state;
430 (d) the name of any limited partnership formed or authorized to transact business in

431 this state;

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

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

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

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

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

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

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

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

448 (4) A corporation may make a filing under the name, including the fictitious name, of
449 another domestic or foreign corporation that is used or registered in this state if:

450 (a) the other corporation is incorporated or authorized to transact business in this state;
451 and

452 (b) the filing corporation:

453 (i) has merged with the other corporation; or

454 (ii) has been formed by reorganization of the other corporation.

455 (5) (a) A name is distinguishable from other names, trademarks, and service marks on
456 the records of the division if it:

457 (i) contains one or more different letters or numerals; or

458 (ii) has a different sequence of letters or numerals from the other names on the
459 division's records.

460 (b) Differences which are not distinguishing are:

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

- 462 (A) "corporation";
- 463 (B) "company";
- 464 (C) "incorporated";
- 465 (D) "limited partnership";
- 466 (E) "L.P.";
- 467 (F) "limited";
- 468 (G) "Ltd.";
- 469 (H) "limited liability company";
- 470 (I) "limited company";
- 471 (J) "L.C."; or
- 472 (K) "L.L.C.";
- 473 (ii) the presence or absence of the words or symbols of the words "the," "and," or "a";
- 474 (iii) differences in punctuation and special characters;
- 475 (iv) differences in capitalization;
- 476 (v) differences between singular and plural forms of words for a corporation:
- 477 (A) incorporated in or authorized to do business in this state on or after May 4, 1998;
- 478 or
- 479 (B) that changes its name on or after May 4, 1998;
- 480 (vi) differences in whether the letters or numbers immediately follow each other or are
- 481 separated by one or more spaces if:
- 482 (A) the sequence of letters or numbers is identical; and
- 483 (B) the corporation:
- 484 (I) is incorporated in or authorized to do business in this state on or after May 3, 1999;
- 485 or
- 486 (II) changes its name on or after May 3, 1999; or
- 487 (vii) differences in abbreviations, for a corporation:
- 488 (A) incorporated in or authorized to do business in this state on or after May 1, 2000;
- 489 or
- 490 (B) that changes its name on or after May 1, 2000.
- 491 (c) The director of the division has the power and authority reasonably necessary to
- 492 interpret and efficiently administer this section and to perform the duties imposed on the

493 division by this section.

494 (6) A name that implies that the corporation is an agency of this state or of any of its
495 political subdivisions, if it is not actually such a legally established agency or subdivision, may
496 not be approved for filing by the division.

497 (7) (a) The requirements of Subsection (1)(d) do not apply to a corporation
498 incorporated in or authorized to do business in this state on or before May 4, 1998, until
499 December 31, 1998.

500 (b) On or after January 1, 1999, any corporation incorporated in or authorized to do
501 business in this state shall comply with the requirements of Subsection (1)(d).

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

503 **16-11-16. Corporate name.**

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

506 (a) shall contain the terms:

507 (i) "professional corporation"; or

508 (ii) "P.C.";

509 (b) may not contain the words:

510 (i) "incorporated"; or

511 (ii) "inc.";

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

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

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

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

518 (i) "Olympic";

519 (ii) "Olympiad"; or

520 (iii) "Citius Altius Fortius"; and

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

523 (i) "university";

524 (ii) "college"; or
525 (iii) "institute" or "institution."
526 (2) The professional corporation may not imply by any word in the name that it is an
527 agency of the state or of any of its political subdivisions.
528 (3) A person, other than a professional corporation formed or registered under this
529 chapter, may not use in its name in this state any of the terms:
530 (a) "professional corporation"; or
531 (b) "P.C."
532 (4) Except as authorized by Subsection (5), the name of the professional corporation
533 must be distinguishable, as defined in Subsection (6), upon the records of the division from:
534 (a) the name of any domestic corporation incorporated in or foreign corporation
535 authorized to transact business in this state;
536 (b) the name of any domestic or foreign nonprofit corporation incorporated or
537 authorized to transact business in this state;
538 (c) the name of any domestic or foreign limited liability company formed or authorized
539 to transact business in this state;
540 (d) the name of any limited partnership formed or authorized to transact business in
541 this state;
542 (e) any name reserved or registered with the division for a corporation, limited liability
543 company, or general or limited partnership, under the laws of this state; and
544 (f) any business name, fictitious name, assumed name, trademark, or service mark
545 registered by the division.
546 (5) (a) A professional corporation may apply to the division for authorization to file its
547 articles of incorporation under, or to register or reserve, a name that is not distinguishable upon
548 its records from one or more of the names described in Subsection (4).
549 (b) The division shall approve the application filed under Subsection (5)(a) if:
550 (i) the other person whose name is not distinguishable from the name under which the
551 applicant desires to file, or which the applicant desires to register or reserve:
552 (A) consents to the filing, registration, or reservation in writing; and
553 (B) submits an undertaking in a form satisfactory to the division to change its name to
554 a name that is distinguishable from the name of the applicant; or

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

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

560 (i) contains one or more different letters or numerals from other names upon the
561 division's records; or

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

564 (b) The following differences are not distinguishable:

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

566 (A) "corporation";

567 (B) "incorporated";

568 (C) "company";

569 (D) "limited partnership";

570 (E) "limited";

571 (F) "L.P.";

572 (G) "Ltd.";

573 (H) "limited liability company";

574 (I) "limited company";

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

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

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

579 (iii) differences in punctuation and special characters;

580 (iv) differences in capitalization; or

581 (v) differences in abbreviations.

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

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

586 **16-13-4. General powers of business development corporation.**

587 In furtherance of the purposes of a development corporation, and in addition to the
588 powers conferred on corporations by Title 16, Chapter 10a, Utah Revised Business Corporation
589 Act, such corporation, subject to the restrictions and limitations contained in this act, shall have
590 the following powers:

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

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

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

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

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

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

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

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

635 **17-27a-306. Townships.**

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

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

639 (i) is unincorporated;

640 (ii) is contiguous; and

641 (iii) (A) contains:

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

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

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

645 or

646 (II) (Aa) in a county of the first, second, or third class, at least 5% of the total

647 population of the unincorporated county; or

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

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

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

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

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

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

660 (A) is located within the proposed township;

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

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

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

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

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

671 (v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the
672 petition for purposes of the petition; and

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

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

677 (f) (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing
678 the establishment of a township in a county of the first or second class, the county clerk shall

679 provide notice of the filing of the petition to:

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

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

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

686 (A) if:

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

689 (Iiii) the property is nonurban; and

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

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

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

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

698 (iii) (A) The county legislative body shall exclude from the proposed township the
699 property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the
700 property meets the applicable requirements of Subsection (1)(f)(ii)(A).

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

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

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

709 (B) (I) if the clerk determines that the petition complies with the requirements of

710 Subsection (1)(d):

711 (Aa) certify the petition and deliver the certified petition to the county legislative body;
712 and

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

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

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

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

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

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

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

726 (iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the
727 county legislative body shall publish notice of the petition and the time, date, and place of the
728 public hearing:

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

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

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

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

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

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

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

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

749 (2) The county legislative body may:

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

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

754 (3) (a) An area within the boundary of a township may be withdrawn from the
755 township as provided in this Subsection (3).

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

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

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

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

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

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

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

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

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

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

772 petition sponsor;

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

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

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

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

781 (A) with the assistance of other county officers from whom the clerk requests
782 assistance, determine whether the petition complies with the requirements of Subsection (3)(c);
783 and

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

786 (Aa) certify the petition and deliver the certified petition to the county legislative body;
787 and

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

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

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

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

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

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

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

802 (iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative

803 body shall:

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

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

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

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

810 (g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county
811 legislative body shall make a written decision on the proposal to withdraw the area from the
812 township.

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

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

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

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

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

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

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

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

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

833 (h) Upon the written decision of the county legislative body approving the withdrawal

834 of an area from a township, the area is withdrawn from the township and the township
835 continues as a township with a boundary that excludes the withdrawn area.

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

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

839 (c) A petition under Subsection (4)(b) shall:

840 (i) be signed by registered voters within the township equal in number to at least 25%
841 of all votes cast by voters within the township at the last congressional election;

842 (ii) state the reason or reasons for the proposed dissolution;

843 (iii) indicate the typed or printed name and current residence address of each person
844 signing the petition;

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

848 (v) authorize the petition sponsors to act on behalf of all persons signing the petition
849 for purposes of the petition; and

850 (vi) request the county legislative body to provide notice of the petition and of a public
851 hearing, hold a public hearing, and conduct an election on the proposal to dissolve the
852 township.

853 (d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county
854 clerk shall:

855 (A) with the assistance of other county officers from whom the clerk requests
856 assistance, determine whether the petition complies with the requirements of Subsection (4)(c);
857 and

858 (B) (I) if the clerk determines that the petition complies with the requirements of
859 Subsection (4)(c):

860 (Aa) certify the petition and deliver the certified petition to the county legislative body;
861 and

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

863 (II) if the clerk determines that the petition fails to comply with any of the requirements
864 of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection

865 and the reasons for the rejection.

866 (ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition
867 may be amended to correct the deficiencies for which it was rejected and then refiled with the
868 county clerk.

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

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

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

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

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

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

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

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

887 **19-1-206. Contracting powers of department -- Health insurance coverage.**

888 (1) For purposes of this section:

889 (a) "Employee" means an "employee," "worker," or "operative" as defined in Section
890 34A-2-104 who:

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

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

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

895 (c) "Qualified health insurance coverage" means a health benefit plan that at the time

896 the contract is entered into or renewed:

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

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

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

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

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

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

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

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

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

913 (2) Except as provided in Subsection (3), this section applies to all contracts entered
914 into by or delegated to the department or a division or board of the department on or after July
915 1, 2009, if:

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

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

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

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

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

922 (b) the contract or agreement is between:

923 (i) the department or a division or board of the department; and

924 (ii) (A) another agency of the state;

925 (B) the federal government;

926 (C) another state;

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

958 requirements of Subsection (5)(a).

959 (6) The department shall adopt administrative rules:

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

961 (b) in coordination with:

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

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

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

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

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

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

968 (c) which establish:

969 (i) the requirements and procedures a contractor must follow to demonstrate to the

970 public transit district compliance with this section which shall include:

971 (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or

972 (b) more than twice in any 12-month period; and

973 (B) that the actuarially equivalent determination required in Subsection (1) is met by

974 the contractor if the contractor provides the department or division with a written statement of

975 actuarial equivalency from either the Utah Insurance Department or an actuary selected by the

976 contractor or the contractor's insurer; and

977 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally

978 violates the provisions of this section, which may include:

979 (A) a three-month suspension of the contractor or subcontractor from entering into

980 future contracts with the state upon the first violation;

981 (B) a six-month suspension of the contractor or subcontractor from entering into future

982 contracts with the state upon the second violation;

983 (C) an action for debarment of the contractor or subcontractor in accordance with

984 Section 63G-6-804 upon the third or subsequent violation; and

985 (D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50%

986 of the amount necessary to purchase qualified health insurance coverage for an employee and

987 the dependents of an employee of the contractor or subcontractor who was not offered qualified

988 health insurance coverage during the duration of the contract.

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

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

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

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

998 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
999 or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8,
1000 Legal and Contractual Remedies; and

1001 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
1002 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
1003 or construction.

1004 Section 12. Section **23-28-202** is amended to read:

1005 **23-28-202. Removing property from a migratory bird production area.**

1006 (1) A landowner may file a revision notice with the county recorder of the county in
1007 which the migratory bird production area is located to remove land from a migratory bird
1008 production area.

1009 (2) The revision notice shall contain:

1010 (a) a legal description of the land removed from the migratory bird production area;
1011 and

1012 (b) the name of the owner or owners of the land removed from the migratory bird
1013 production area.

1014 (3) A person who files a revision notice under this section shall give a copy of the
1015 revision notice within 10 days of its filing to the legislative body of the county in which the
1016 migratory bird production area is located.

1017 (4) If removing land from a migratory bird production area results in a migratory bird
1018 production area of less than 300 contiguous acres:

1019 (a) the migratory bird production area ceases to exist; and

1020 (b) the landowner shall:
1021 (i) notify each landowner within the former migratory bird production area; and
1022 (ii) file the revision notice required by this section for the entire migratory bird
1023 production area.

1024 Section 13. Section **26-4-29** is amended to read:

1025 **26-4-29. Application for permit to render a dead body unavailable for**
1026 **postmortem examination -- Fees.**

1027 (1) Upon receiving an application by a person for a permit to render a dead body
1028 unavailable for postmortem investigation, the medical examiner shall review the application to
1029 determine whether:

1030 (a) the person is authorized by law to render the dead body unavailable for postmortem
1031 investigation in the manner specified in the application; and

1032 (b) there is a need to delay any action that will render the dead body unavailable for
1033 postmortem investigation until a postmortem investigation or an autopsy of the dead body is
1034 performed by the medical examiner.

1035 (2) Except as provided in Subsection (4), within three days after receiving an
1036 application described in Subsection (1), the medical examiner shall:

1037 (a) make the determinations described in Subsection (1); and

1038 (b) (i) issue a permit to render the dead body unavailable for postmortem investigation
1039 in the manner specified in the application; or

1040 (ii) deny the permit.

1041 (3) The medical examiner may [~~only~~] deny a permit to render a dead body unavailable
1042 for postmortem investigation only if:

1043 (a) the applicant is not authorized by law to render the dead body unavailable for
1044 postmortem investigation in the manner specified in the application;

1045 (b) the medical examiner determines that there is a need to delay any action that will
1046 render the dead body unavailable for postmortem investigation; or

1047 (c) the applicant fails to pay the fee described in Subsection (5).

1048 (4) If the medical examiner cannot in good faith make the determinations described in
1049 Subsection (1) within three days after receiving an application described in Subsection (1), the
1050 medical examiner shall notify the applicant:

1051 (a) that more time is needed to make the determinations described in Subsection (1);
1052 and

1053 (b) of the estimated amount of time needed before the determinations described in
1054 Subsection (1) can be made.

1055 (5) The medical examiner may charge a fee, pursuant to Section 63J-1-504, to recover
1056 the costs of fulfilling the duties of the medical examiner described in this section.

1057 Section 14. Section **26-8b-303** is amended to read:

1058 **26-8b-303. Duties of emergency medical dispatch centers.**

1059 [~~Beginning on September 1, 2009, an~~ An emergency medical dispatch center shall:

1060 (1) implement a system to receive and manage the information reported to the
1061 emergency medical dispatch center under Section [~~26-8a-209 or~~] 26-8b-301;

1062 (2) record in the system described in Subsection (1), all information received under
1063 Section [~~26-8a-209 or~~] 26-8b-301 [~~as follows: (a) if the information is received under~~
1064 ~~Subsection 26-8a-209(5), within 30 days after the day on which the information is received; or~~
1065 ~~(b) if the information is received under Subsection 26-8a-209(6) or Section 26-8b-301;~~] within
1066 14 days after the day on which the information is received;

1067 (3) inform a person who calls to report a potential incident of sudden cardiac arrest of
1068 the location of any nearby AED; and

1069 (4) provide the information contained in the system described in Subsection (1), upon
1070 request, to:

- 1071 (a) the bureau; or
- 1072 (b) another emergency medical dispatch center.

1073 Section 15. Section **26-21-25** is amended to read:

1074 **26-21-25. Patient identity protection.**

1075 (1) As used in this section:

1076 (a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor
1077 Act.

1078 (b) "Health professional office" means:

- 1079 (i) a physician's office; or
- 1080 (ii) a dental office.

1081 (c) "Medical facility" means:

- 1082 (i) a general acute hospital;
- 1083 (ii) a specialty hospital;
- 1084 (iii) a home health agency;
- 1085 (iv) a hospice;
- 1086 (v) a nursing care facility;
- 1087 (vi) a residential-assisted living facility;
- 1088 (vii) a birthing center;
- 1089 (viii) an ambulatory surgical facility;
- 1090 (ix) a small health care facility;
- 1091 (x) an abortion clinic;
- 1092 (xi) a facility owned or operated by a health maintenance organization;
- 1093 (xii) an end stage renal disease facility;
- 1094 (xiii) a health care clinic; or
- 1095 (xiv) any other health care facility that the committee designates by rule.

1096 (2) (a) In order to discourage identity theft and health insurance fraud, and to reduce
1097 the risk of medical errors caused by incorrect medical records, a medical facility or a health
1098 professional office shall request identification from an individual prior to providing in-patient
1099 or out-patient services to the individual.

1100 (b) If the individual who will receive services from the medical facility or a health
1101 professional office lacks the legal capacity to consent to treatment, the medical facility or a
1102 health professional office shall request identification:

- 1103 (i) for the individual who lacks the legal capacity to consent to treatment; and
- 1104 (ii) from the individual who consents to treatment on behalf of the individual described
1105 in Subsection (2)(b)(i).

1106 (3) A medical facility or a health professional office:

1107 (a) that is subject to EMTALA:

1108 (i) may not refuse services to an individual on the basis that the individual did not
1109 provide identification when requested; and

1110 (ii) shall post notice in its emergency department that informs a patient of the patient's
1111 right to treatment for an emergency medical condition under EMTALA;

1112 (b) may not be penalized for failing to ask for identification;

- 1113 (c) is not subject to a private right of action for failing to ask for identification; and
- 1114 (d) may document or confirm patient identity by:
- 1115 (i) photograph;
- 1116 (ii) fingerprinting;
- 1117 (iii) palm scan; or
- 1118 (iv) other reasonable means.

1119 (4) The identification described in this ~~[bill]~~ section:

- 1120 (a) is intended to be used for medical records purposes only; and
- 1121 (b) shall be kept in accordance with the requirements of the Health Insurance
- 1122 Portability and Accountability Act of 1996.

1123 Section 16. Section ~~26-38-8~~ is amended to read:

1124 **26-38-8. Penalties.**

1125 (1) A first violation of Section 26-38-3 [~~or 26-38-4~~] is subject to a civil penalty of not

1126 more than \$100.

1127 (2) Any second or subsequent violation of Section 26-38-3 [~~or 26-38-4~~] is subject to a

1128 civil penalty of not less than \$100 and not more than \$500.

1129 Section 17. Section ~~30-3-40~~ is amended to read:

1130 **30-3-40. Custody and parent-time when one parent is a service member.**

1131 (1) As used in this section:

1132 (a) "Deployment" means the temporary transfer of a service member serving in an

1133 active duty status to another location in support of combat or some other military operation.

1134 (b) "Mobilization" means the call up of a National Guard or Reserve service member to

1135 extended active duty status, but does not include National Guard or Reserve annual training.

1136 (c) "Service member" means a person who is:

1137 (i) a member of the Utah National Guard;

1138 (ii) a member of a Reserve component based in the state; or

1139 (iii) a member of the Armed Forces of the United States on active duty and stationed in

1140 this state.

1141 (d) "Temporary duty" means the transfer of a service member from a military base to a

1142 different location, often another base, for a set period of time to accomplish training or to assist

1143 in the performance of a noncombat mission.

1144 (2) In the absence of a parenting plan or other agreement between the parties covering
1145 such situations:

1146 (a) A service member who is a custodial parent of minor children in this state, and who
1147 is deployed, mobilized, or ordered to temporary duty at another location shall, if possible,
1148 contact the noncustodial parent as soon as practicable after receiving orders. The service
1149 member shall inform the noncustodial parent of the approximate dates the service member will
1150 be away, if known.

1151 (i) Unless the noncustodial parent has supervised or limited parent-time, if willing and
1152 able, the noncustodial parent may provide care for any minor children during the time the
1153 service member is away. The noncustodial parent shall notify the custodial parent of ~~their~~ the
1154 noncustodial parent's willingness to provide care as soon as practicable, but not less than five
1155 days before the service member is required to leave. If the noncustodial parent will provide
1156 care while the service member is away, the parents shall arrange a time and place for the
1157 delivery of the children to the noncustodial parent.

1158 (ii) If the noncustodial parent is unwilling or unable to provide care for any minor
1159 children during the time the service member is away, the service member may make specific
1160 arrangements for the housing and care of the minor children during the time the service
1161 member will be away. Notice of arrangements made by the service member shall be provided
1162 to the noncustodial parent and may not deprive the noncustodial parent of parent-time during
1163 the same time period.

1164 (b) If a service member who is a noncustodial parent is deployed, mobilized, or ordered
1165 to temporary duty at another location, his or her parent-time rights may be exercised by a
1166 family member with a close and substantial relationship to the minor child for the duration of
1167 the service member's absence. The service member shall provide the custodial parent with
1168 written notice of arrangements made regarding the exercise of parent-time in the service
1169 member's absence.

1170 (3) A temporary exchange of physical custody under this section may not alter the
1171 original custody order of the court.

1172 (4) In addition to the arrangements made for the care of minor children under this
1173 section, both parents shall comply with the provisions of Section 78B-12-108.

1174 (5) A service member who is deployed, mobilized, or ordered to temporary duty may

1175 not be deprived of custodial or parent-time rights while unavailable pursuant to military orders.
1176 Any petition, motion, or action brought by a parent or guardian before a court attempting to
1177 deprive or alter custody or parent-time rights shall be stayed in accordance with Section
1178 39-7-105 and the Federal Servicemembers Civil Relief Act, 50 U.S.C. Appx. 521.

1179 Section 18. Section **31A-36-102** is amended to read:

1180 **31A-36-102. Definitions.**

1181 As used in this chapter:

1182 (1) (a) "Advertising" means a communication placed before the public to:

1183 (i) create an interest in a life settlement; or

1184 (ii) induce a person pursuant to a life settlement to sell, assign, devise, bequest, or
1185 transfer the death benefit or ownership of:

1186 (A) a policy; or

1187 (B) an interest in a policy.

1188 (b) "Advertising" includes the following, if the requirements of Subsection (1)(a) are
1189 met:

1190 (i) a written, electronic, or printed communication;

1191 (ii) a communication by means of a recorded telephone message;

1192 (iii) a communication transmitted on radio, television, the Internet, or similar
1193 communications media; and

1194 (iv) a film strip, motion picture, or video.

1195 (2) "Business of life settlements" includes the following:

1196 (a) offering a life settlement;

1197 (b) soliciting a life settlement;

1198 (c) negotiating a life settlement;

1199 (d) procuring a life settlement;

1200 (e) effectuating a life settlement;

1201 (f) purchasing a life settlement;

1202 (g) investing in a life settlement;

1203 (h) financing a life settlement;

1204 (i) monitoring a life settlement;

1205 (j) tracking a life settlement;

- 1206 (k) underwriting a life settlement;
- 1207 (l) selling a life settlement;
- 1208 (m) transferring a life settlement;
- 1209 (n) assigning a life settlement;
- 1210 (o) pledging a life settlement;
- 1211 (p) hypothecating a life settlement; or
- 1212 (q) in any other manner acquiring an interest in a policy by means of a life settlement.
- 1213 (3) "Chronically ill" means:
 - 1214 (a) being unable to perform at least two activities of daily living, such as eating,
 - 1215 toileting, moving from one place to another, bathing, dressing, or continence;
 - 1216 (b) requiring substantial supervision for protection from threats to health and safety
 - 1217 because of severe cognitive impairment; or
 - 1218 (c) having a level of disability similar to that described in Subsection (3)(a).
- 1219 (4) "Depository institution" is as defined in Section 7-1-103.
- 1220 (5) (a) "Financing entity" means a person:
 - 1221 (i) who has direct ownership in a policy that is the subject of a life settlement;
 - 1222 (ii) whose principal activity related to a life settlement is providing money to effect the
 - 1223 life settlement or the purchase of one or more settled policies; and
 - 1224 (iii) who has an agreement in writing with one or more licensed life settlement
 - 1225 providers to finance the acquisition of one or more life settlements.
- 1226 (b) "Financing entity" includes, if the requirements of Subsection (5)(a) are met, the
- 1227 following:
 - 1228 (i) an underwriter;
 - 1229 (ii) a placement agent;
 - 1230 (iii) an enhancer of credit;
 - 1231 (iv) a lender;
 - 1232 (v) a purchaser of securities; and
 - 1233 (vi) a purchaser of a policy from a life settlement provider.
- 1234 (c) "Financing entity" does not include:
 - 1235 (i) a nonaccredited investor; or
 - 1236 (ii) a life settlement purchaser.

- 1237 (6) "Form" means, in addition to a form as defined in Section 31A-1-301:
- 1238 (a) a life settlement;
- 1239 (b) a disclosure to an owner;
- 1240 (c) a notice of intent to settle; or
- 1241 (d) a verification of coverage.
- 1242 (7) "Life expectancy" means the mean number of months an individual insured under a
- 1243 policy to be settled can be expected to live considering medical records and appropriate
- 1244 experiential data.
- 1245 (8) (a) "Life settlement" means a written agreement:
- 1246 (i) between an owner and a life settlement provider; and
- 1247 (ii) for the payment of anything of value, that is less than the expected death benefit of
- 1248 the policy, in exchange for the owner assigning, selling, transferring, devising, releasing, or
- 1249 bequeathing, at the time of or after the exchange, the death benefit or ownership of:
- 1250 (A) any portion of a policy; or
- 1251 (B) a beneficial interest in the policy.
- 1252 (b) "Life settlement" includes:
- 1253 (i) the transfer for compensation or value of ownership or beneficial interest in a trust
- 1254 or other entity that owns a policy if the trust or other entity is formed or operated for the
- 1255 principal purpose of acquiring one or more policies; or
- 1256 (ii) a premium finance loan made for a policy by a lender to an owner on, before, or
- 1257 after the date of issuance of the policy if the owner:
- 1258 (A) receives on the date of the premium finance loan a guarantee of a future life
- 1259 settlement value of the policy; or
- 1260 (B) agrees on the date of the premium finance loan to sell the policy or any portion of
- 1261 the policy's death benefit on a date following the issuance of the policy.
- 1262 (c) An agreement described in Subsection (8)(a) is a "life settlement" even if it is
- 1263 referred to by a different name, including:
- 1264 (i) a "[~~life~~] viatical settlement"; or
- 1265 (ii) a "senior settlement."
- 1266 (d) "Life settlement" does not include:
- 1267 (i) a loan or accelerated death benefit by an insurer pursuant to the terms of a policy;

- 1268 (ii) loan proceeds that are used solely to pay:
- 1269 (A) premiums for a policy; and
- 1270 (B) the loan costs or other expenses incurred by the lender, including:
- 1271 (I) interest;
- 1272 (II) an arrangement fee;
- 1273 (III) a use fee;
- 1274 (IV) closing costs;
- 1275 (V) attorney fees and expenses;
- 1276 (VI) trustee fees and expenses; and
- 1277 (VII) third party collateral provider fees and expenses, including fees payable to a letter
- 1278 of credit issuer;
- 1279 (iii) (A) a loan made by a licensed lender in which the licensed lender takes an interest
- 1280 in a policy solely to secure repayment of a loan; or
- 1281 (B) the transfer of a policy by a lender, if:
- 1282 (I) the loan is:
- 1283 (Aa) a loan described in Subsection (8)(d)(iii)(A); or
- 1284 (Bb) a premium finance loan that is not a life settlement;
- 1285 (II) the loan is defaulted on;
- 1286 (III) the policy is transferred; and
- 1287 (IV) neither the default itself nor the transfer of the policy in connection with the
- 1288 default is pursuant to an agreement with any other person for the purpose of evading regulation
- 1289 under this chapter;
- 1290 (iv) an agreement where all the participants in the agreement:
- 1291 (A) (I) are closely related to the insured by blood or law; or
- 1292 (II) have a lawful substantial economic interest in the continued life, health, and bodily
- 1293 safety of the person insured; and
- 1294 (B) are trusts established primarily for the benefit of the participants in the agreement;
- 1295 (v) a designation, consent, or agreement by an insured who is an employee of an
- 1296 employer in connection with the purchase by the employer, or trust established by the
- 1297 employer, of life insurance on the life of the employee; or
- 1298 (vi) a business succession planning arrangement not made for the purpose of evading

1299 regulation under this chapter:

1300 (A) (I) between one or more shareholders in a corporation; or

1301 (II) between a corporation and:

1302 (Aa) one or more of its shareholders; or

1303 (Bb) one or more trusts established by its shareholders;

1304 (B) (I) between one or more partners in a partnership; or

1305 (II) between a partnership and:

1306 (Aa) one or more of its partners; or

1307 (Bb) one or more trusts established by its partners; or

1308 (C) (I) between one or more members in a limited liability company; or

1309 (II) between a limited liability company and:

1310 (Aa) one or more of its members; or

1311 (Bb) one or more trusts established by its members.

1312 (9) (a) "Life settlement producer" means a person licensed in the state as a life

1313 insurance producer that on behalf of an owner and for consideration offers or attempts to

1314 negotiate a life settlement between the owner and one or more life settlement providers.

1315 (b) "Life settlement producer" does not include an attorney licensed to practice law in

1316 any state, a certified public accountant, or a financial planner accredited by a nationally

1317 recognized accrediting agency:

1318 (i) that is retained to represent an owner; and

1319 (ii) whose compensation is not paid directly or indirectly by:

1320 (A) a life settlement provider; or

1321 (B) a life settlement purchaser.

1322 (10) (a) "Life settlement provider" means a person other than an owner that enters into

1323 or effectuates a life settlement.

1324 (b) "Life settlement provider" does not include:

1325 (i) a licensed lender that takes an assignment of a policy as security for a loan,

1326 including a:

1327 (A) depository institution; or

1328 (B) lender that makes a premium finance loan that is not described in Subsection

1329 (8)(b)(ii);

- 1330 (ii) the issuer of a policy;
- 1331 (iii) an authorized or eligible insurer that provides stop-loss coverage to:
- 1332 (A) a life settlement provider;
- 1333 (B) a life settlement purchaser;
- 1334 (C) a financing entity;
- 1335 (D) a special purpose entity; or
- 1336 (E) a related provider trust;
- 1337 (iv) a financing entity;
- 1338 (v) a special purpose entity;
- 1339 (vi) a related provider trust;
- 1340 (vii) a life settlement purchaser; or
- 1341 (viii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A
- 1342 that purchases a settled policy from a life settlement provider.
- 1343 (11) (a) "Life settlement purchaser" means a person that, to derive an economic benefit:
- 1344 (i) provides a sum of money as consideration for a policy or an interest in the death
- 1345 benefits of a policy; or
- 1346 (ii) owns, acquires, or is entitled to a beneficial interest in a trust that:
- 1347 (A) owns a life settlement; or
- 1348 (B) is the beneficiary of a policy that has been or will be the subject of a life settlement.
- 1349 (b) "Life settlement purchaser" does not include:
- 1350 (i) a life settlement provider;
- 1351 (ii) a life settlement producer;
- 1352 (iii) an accredited investor as defined in Regulation D, Rule 501, 17 C.F.R. Sec.
- 1353 230.501;
- 1354 (iv) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 1355 (v) a financing entity;
- 1356 (vi) a special purpose entity; or
- 1357 (vii) a related provider trust.
- 1358 (12) (a) "Owner" means any of the following who resides in this state and seeks to
- 1359 enter into a life settlement:
- 1360 (i) the owner of a policy; or

- 1361 (ii) the holder of a certificate of insurance under a policy of group insurance.
- 1362 (b) "Owner" is not limited to a person who is terminally ill or chronically ill except
- 1363 when the limitation is expressly provided in this chapter.
- 1364 (c) "Owner" does not include:
- 1365 (i) a life settlement provider;
- 1366 (ii) a life settlement producer;
- 1367 (iii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 1368 (iv) a financing entity;
- 1369 (v) a special purpose entity; or
- 1370 (vi) a related provider trust.
- 1371 (13) "Policy" means:
- 1372 (a) an individual or group life insurance policy;
- 1373 (b) a group certificate for life insurance; or
- 1374 (c) a contract or arrangement of life insurance, whether or not delivered or issued for
- 1375 delivery in Utah:
- 1376 (i) affecting the rights of a resident of Utah; or
- 1377 (ii) bearing a reasonable relation to Utah.
- 1378 (14) "Premium finance loan" is a loan made primarily for the purpose of making
- 1379 premium payments on a policy if the loan is secured by an interest in the policy.
- 1380 (15) "Related provider trust" means a trust established by a licensed life settlement
- 1381 provider or a financing entity solely to hold the ownership of or beneficial interests in
- 1382 purchased policies in connection with financing.
- 1383 (16) "Settled policy" means a policy that is acquired by a life settlement provider
- 1384 pursuant to a life settlement.
- 1385 (17) "Special purpose entity" means an entity formed by a licensed life settlement
- 1386 provider solely to enable the life settlement provider to gain access to institutional markets for
- 1387 capital.
- 1388 (18) (a) "Stranger-originated life insurance" means an act, practice, or arrangement to
- 1389 initiate a policy for the benefit of a third party investor or other person who has no insurable
- 1390 interest in the insured resulting in the requirements of Section 31A-21-104 not being met.
- 1391 (b) "Stranger-originated life insurance" includes when:

1392 (i) a policy is purchased with resources or guarantees from or through a person who, at
1393 the time of policy origination, could not lawfully initiate the policy itself; and

1394 (ii) at the time of policy origination, there is an agreement, whether oral or written, to
1395 directly or indirectly transfer to a third party the ownership of a policy, policy benefits, or both.

1396 (c) "Stranger-originated life insurance" does not include:

1397 (i) a life settlement that complies with:

1398 (A) this chapter; and

1399 (B) Section 31A-21-104; or

1400 (ii) an act, practice, or arrangement described in Subsection (8)(d).

1401 (19) "Terminally ill" means having a condition that reasonably may be expected to
1402 result in death within 24 months.

1403 Section 19. Section **32A-14b-202** is amended to read:

1404 **32A-14b-202. Bringing an action.**

1405 (1) Subject to the other provisions of this section, a retail licensee to whom a minor is
1406 liable under Section 32A-14b-201 may bring an action in a court of competent jurisdiction to
1407 collect the amount described in Section 32A-14b-201.

1408 (2) The action allowed under this section may be brought against:

1409 (a) the minor; or

1410 (b) if the minor is less than 18 years of age, a parent or guardian of the minor.

1411 (3) An action under this chapter may not be commenced more than two years after the
1412 day on which the applicable fine is imposed by the commission.

1413 (4) Nothing in this chapter precludes a cause of action or additional recovery against a
1414 minor under law other than this chapter.

1415 (5) Notwithstanding the other provisions of this part:

1416 (a) the state or an agency of the state is not liable under this part when a state agency
1417 has legal or protective custody of, or has guardianship of a minor at the time:

1418 (i) the minor engages in conduct with regard to a violation related to a minor; or

1419 (ii) an applicable fine is imposed on the retail licensee by the commission; and

1420 (b) a retail [~~liquor~~] licensee may not bring an action against the state or an agency of
1421 the state under the circumstances described in Subsection (5)(a).

1422 Section 20. Section **34-46-102** is amended to read:

1423 **34-46-102. Definitions.**

1424 As used in this chapter:

1425 (1) "Applicant" means an individual that provides information to an employer for the
1426 purpose of obtaining employment.

1427 (2) "Division" means the Labor Commission's Division of Antidiscrimination and
1428 Labor.

1429 (3) "Employer" means a person employing 15 or more employees within the state for
1430 each working day in each of 20 calendar weeks or more in the current or preceding calendar
1431 year.

1432 (4) "Employment selection process" means the process by which an employer selects
1433 an individual to be an employee for the employer.

1434 ~~[(5) "Employment test" means a structured, systematic instrument used to assess an
1435 applicant's personality or behavior in a specific circumstance, such as a personality test.]~~

1436 [(6)] (5) "Initial selection process" means the receipt of information in a record from an
1437 applicant that the employer uses to determine whether the applicant will be considered for a
1438 second review for the position for which the applicant is applying.

1439 [(7)] (6) "Record" means information that is:

1440 (a) inscribed on a tangible medium; or

1441 (b) (i) received or stored in an electronic or other medium; and

1442 (ii) retrievable in perceivable form.

1443 Section 21. Section **42-2-6.6** is amended to read:

1444 **42-2-6.6. Assumed name.**

1445 (1) The assumed name:

1446 (a) may not contain any word or phrase that indicates or implies that the business is
1447 organized for any purpose other than one or more of the purposes contained in its application;

1448 (b) shall be distinguishable from any registered name or trademark of record in the
1449 offices of the Division of Corporations and Commercial Code, as defined in Subsection
1450 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code
1451 pursuant to Subsection (2);

1452 (c) without the written consent of the United States Olympic Committee, may not
1453 contain the words:

- 1454 (i) "Olympic";
1455 (ii) "Olympiad"; or
1456 (iii) "Citius Altius Fortius";
1457 (d) without the written consent of the Division of Consumer Protection issued in
1458 accordance with Section 13-34-114, may not contain the words:
1459 (i) "university";
1460 (ii) "college"; or
1461 (iii) "institute" or "institution"; and
1462 (e) an assumed name authorized for use in this state on or after May 1, 2000, may not
1463 contain the words:
1464 (i) "incorporated";
1465 (ii) "inc."; or
1466 (iii) a variation of "incorporated" or "inc."
1467 (2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in
1468 Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of
1469 the name by a corporation as defined in:
1470 (a) Subsection 16-6a-102(25);
1471 (b) Subsection 16-6a-102(34);
1472 (c) Subsection 16-10a-102(11); or
1473 (d) Subsection 16-10a-102(20).
1474 (3) The Division of Corporations and Commercial Code shall authorize the use of the
1475 name applied for if:
1476 (a) the name is distinguishable from one or more of the names and trademarks that are
1477 on the division's records; or
1478 (b) the applicant delivers to the division a certified copy of the final judgment of a
1479 court of competent jurisdiction establishing the applicant's right to use the name applied for in
1480 this state.
1481 (4) The assumed name, for purposes of recordation, shall be either translated into
1482 English or transliterated into letters of the English alphabet if it is not in English.
1483 (5) The Division of Corporations and Commercial Code may not approve an
1484 application for an assumed name to any person violating this section.

1485 (6) The director of the Division of Corporations and Commercial Code shall have the
1486 power and authority reasonably necessary to interpret and efficiently administer this section
1487 and to perform the duties imposed on the division by this section.

1488 (7) A name that implies by any word in the name that it is an agency of the state or of
1489 any of its political subdivisions, if it is not actually such a legally established agency, may not
1490 be approved for filing by the Division of Corporations and Commercial Code.

1491 (8) Section 16-10a-403 applies to this chapter.

1492 (9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a
1493 certificate of assumed and of true name with the Division of Corporations and Commercial
1494 Code on or before May 4, 1998, until December 31, 1998.

1495 (b) On or after January 1, 1999, any person who carries on, conducts, or transacts
1496 business in this state under an assumed name shall comply with the requirements of Subsection
1497 (1)(d).

1498 Section 22. Section **48-2a-102** is amended to read:

1499 **48-2a-102. Name.**

1500 (1) The name of each limited partnership as set forth in its certificate of limited
1501 partnership:

1502 (a) shall contain the terms:

1503 (i) "limited partnership";

1504 (ii) "limited";

1505 (iii) "L.P."; or

1506 (iv) "Ltd.";

1507 (b) may not contain the name of a limited partner unless:

1508 (i) it is the name of a general partner;

1509 (ii) it is the corporate name of a corporate general partner; or

1510 (iii) the business of the limited partnership had been carried on under that name before
1511 the admission of that limited partner;

1512 (c) may not contain:

1513 (i) the words:

1514 (A) "association";

1515 (B) "corporation"; or

1516 (C) "incorporated";
1517 (ii) any abbreviation of a word listed in this Subsection (1)(c); or
1518 (iii) any word or abbreviation that is of like import to the words listed in Subsection
1519 (1)(c)(i) in any other language;

1520 (d) without the written consent of the United States Olympic Committee, may not
1521 contain the words:

- 1522 (i) "Olympic";
- 1523 (ii) "Olympiad"; or
- 1524 (iii) "Citius Altius Fortius"; and

1525 (e) without the written consent of the Division of Consumer Protection issued in
1526 accordance with Section 13-34-114, may not contain the words:

- 1527 (i) "university";
- 1528 (ii) "college"; or
- 1529 (iii) "institute" or "institution."

1530 (2) (a) A person or entity other than a limited partnership formed or registered under
1531 this title may not use in its name in this state any of the terms:

- 1532 (i) "limited";
- 1533 (ii) "limited partnership";
- 1534 (iii) "Ltd."; or
- 1535 (iv) "L.P."

1536 (b) Notwithstanding Subsection (2)(a):

1537 (i) a foreign corporation whose actual name includes the word "limited" or "Ltd." may
1538 use its actual name in this state if it also uses:

- 1539 (A) "corporation";
- 1540 (B) "incorporated"; or
- 1541 (C) any abbreviation of a word listed in this Subsection (2)(b)(i);
- 1542 (ii) a limited liability company may use in its name in this state the terms:
 - 1543 (A) "limited";
 - 1544 (B) "limited company";
 - 1545 (C) "L.C.";
 - 1546 (D) "L.L.C.";

- 1547 (E) "LC"; or
1548 (F) "LLC"; and
1549 (iii) a limited liability partnership may use the terms "limited liability partnership,"
1550 "L.L.P.," or "LLP" in the manner allowed in Section 48-1-45.
- 1551 (3) Except as authorized by Subsection (4), the name of a limited partnership must be
1552 distinguishable as defined in Subsection (5) upon the records of the division from:
- 1553 (a) the name of any limited partnership formed or authorized to transact business in
1554 this state;
- 1555 (b) the corporate name of any corporation incorporated or authorized to transact
1556 business in this state;
- 1557 (c) any limited partnership name reserved under this chapter;
- 1558 (d) any corporate name reserved under Title 16, Chapter 10a, Utah Revised Business
1559 Corporation Act;
- 1560 (e) any fictitious name adopted by a foreign corporation or limited partnership
1561 authorized to transact business in this state because its real name is unavailable;
- 1562 (f) any corporate name of a not-for-profit corporation incorporated or authorized to
1563 transact business in this state; and
- 1564 (g) any assumed business name, trademark, or service mark registered by the division.
- 1565 (4) (a) A limited partnership may apply to the division for approval to file its certificate
1566 under, or to reserve, a name that is not distinguishable upon the division's records from one or
1567 more of the names described in Subsection (3).
- 1568 (b) The division shall approve of the name for which application is made under
1569 Subsection (4)(a) if:
- 1570 (i) the other person whose name is not distinguishable from the name under which the
1571 applicant desires to file:
- 1572 (A) consents to the filing in writing; and
1573 (B) submits an undertaking in a form satisfactory to the division to change its name to
1574 a name that is distinguishable from the name of the applicant; or
- 1575 (ii) the applicant delivers to the division a certified copy of the final judgment of a
1576 court of competent jurisdiction establishing the applicant's right to use in this state the name for
1577 which the application is made.

- 1578 (5) A name is distinguishable from other names, trademarks, and service marks
1579 registered with the division if it contains one or more different letters or numerals from other
1580 names upon the division's records.
- 1581 (6) The following differences are not distinguishing:
- 1582 (a) the terms:
- 1583 (i) "corporation";
- 1584 (ii) "incorporated";
- 1585 (iii) "company";
- 1586 (iv) "limited partnership";
- 1587 (v) "limited";
- 1588 (vi) "L.P."; or
- 1589 (vii) "Ltd.";
- 1590 (b) an abbreviation of a word listed in Subsection (6)(a);
- 1591 (c) the presence or absence of the words or symbols of the words "the," "and," "a," or
1592 "plus";
- 1593 (d) differences in punctuation and special characters;
- 1594 (e) differences in capitalization;
- 1595 (f) differences between singular and plural forms of words for a limited partnership:
- 1596 (i) formed in or registered as a foreign limited partnership in this state on or after May
1597 4, 1998; or
- 1598 (ii) that changes its name on or after May 4, 1998;
- 1599 (g) differences in whether the letters or numbers immediately follow each other or are
1600 separated by one or more spaces if:
- 1601 (i) the sequence of letters or numbers is identical; and
- 1602 (ii) the limited partnership:
- 1603 (A) is formed in or registered as a foreign limited partnership in this state on or after
1604 May 3, 1999; or
- 1605 (B) changes its name on or after May 3, 1999; or
- 1606 (h) differences in abbreviations, for a limited partnership:
- 1607 (i) formed in or registered as a foreign limited partnership in this state on or after May
1608 1, 2000; or

1609 (ii) that changes its name on or after May 1, 2000.

1610 (7) The director of the division shall have the power and authority reasonably necessary
1611 to interpret and efficiently administer this section and to perform the duties imposed upon the
1612 division by this section.

1613 (8) A name that implies that the limited partnership is an agency of this state or any of
1614 its political subdivisions, if it is not actually such a legally established agency or subdivision,
1615 may not be approved for filing by the division.

1616 (9) (a) The requirements of Subsection (1)(e) do not apply to a limited partnership that
1617 is formed in or registered as a foreign limited partnership in this state on or before May 4,
1618 1998, until December 31, 1998.

1619 (b) On or after January 1, 1999, any limited partnership formed in or registered as a
1620 foreign limited partnership in this state shall comply with the requirements of Subsection
1621 (1)(e).

1622 Section 23. Section **48-2c-106** is amended to read:

1623 **48-2c-106. Name -- Exclusive right.**

1624 (1) Except as provided in Subsection (8), the name of a company as set forth in the
1625 articles of organization:

1626 (a) shall contain the terms:

1627 (i) "limited company";

1628 (ii) "limited liability company";

1629 (iii) "L.C." or "LC"; or

1630 (iv) "L.L.C." or "LLC";

1631 (b) may not contain:

1632 (i) the terms:

1633 (A) "association";

1634 (B) "corporation";

1635 (C) "incorporated";

1636 (D) "limited partnership";

1637 (E) "limited";

1638 (F) "L.P."; or

1639 (G) "Ltd."; or

1640 (ii) words or an abbreviation with a similar meaning in any other language;
1641 (c) without the written consent of the United States Olympic Committee, may not
1642 contain the words:

- 1643 (i) "Olympic";
- 1644 (ii) "Olympiad"; or
- 1645 (iii) "Citius Altius Fortius"; and

1646 (d) without the written consent of the Division of Consumer Protection in accordance
1647 with Section 13-34-114, may not contain the words:

- 1648 (i) "university";
- 1649 (ii) "college"; or
- 1650 (iii) "institute" or "institution".

1651 (2) (a) A person, other than a company formed under this chapter or a foreign company
1652 authorized to transact business in this state, may not use in its name in this state any of the
1653 terms:

- 1654 (i) "limited liability company";
- 1655 (ii) "limited company";
- 1656 (iii) "L.L.C.";
- 1657 (iv) "L.C.";
- 1658 (v) "LLC"; or
- 1659 (vi) "LC".

1660 (b) Notwithstanding Subsection (2)(a):

1661 (i) a foreign corporation whose actual name includes the word "limited" or "Ltd." may
1662 use its actual name in this state if it also uses:

- 1663 (A) "corporation" or "corp."; or
- 1664 (B) "incorporated" or "inc."; and
- 1665 (ii) a limited liability partnership may use in its name the terms:
 - 1666 (A) "limited liability partnership";
 - 1667 (B) "L.L.P."; or
 - 1668 (C) "LLP".

1669 (3) Except as authorized by Subsection (4), the name of a company must be
1670 distinguishable as defined in Subsection (5) upon the records of the division from:

1671 (a) the actual name, reserved name, or fictitious or assumed name of any entity
1672 registered with the division; or

1673 (b) any tradename, trademark, or service mark registered with the division.

1674 (4) (a) A company may apply to the division for approval to file its articles of
1675 organization under or to reserve a name that is not distinguishable upon the division's records
1676 from one or more of the names described in Subsection (3).

1677 (b) The division shall approve the name for which the company applies under
1678 Subsection (4)(a) if:

1679 (i) the other person whose name is not distinguishable from the name under which the
1680 applicant desires to file:

1681 (A) consents to the filing in writing; and

1682 (B) submits an undertaking in a form satisfactory to the division to change its name to
1683 a name that is distinguishable from the name of the applicant; or

1684 (ii) the applicant delivers to the division a certified copy of the final judgment of a
1685 court of competent jurisdiction establishing the applicant's right to use the name in this state.

1686 (5) A name is distinguishable from other names, trademarks, and service marks
1687 registered with the division if it contains one or more different words, letters, or numerals from
1688 other names upon the division's records.

1689 (6) The following differences are not distinguishing:

1690 (a) the terms:

1691 (i) "corporation";

1692 (ii) "incorporated";

1693 (iii) "company";

1694 (iv) "limited partnership";

1695 (v) "limited";

1696 (vi) "L.P." or "LP";

1697 (vii) "Ltd.";

1698 (viii) "limited liability company";

1699 (ix) "limited company";

1700 (x) "L.C." or "LC"; or

1701 (xi) "L.L.C." or "LLC";

- 1702 (b) an abbreviation of a word listed in Subsection (6)(a);
- 1703 (c) the presence or absence of the words or symbols of the words "the," "and," "a," or
- 1704 "plus";
- 1705 (d) differences in punctuation and special characters;
- 1706 (e) differences in capitalization; or
- 1707 (f) for a company that is formed in this state on or after May 4, 1998, or registered as a
- 1708 foreign company in this state on or after May 4, 1998, differences between singular and plural
- 1709 forms of words.

1710 (7) A name that implies that a company is an agency of this state or any of its political

1711 subdivisions, if it is not actually a legally established agency or political subdivision, may not

1712 be approved for filing by the division.

1713 (8) The name of a low-profit limited liability company shall contain the abbreviation

1714 "L3C" or "l3c".

1715 Section 24. Section **51-9-408** is amended to read:

1716 **51-9-408. Children's Legal Defense Account.**

1717 (1) There is created a restricted account within the General Fund known as the

1718 Children's Legal Defense Account.

1719 (2) The purpose of the Children's Legal Defense Account is to provide for programs

1720 that protect and defend the rights, safety, and quality of life of children.

1721 (3) The Legislature shall appropriate money from the account for the administrative

1722 and related costs of the following programs:

1723 (a) implementing the Mandatory Educational Course on Children's Needs for

1724 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,

1725 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation Pilot Program - Child

1726 Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18;

1727 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,

1728 78A-2-227, 78A-6-321, 78A-6-902, and 78B-3-102; the training of ~~guardian~~ guardians ad

1729 ~~litem~~ litem and volunteers as provided in Section 78A-6-902; and termination of parental

1730 rights as provided in Sections 78A-6-117, 78A-6-118, and 78A-6-1103, and Title 78A, Chapter

1731 6, Part 5, Termination of Parental Rights Act. This account may not be used to supplant

1732 funding for the guardian ad litem program in the juvenile court as provided in Section

1733 78A-6-902; and

1734 (c) implementing and administering the Expedited Parent-time Enforcement Program
1735 as provided in Section 30-3-38.

1736 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
1737 Account and used only for the purposes provided in Subsections (3)(a) through (c):

1738 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
1739 as provided in Section 17-16-21; and

1740 (b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any
1741 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

1742 (5) The Division of Finance shall allocate the monies described in Subsection (4) from
1743 the General Fund to the Children's Legal Defense Account.

1744 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30
1745 of any fiscal year shall lapse into the General Fund.

1746 Section 25. Section **53-1-108** is amended to read:

1747 **53-1-108. Commissioner's powers and duties.**

1748 (1) In addition to the responsibilities contained in this title, the commissioner shall:

1749 (a) administer and enforce this title and Title 41, Chapter 12a, Financial Responsibility
1750 of Motor Vehicle Owners and Operators Act;

1751 (b) appoint deputies, inspectors, examiners, clerical workers, and other employees as
1752 required to properly discharge the duties of the department;

1753 (c) make rules:

1754 (i) governing emergency use of signal lights on private vehicles; and

1755 (ii) allowing privately owned vehicles to be designated for part-time emergency use, as
1756 provided in Section 41-6a-310;

1757 (d) set standards for safety belt systems, as required by Section 41-6a-1803;

1758 (e) serve as the [~~chairman~~] cochair of the [~~Disaster Emergency Advisory~~] Emergency
1759 Management Administration Council, as required by Section 63K-3-201;

1760 (f) designate vehicles as "authorized emergency vehicles," as required by Section
1761 41-6a-102; and

1762 (g) on or before January 1, 2003, adopt a written policy that prohibits the stopping,
1763 detention, or search of any person when the action is solely motivated by considerations of

1764 race, color, ethnicity, age, or gender.

1765 (2) The commissioner may:

1766 (a) subject to the approval of the governor, establish division headquarters at various
1767 places in the state;

1768 (b) issue to a special agent a certificate of authority to act as a peace officer and revoke
1769 that authority for cause, as authorized in Section 56-1-21.5;

1770 (c) create specialized units within the commissioner's office for conducting internal
1771 affairs and aircraft operations as necessary to protect the public safety;

1772 (d) cooperate with any recognized agency in the education of the public in safety and
1773 crime prevention and participate in public or private partnerships, subject to Subsection (3);

1774 (e) cooperate in applying for and distributing highway safety program funds; and

1775 (f) receive and distribute federal funding to further the objectives of highway safety in
1776 compliance with the Federal Assistance Management Program Act.

1777 (3) (a) Money may not be expended under Subsection (2)(d) for public safety education
1778 unless it is specifically appropriated by the Legislature for that purpose.

1779 (b) Any recognized agency receiving state money for public safety shall file with the
1780 auditor of the state an itemized statement of all its receipts and expenditures.

1781 Section 26. Section **53A-11a-301** is amended to read:

1782 **53A-11a-301. Bullying and hazing policy.**

1783 (1) On or before September 1, 2009, each school board shall adopt a bullying [~~or~~] and
1784 hazing policy.

1785 (2) The policy shall:

1786 (a) be developed only with input from:

1787 (i) students;

1788 (ii) parents;

1789 (iii) teachers;

1790 (iv) school administrators;

1791 (v) school staff; or

1792 (vi) local law enforcement agencies;

1793 (b) be implemented in an ongoing, consistent, and nondiscriminatory manner;

1794 (c) be integrated with existing school discipline policies and violence prevention

1795 efforts; and

1796 (d) provide protection to a student, regardless of the student's legal status.

1797 (3) The policy shall include the following components:

1798 (a) definitions of bullying and hazing that, at a minimum, include the conduct

1799 described in the definitions of bullying and hazing under Section 53A-11a-102;

1800 (b) the prohibitions described in Part 2, Prohibitions;

1801 (c) a description of the action that may be taken, and consequences or penalties that

1802 may be imposed, for engaging in prohibited bullying, hazing, or retaliation against a school

1803 employee or student for reporting bullying or hazing, which shall include:

1804 (i) suspension; or

1805 (ii) dissolution of a team, organization, or other group;

1806 (d) procedures for protecting:

1807 (i) a victim of bullying or hazing from being subjected to further bullying or hazing;

1808 and

1809 (ii) a school employee or student from retaliation for reporting bullying or hazing;

1810 (e) procedures for promptly reporting to law enforcement all acts of bullying, hazing,

1811 or retaliation that constitute criminal activity;

1812 (f) procedures for promptly investigating and responding to reports of bullying, hazing,

1813 or retaliation;

1814 (g) procedures allowing for anonymous reporting of bullying, hazing, or retaliation;

1815 (h) specification of the persons responsible for taking, investigating, and responding to

1816 reports of bullying, hazing, or retaliation;

1817 (i) a procedure for referring a victim of bullying or hazing to counseling;

1818 (j) involving the parents or guardians of a perpetrator or victim of bullying, hazing, or

1819 retaliation in the process of responding to, and resolving, conduct prohibited by this chapter;

1820 (k) to the extent permitted by federal and state law, including the federal Family

1821 Educational and Privacy Rights Act of 1974, as amended, a procedure informing the parents or

1822 guardians of a student who is a victim of bullying or hazing of the actions taken against the

1823 perpetrators of the bullying or hazing;

1824 (l) procedures and plans for publicizing the policy to school employees, students, and

1825 parents and guardians of students; and

1826 (m) procedures and plans for training school employees and students in recognizing
1827 and preventing bullying, hazing, or retaliation.

1828 (4) A copy of the policy shall be included in student conduct handbooks and employee
1829 handbooks.

1830 (5) A policy may not permit formal disciplinary action that is based solely on an
1831 anonymous report of bullying, hazing, or retaliation.

1832 (6) Nothing in this chapter is intended to infringe upon the right of a school employee
1833 or student to exercise their right of free speech.

1834 Section 27. Section **53C-1-201** is amended to read:

1835 **53C-1-201. Creation of administration -- Purpose -- Director.**

1836 (1) (a) There is established within state government the School and Institutional Trust
1837 Lands Administration.

1838 (b) The administration shall manage all school and institutional trust lands and assets
1839 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
1840 of Revenue from Trust Lands, and Sections 51-7a-201 and 51-7a-202.

1841 (2) The administration is an independent state agency and not a division of any other
1842 department.

1843 (3) (a) It is subject to the usual legislative and executive department controls except as
1844 provided in this Subsection (3).

1845 (b) (i) The director may make rules as approved by the board that allow the
1846 administration to classify a business proposal submitted to the administration as protected
1847 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

1848 (ii) The administration shall return the proposal to the party who submitted the
1849 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access
1850 and Management Act, if the administration determines not to proceed with the proposal.

1851 (iii) The administration shall classify the proposal pursuant to law if it decides to
1852 proceed with the proposal.

1853 (iv) Section 63G-2-403 does not apply during the review period.

1854 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah
1855 Administrative Rulemaking Act, except that the administration is not subject to Subsections
1856 63G-3-301(6) and (7), and the director, with the board's approval, may establish a procedure

1857 for the expedited approval of rules, based on written findings by the director showing:

1858 (i) the changes in business opportunities affecting the assets of the trust;

1859 (ii) the specific business opportunity arising out of those changes which may be lost

1860 without the rule or changes to the rule;

1861 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without

1862 causing the loss of the specific opportunity;

1863 (iv) approval by at least five board members; and

1864 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific

1865 reasons and justifications for its findings, with the Division of Administrative Rules and

1866 notified interested parties as provided in Subsection 63G-3-301~~(9)~~(10).

1867 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel

1868 Management Act, except as provided in this Subsection (3)(d).

1869 (ii) The board may approve, upon recommendation of the director, that exemption for

1870 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable

1871 the administration to efficiently fulfill its responsibilities under the law. The director shall

1872 consult with the executive director of the Department of Human Resource Management prior

1873 to making such a recommendation.

1874 (iii) The positions of director, deputy director, associate director, assistant director,

1875 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs

1876 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

1877 (iv) Salaries for exempted positions, except for the director, shall be set by the director,

1878 after consultation with the executive director of the Department of Human Resource

1879 Management, within ranges approved by the board. The board and director shall consider

1880 salaries for similar positions in private enterprise and other public employment when setting

1881 salary ranges.

1882 (v) The board may create an annual incentive and bonus plan for the director and other

1883 administration employees designated by the board, based upon the attainment of financial

1884 performance goals and other measurable criteria defined and budgeted in advance by the board.

1885 (e) The administration shall comply with Title 63G, Chapter 6, Utah Procurement

1886 Code, except where the board approves, upon recommendation of the director, exemption from

1887 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,

1888 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
1889 efficiently fulfill its responsibilities under the law.

1890 (f) (i) The board and director shall review the exceptions under this Subsection (3) and
1891 make recommendations for any modification, if required, which the Legislature would be asked
1892 to consider during its annual general session.

1893 (ii) The board and director may include in their recommendations any other proposed
1894 exceptions from the usual executive and legislative controls the board and director consider
1895 necessary to accomplish the purpose of this title.

1896 (4) The administration is managed by a director of school and institutional trust lands
1897 appointed by a majority vote of the board of trustees with the consent of the governor.

1898 (5) (a) The board of trustees shall provide policies for the management of the
1899 administration and for the management of trust lands and assets.

1900 (b) The board shall provide policies for the ownership and control of Native American
1901 remains that are discovered or excavated on school and institutional trust lands in consultation
1902 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
1903 Native American Grave Protection and Repatriation Act. The director may make rules in
1904 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement
1905 policies provided by the board regarding Native American remains.

1906 (6) In connection with joint ventures for the development of trust lands and minerals
1907 approved by the board under Sections 53C-1-303 and 53C-2-401, the administration may
1908 become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised
1909 Limited Liability Company Act, and is considered a person under Section 48-2c-102.

1910 Section 28. Section **58-54-3** is amended to read:

1911 **58-54-3. Board created -- Membership -- Duties.**

1912 (1) There is created a Radiology Technologist Licensing Board consisting of seven
1913 members as follows:

1914 (a) four licensed radiology technologists;

1915 (b) one licensed radiology practical technician;

1916 (c) one radiologist; and

1917 (d) one member from the general public.

1918 (2) The board shall be appointed in accordance with Section 58-1-201.

1919 (3) The duties and responsibilities of the board shall be in accordance with Sections
1920 58-1-202 and 58-1-203.

1921 (4) In accordance with Subsection 58-1-203~~[(6)](1)(f)~~, there is established an advisory
1922 peer committee to the board consisting of eight members broadly representative of the state and
1923 including:

1924 (a) one licensed physician and surgeon who is not a radiologist and who uses radiology
1925 equipment in a rural office-based practice, appointed from among recommendations of the
1926 Physicians Licensing Board;

1927 (b) one licensed physician and surgeon who is not a radiologist and who uses radiology
1928 equipment in an urban office-based practice, appointed from among recommendations of the
1929 Physicians Licensing Board;

1930 (c) one licensed physician and surgeon who is a radiologist practicing in radiology,
1931 appointed from among recommendations of the Physicians Licensing Board;

1932 (d) one licensed osteopathic physician, appointed from among recommendations of the
1933 Osteopathic Physicians Licensing Board;

1934 (e) one licensed chiropractic physician, appointed from among recommendations of the
1935 Chiropractors Licensing Board;

1936 (f) one licensed podiatric physician, appointed from among recommendations of the
1937 Podiatric Physician Board;

1938 (g) one representative of the state agency with primary responsibility for regulation of
1939 sources of radiation, recommended by that agency; and

1940 (h) one representative of a general acute hospital, as defined in Section 26-21-2, that is
1941 located in a rural area of the state.

1942 (5) (a) Except as required by Subsection (5)(b), members of the advisory peer
1943 committee shall be appointed to four-year terms by the director in collaboration with the board
1944 from among the recommendations.

1945 (b) Notwithstanding the requirements of Subsection (5)(a), the director shall, at the
1946 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1947 committee members are staggered so that approximately half of the committee is appointed
1948 every two years.

1949 (c) When a vacancy occurs in the membership for any reason, the replacement shall be

1950 appointed for the unexpired term.

1951 (6) (a) (i) Members who are not government employees shall receive no compensation
1952 or benefits for their services, but may receive per diem and expenses incurred in the
1953 performance of the member's official duties at the rates established by the Division of Finance
1954 under Sections 63A-3-106 and 63A-3-107.

1955 (ii) Members may decline to receive per diem and expenses for their service.

1956 (b) (i) State government officer and employee members who do not receive salary, per
1957 diem, or expenses from their agency for their service may receive per diem and expenses
1958 incurred in the performance of their official duties from the committee at the rates established
1959 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1960 (ii) State government officer and employee members may decline to receive per diem
1961 and expenses for their service.

1962 (7) The duties, responsibilities, and scope of authority of the advisory peer committee
1963 are:

1964 (a) to advise the board with respect to the board's fulfillment of its duties, functions,
1965 and responsibilities under Sections 58-1-202 and 58-1-203; and

1966 (b) to advise the division with respect to the examination the division is to adopt by
1967 rule, by which a radiology practical technician may qualify for licensure under Section 58-54-5.

1968 Section 29. Section **59-11-102** is amended to read:

1969 **59-11-102. Definitions.**

1970 As used in this chapter:

1971 (1) "Decedent" means a deceased natural person.

1972 (2) "Federal credit" means the maximum amount of the credit for ~~[estate]~~ state death
1973 taxes allowed by Section 2011 in respect to a decedent's taxable estate.

1974 (3) "Gross estate" means "gross estate" as defined in Section 2031, Internal Revenue
1975 Code.

1976 (4) "Nonresident" means a decedent who was domiciled outside of this state at the time
1977 of death.

1978 (5) "Other state" means any state in the United States other than this state, the District
1979 of Columbia, or any possession or territory of the United States.

1980 (6) "Person" includes any natural person, corporation, association, partnership, joint

1981 venture, syndicate, estate, trust, or other entity under which business or other activities may be
1982 conducted.

1983 (7) "Personal representative" means the executor, administrator, or trustee of a
1984 decedent's estate, or, if there is no executor, administrator, or trustee appointed, qualified, and
1985 acting within this state, then any person in actual or constructive possession of any property of
1986 the decedent.

1987 (8) "Resident" means a decedent who was domiciled in this state at the time of death.

1988 (9) "Section 2011" means "Section 2011," Internal Revenue Code.

1989 (10) "Taxable estate" means "taxable estate" as defined in Section 2051, Internal
1990 Revenue Code.

1991 (11) "Transfer" means "transfer" as described in Section 2001, Internal Revenue Code.
1992 Section 30. Section **61-1-14** is amended to read:

1993 **61-1-14. Exemptions.**

1994 (1) The following securities are exempt from Sections 61-1-7 and 61-1-15:

1995 (a) a security, including a revenue obligation, issued or guaranteed by the United
1996 States, a state, a political subdivision of a state, or an agency or corporate or other
1997 instrumentality of one or more of the foregoing, or a certificate of deposit for any of the
1998 foregoing;

1999 (b) a security issued or guaranteed by Canada, a Canadian province, a political
2000 subdivision of a Canadian province, an agency or corporate or other instrumentality of one or
2001 more of the foregoing, or another foreign government with which the United States currently
2002 maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer
2003 or guarantor;

2004 (c) a security issued by and representing an interest in or a debt of, or guaranteed by, a
2005 depository institution organized under the laws of the United States, or a depository institution
2006 or trust company supervised under the laws of a state;

2007 (d) a security issued or guaranteed by a public utility or a security regulated in respect
2008 of its rates or in its issuance by a governmental authority of the United States, a state, Canada,
2009 or a Canadian province;

2010 (e) (i) a federal covered security specified in the Securities Act of 1933, Section
2011 18(b)(1), 15 U.S.C. Section 77r(b)(1), or by rule adopted under that provision;

- 2012 (ii) a security listed or approved for listing on another securities market specified by
2013 rule under this chapter;
- 2014 (iii) any of the following with respect to a security described in Subsection (1)(e)(i) or
2015 (ii):
- 2016 (A) a put or a call option contract;
- 2017 (B) a warrant; or
- 2018 (C) a subscription right on or with respect to the security;
- 2019 (iv) an option or similar derivative security on a security or an index of securities or
2020 foreign currencies issued by a clearing agency that is:
- 2021 (A) registered under the Securities Exchange Act of 1934; and
- 2022 (B) listed or designated for trading on a national securities exchange, or a facility of a
2023 national securities association registered under the Securities Exchange Act of 1934;
- 2024 (v) an offer or sale, of the underlying security in connection with the offer, sale, or
2025 exercise of an option or other security that was exempt when the option or other security was
2026 written or issued; or
- 2027 (vi) an option or a derivative security designated by the Securities and Exchange
2028 Commission under Securities Exchange Act of 1934, Section 9(b), 15 U.S.C. Section 78i(b);
- 2029 (f) (i) a security issued by a person organized and operated not for private profit but
2030 exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or
2031 reformatory purposes, or as a chamber of commerce or trade or professional association; and
- 2032 (ii) a security issued by a corporation organized under Title 3, Chapter 1, General
2033 Provisions Relating to Agricultural Cooperative Associations, and a security issued by a
2034 corporation to which that chapter is made applicable by compliance with Section 3-1-21;
- 2035 (g) an investment contract issued in connection with an employees' stock purchase,
2036 option, savings, pension, profit-sharing, or similar benefit plan;
- 2037 (h) a security issued by an investment company that is registered, or that has filed a
2038 registration statement, under the Investment Company Act of 1940; and
- 2039 (i) a security as to which the director, by rule or order, finds that registration is not
2040 necessary or appropriate for the protection of investors.
- 2041 (2) The following transactions are exempt from Sections 61-1-7 and 61-1-15:
- 2042 (a) an isolated nonissuer transaction, whether effected through a broker-dealer or not;

- 2043 (b) a nonissuer transaction in an outstanding security, if as provided by rule of the
2044 division:
- 2045 (i) information about the issuer of the security as required by the division is currently
2046 listed in a securities manual recognized by the division, and the listing is based upon such
2047 information as required by rule of the division; or
- 2048 (ii) the security has a fixed maturity or a fixed interest or dividend provision and there
2049 is no default during the current fiscal year or within the three preceding fiscal years, or during
2050 the existence of the issuer and any predecessors if less than three years, in the payment of
2051 principal, interest, or dividends on the security;
- 2052 (c) a nonissuer transaction effected by or through a registered broker-dealer pursuant to
2053 an unsolicited order or offer to buy;
- 2054 (d) a transaction between the issuer or other person on whose behalf the offering is
2055 made and an underwriter, or among underwriters;
- 2056 (e) a transaction in a bond or other evidence of indebtedness secured by a real or
2057 chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the
2058 entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of
2059 indebtedness secured thereby, is offered and sold as a unit;
- 2060 (f) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in
2061 bankruptcy, guardian, or conservator;
- 2062 (g) a transaction executed by a bona fide pledgee without a purpose of evading this
2063 chapter;
- 2064 (h) an offer or sale to one of the following whether the purchaser is acting for itself or
2065 in a fiduciary capacity:
- 2066 (i) a depository institution;
- 2067 (ii) a trust company;
- 2068 (iii) an insurance company;
- 2069 (iv) an investment company as defined in the Investment Company Act of 1940;
- 2070 (v) a pension or profit-sharing trust;
- 2071 (vi) other financial institution or institutional investor; or
- 2072 (vii) a broker-dealer;
- 2073 (i) an offer or sale of a preorganization certificate or subscription if:

- 2074 (i) no commission or other remuneration is paid or given directly or indirectly for
2075 soliciting a prospective subscriber;
- 2076 (ii) the number of subscribers acquiring a legal or beneficial interest therein does not
2077 exceed 10;
- 2078 (iii) there is no general advertising or solicitation in connection with the offer or sale;
2079 and
- 2080 (iv) no payment is made by a subscriber;
- 2081 (j) subject to Subsection (6), a transaction pursuant to an offer by an issuer of its
2082 securities to its existing securities holders, if:
 - 2083 (i) no commission or other remuneration, other than a standby commission is paid or
2084 given directly or indirectly for soliciting a security holder in this state; and
 - 2085 (ii) the transaction constitutes:
 - 2086 (A) the conversion of convertible securities;
 - 2087 (B) the exercise of nontransferable rights or warrants;
 - 2088 (C) the exercise of transferable rights or warrants if the rights or warrants are
2089 exercisable not more than 90 days after their issuance;
 - 2090 (D) the purchase of securities under a preemptive right; or
 - 2091 (E) a transaction other than one specified in Subsections (2)(j)(ii)(A) through (D) if:
 - 2092 (I) the division is furnished with:
 - 2093 (Aa) a general description of the transaction;
 - 2094 (Bb) the disclosure materials to be furnished to the issuer's securities holders in the
2095 transaction; and
 - 2096 (Cc) a non-refundable fee; and
 - 2097 (II) the division does not, by order, deny or revoke the exemption within 20 working
2098 days after the day on which the filing required by Subsection (2)(j)(ii)(E)(I) is complete;
 - 2099 (k) an offer, but not a sale, of a security for which a registration statement is filed under
2100 both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and
2101 no public proceeding or examination looking toward such an order is pending;
 - 2102 (l) a distribution of securities as a dividend if the person distributing the dividend is the
2103 issuer of the securities distributed;
 - 2104 (m) a nonissuer transaction effected by or through a registered broker-dealer where the

2105 broker-dealer or issuer files with the division, and the broker-dealer maintains in the
2106 broker-dealer's records, and makes reasonably available upon request to a person expressing an
2107 interest in a proposed transaction in the security with the broker-dealer information prescribed
2108 by the division under its rules;

2109 (n) a transaction not involving a public offering;

2110 (o) an offer or sale of "condominium units" or "time period units" as those terms are
2111 defined in Title 57, Chapter 8, Condominium Ownership Act, whether or not to be sold by
2112 installment contract, if the following are complied with:

2113 (i) Title 57, Chapter 8, Condominium Ownership Act, or if the units are located in
2114 another state, the condominium act of that state;

2115 (ii) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

2116 (iii) Title 57, Chapter 19, Timeshare and Camp Resort Act; and

2117 (iv) Title 70C, Utah Consumer Credit Code;

2118 (p) a transaction or series of transactions involving a merger, consolidation,
2119 reorganization, recapitalization, reclassification, or sale of assets, if the consideration for
2120 which, in whole or in part, is the issuance of securities of a person or persons, and if:

2121 (i) the transaction or series of transactions is incident to a vote of the securities holders
2122 of each person involved or by written consent or resolution of some or all of the securities
2123 holders of each person involved;

2124 (ii) the vote, consent, or resolution is given under a provision in:

2125 (A) the applicable corporate statute or other controlling statute;

2126 (B) the controlling articles of incorporation, trust indenture, deed of trust, or
2127 partnership agreement; or

2128 (C) the controlling agreement among securities holders;

2129 (iii) (A) one person involved in the transaction is required to file proxy or
2130 informational materials under Section 14(a) or (c) of the Securities Exchange Act of 1934 or
2131 Section 20 of the Investment Company Act of 1940 and has so filed;

2132 (B) one person involved in the transaction is an insurance company that is exempt from
2133 filing under Section 12(g)(2)(G) of the Securities Exchange Act of 1934, and has filed proxy or
2134 informational materials with the appropriate regulatory agency or official of its domiciliary
2135 state; or

2136 (C) all persons involved in the transaction are exempt from filing under Section
2137 12(g)(1) of the Securities Exchange Act of 1934, and file with the division such proxy or
2138 informational material as the division requires by rule;

2139 (iv) the proxy or informational material is filed with the division and distributed to all
2140 securities holders entitled to vote in the transaction or series of transactions at least 10 working
2141 days prior to any necessary vote by the securities holders or action on any necessary consent or
2142 resolution; and

2143 (v) the division does not, by order, deny or revoke the exemption within 10 working
2144 days after filing of the proxy or informational materials;

2145 (q) subject to Subsection (7), a transaction pursuant to an offer to sell securities of an
2146 issuer if:

2147 (i) the transaction is part of an issue in which there are not more than 15 purchasers in
2148 this state, other than those designated in Subsection (2)(h), during any 12 consecutive months;

2149 (ii) no general solicitation or general advertising is used in connection with the offer to
2150 sell or sale of the securities;

2151 (iii) no commission or other similar compensation is given, directly or indirectly, to a
2152 person other than a broker-dealer or agent licensed under this chapter, for soliciting a
2153 prospective purchaser in this state;

2154 (iv) the seller reasonably believes that all the purchasers in this state are purchasing for
2155 investment; and

2156 (v) the transaction is part of an aggregate offering that does not exceed \$1,000,000, or a
2157 greater amount as prescribed by a division rule, during any 12 consecutive months;

2158 (r) a transaction involving a commodity contract or commodity option;

2159 (s) a transaction in a security, whether or not the security or transaction is otherwise
2160 exempt if:

2161 (i) the transaction is:

2162 (A) in exchange for one or more outstanding securities, claims, or property interests; or

2163 (B) partly for cash and partly in exchange for one or more outstanding securities,
2164 claims, or property interests; and

2165 (ii) the terms and conditions are approved by the director after a hearing under Section
2166 ~~[61-1a-408]~~ 61-1-11.1;

2167 (t) a transaction incident to a judicially approved reorganization in which a security is
2168 issued:

2169 (i) in exchange for one or more outstanding securities, claims, or property interests; or

2170 (ii) partly for cash and partly in exchange for one or more outstanding securities,
2171 claims, or property interests;

2172 (u) a nonissuer transaction by a federal covered investment adviser with investments
2173 under management in excess of \$100,000,000 acting in the exercise of discretionary authority
2174 in a signed record for the account of others; and

2175 (v) a transaction as to which the division finds that registration is not necessary or
2176 appropriate for the protection of investors.

2177 (3) A person filing an exemption notice or application shall pay a filing fee as
2178 determined under Section 61-1-18.4.

2179 (4) Upon approval by a majority of the commission, the director, by means of an
2180 adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative
2181 Procedures Act, may deny or revoke an exemption specified in Subsection (1)(f) or (g) or in
2182 Subsection (2) with respect to:

2183 (a) a specific security, transaction, or series of transactions; or

2184 (b) a person or issuer, an affiliate or successor to a person or issuer, or an entity
2185 subsequently organized by or on behalf of a person or issuer generally and may impose a fine if
2186 the director finds that the order is in the public interest and that:

2187 (i) the application for or notice of exemption filed with the division is incomplete in a
2188 material respect or contains a statement which was, in the light of the circumstances under
2189 which it was made, false or misleading with respect to a material fact;

2190 (ii) this chapter, or a rule, order, or condition lawfully imposed under this chapter has
2191 been willfully violated in connection with the offering or exemption by:

2192 (A) the person filing an application for or notice of exemption;

2193 (B) the issuer, a partner, officer, or director of the issuer, a person occupying a similar
2194 status or performing similar functions, or a person directly or indirectly controlling or
2195 controlled by the issuer, but only if the person filing the application for or notice of exemption
2196 is directly or indirectly controlled by or acting for the issuer; or

2197 (C) an underwriter;

2198 (iii) subject to Subsection (8), the security for which the exemption is sought is the
2199 subject of an administrative stop order or similar order, or a permanent or temporary injunction
2200 or a court of competent jurisdiction entered under another federal or state act applicable to the
2201 offering or exemption;

2202 (iv) the issuer's enterprise or method of business includes or would include activities
2203 that are illegal where performed;

2204 (v) the offering has worked, has tended to work, or would operate to work a fraud upon
2205 purchasers;

2206 (vi) the offering is or was made with unreasonable amounts of underwriters' and sellers'
2207 discounts, commissions, or other compensation, or promoters' profits or participation, or
2208 unreasonable amounts or kinds of options;

2209 (vii) an exemption is sought for a security or transaction that is not eligible for the
2210 exemption; or

2211 (viii) the proper filing fee, if required, has not been paid.

2212 (5) (a) An order under Subsection (4) may not operate retroactively.

2213 (b) A person may not be considered to have violated Section 61-1-7 or 61-1-15 by
2214 reason of an offer or sale effected after the entry of an order under this Subsection (5) if the
2215 person sustains the burden of proof that the person did not know, and in the exercise of
2216 reasonable care could not have known, of the order.

2217 (6) The exemption created by Subsection (2)(j) is not available for an offer or sale of a
2218 security to an existing securities holder who has acquired the holder's security from the issuer
2219 in a transaction in violation of Section 61-1-7.

2220 (7) As to a security, a transaction, or a type of security or transaction, the division may:

2221 (a) withdraw or further condition the exemption described in Subsection (2)(q); or

2222 (b) waive one or more of the conditions described in Subsection (2)(q).

2223 (8) (a) The director may not institute a proceeding against an effective exemption under
2224 Subsection (4)(b) more than one year from the day on which the order or injunction on which
2225 the director relies is issued.

2226 (b) The director may not enter an order under Subsection (4)(b) on the basis of an order
2227 or injunction entered under another state act unless that order or injunction is issued on the
2228 basis of facts that would constitute a ground for a stop order under this section at the time the

2229 director enters the order.

2230 Section 31. Section **62A-15-902** is amended to read:

2231 **62A-15-902. Design and operation -- Security.**

2232 (1) The forensic mental health facility is a secure treatment facility.

2233 (2) (a) The forensic mental health facility accommodates the following populations:

2234 (i) prison inmates displaying mental illness, as defined in Section 62A-15-602,

2235 necessitating treatment in a secure mental health facility;

2236 (ii) criminally adjudicated persons found guilty and mentally ill or guilty and mentally

2237 ill at the time of the offense undergoing evaluation for mental illness under Title 77, Chapter

2238 16a, Commitment and Treatment of Mentally Ill Persons;

2239 (iii) criminally adjudicated persons undergoing evaluation for competency or found

2240 guilty and mentally ill or guilty and mentally ill at the time of the offense under Title 77,

2241 Chapter 16a, Commitment and Treatment of Mentally Ill Persons, who also have mental

2242 retardation;

2243 (iv) persons undergoing evaluation for competency or found by a court to be

2244 incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry Into Sanity of

2245 Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;

2246 (v) persons who are civilly committed to the custody of a local mental health authority

2247 in accordance with Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health

2248 Facilities, and who may not be properly supervised by the Utah State Hospital because of a lack

2249 of necessary security, as determined by the superintendent or the superintendent's designee; and

2250 (vi) persons ordered to commit themselves to the custody of the Division of Substance

2251 Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or

2252 stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

2253 (b) Placement of an offender in the forensic mental health facility under any category

2254 described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's

2255 status as established by the court at the time of adjudication.

2256 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2257 department shall make rules providing for the allocation of beds to the categories described in

2258 Subsection (2)(a).

2259 (3) The department shall:

- 2260 (a) own and operate the forensic mental health facility;
- 2261 (b) provide and supervise administrative and clinical staff; and
- 2262 (c) provide security staff who are trained as psychiatric technicians.
- 2263 (4) Pursuant to Subsection 62A-15-603(3) the executive director shall designate
- 2264 individuals to perform security functions for the state hospital.

2265 Section 32. Section **63H-2-102** is amended to read:

2266 **63H-2-102. Definitions.**

2267 As used in this chapter:

2268 (1) "Authority" means the Utah Generated Renewable Energy Electricity Network
2269 Authority created in Section 63H-2-201.

2270 (2) "Authority bond" means a bond issued by the authority in accordance with Part 4,
2271 Bonding.

2272 (3) "Board" means the board created under Section 63H-2-202.

2273 (4) "Community" means the county, city, or town in which is located a qualifying
2274 transmission project financed by an authority bond.

2275 (5) "Electric interlocal entity" means an interlocal entity defined in Section 11-13-103.

2276 (6) "Independent state agency" is as defined in Section 63E-1-102.

2277 (7) "Public entity" means:

2278 (a) the United States or an agency of the United States;

2279 (b) the state or an agency of the state;

2280 (c) a political subdivision of the state or an agency of a political subdivision of the
2281 state;

2282 (d) another state or an agency of that state; or

2283 (e) a political subdivision of another state or an agency of that political subdivision.

2284 (8) "Qualifying transmission project" means a transmission project approved by the
2285 board in accordance with Part 3, Qualifying Transmission Projects.

2286 (9) "Record" means information that is:

2287 (a) inscribed on a tangible medium; or

2288 (b) (i) stored in an electronic or other medium; and

2289 (ii) retrievable in perceivable form.

2290 (10) "Related facility" means a facility related to the effective operation of a

- 2291 transmission line although the facility is not directly a part of a transmission line, including:
- 2292 (a) a substation; or
- 2293 (b) an access road.
- 2294 (11) "Renewable energy source" is as defined in Section 10-19-102.
- 2295 (12) "Transmission project" means a project that is designed to:
- 2296 (a) increase capacity for transmission of electric power or energy to an electric load:
- 2297 (i) within this state; or
- 2298 (ii) outside of the state; or
- 2299 (b) otherwise increase the capability of an existing electric transmission line or related
- 2300 facility to transmit electric power and energy from a renewable energy [resource] source to an
- 2301 electric load:
- 2302 (i) within this state; or
- 2303 (ii) outside of the state.
- 2304 (13) "Wholesale electrical cooperative" is as defined in Section 54-2-1.
- 2305 Section 33. Section **63J-1-602** is amended to read:
- 2306 **63J-1-602. Nonlapsing accounts and funds.**
- 2307 (1) The following revenue collections, appropriations from a fund or account, and
- 2308 appropriations to a program are nonlapsing:
- 2309 (a) appropriations made to the Legislature and its committees;
- 2310 (b) funds collected by the grain grading program, as provided in Section 4-2-2;
- 2311 (c) the Salinity Offset Fund created in Section 4-2-8.5;
- 2312 (d) the Invasive Species Mitigation Fund created in Section 4-2-8.7;
- 2313 (e) funds collected by pesticide dealer license registration fees, as provided in Section
- 2314 4-14-3;
- 2315 (f) funds collected by pesticide applicator business registration fees, as provided in
- 2316 Section 4-14-13;
- 2317 (g) the Rangeland Improvement Fund created in Section 4-20-2;
- 2318 (h) funds deposited as dedicated credits under the Insect Infestation Emergency Control
- 2319 Act, as provided in Section 4-35-6;
- 2320 (i) the Percent-for-Art Program created in Section 9-6-404;
- 2321 (j) the Centennial History Fund created in Section 9-8-604;

- 2322 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;
- 2323 (l) the Navajo Revitalization Fund created in Section 9-11-104;
- 2324 (m) the LeRay McAllister Critical Land Conservation Program created in Section
2325 11-38-301;
- 2326 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;
- 2327 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in
2328 Section 19-6-120;
- 2329 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and
2330 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;
- 2331 (q) award monies under the Crime Reduction Assistance Program, as provided under
2332 Section 24-1-19;
- 2333 (r) funds collected from the emergency medical services grant program, as provided in
2334 Section 26-8a-207;
- 2335 (s) fees and other funding available to purchase training equipment and to administer
2336 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;
- 2337 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the
2338 federal Social Security Act, as provided in Section 26-18-3;
- 2339 (u) the Utah Health Care Workforce Financial Assistance Program created in Section
2340 26-46-102;
- 2341 (v) monies collected from subscription fees for publications prepared or distributed by
2342 the insurance commissioner, as provided in Section 31A-2-208;
- 2343 (w) monies received by the Insurance Department for administering, investigating
2344 under, and enforcing the Insurance Fraud Act, as provided in Section 31A-31-108;
- 2345 (x) certain monies received for penalties paid under the Insurance Fraud Act, as
2346 provided in Section 31A-31-109;
- 2347 (y) the fund for operating the state's Federal Health Care Tax Credit Program, as
2348 provided in Section 31A-38-104;
- 2349 (z) certain funds in the Department of Workforce Services' program for the education,
2350 training, and transitional counseling of displaced homemakers, as provided in Section
2351 35A-3-114;
- 2352 (aa) the Employment Security Administration Fund created in Section 35A-4-505;

- 2353 (bb) the Special Administrative Expense Fund created in Section 35A-4-506;
- 2354 (cc) funding for a new program or agency that is designated as nonlapsing under
2355 Section 36-24-101;
- 2356 (dd) the Oil and Gas Conservation Account created in Section 40-6-14.5;
- 2357 (ee) funds available to the State Tax Commission for purchase and distribution of
2358 license plates and decals, as provided in Section 41-1a-1201;
- 2359 (ff) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
2360 provided in Section 41-1a-1221;
- 2361 (gg) certain fees collected for administering and enforcing the Motor Vehicle Business
2362 Regulation Act, as provided in Section 41-3-601;
- 2363 (hh) certain fees for the cost of electronic payments under the Motor Vehicle Business
2364 Regulation Act, as provided in Section 41-3-604;
- 2365 (ii) the Off-Highway Access and Education Restricted Account created in Section
2366 41-22-19.5;
- 2367 (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
2368 provided in Section 41-22-36;
- 2369 (kk) monies collected under the Notaries Public Reform Act, as provided under
2370 46-1-23;
- 2371 (ll) certain funds associated with the Law Enforcement Operations Account, as
2372 provided in Section 51-9-411;
- 2373 (mm) the Public Safety Honoring Heroes Restricted Account created in Section
2374 53-1-118;
- 2375 (nn) funding for the Search and Rescue Financial Assistance Program, as provided in
2376 Section 53-2-107;
- 2377 (oo) appropriations made to the Department of Public Safety from the Department of
2378 Public Safety Restricted Account, as provided in Section 53-3-106;
- 2379 (pp) appropriations to the Motorcycle Rider Education Program, as provided in Section
2380 53-3-905;
- 2381 (qq) fees collected by the State Fire Marshal Division under the Utah Fire Prevention
2382 and Safety Act, as provided in Section 53-7-314;
- 2383 (rr) the DNA Specimen Restricted Account created in Section 53-10-407;

- 2384 (ss) the minimum school program, as provided in Section 53A-17a-105;
- 2385 (tt) certain funds appropriated from the Uniform School Fund to the State Board of
2386 Education for new teacher bonus and performance-based compensation plans, as provided in
2387 Section 53A-17a-148;
- 2388 (uu) certain funds appropriated from the Uniform School Fund to the State Board of
2389 Education for implementation of proposals to improve mathematics achievement test scores, as
2390 provided in Section 53A-17a-152;
- 2391 (vv) the School Building Revolving Account created in Section 53A-21-401;
- 2392 (ww) monies received by the State Office of Rehabilitation for the sale of certain
2393 products or services, as provided in Section 53A-24-105;
- 2394 (xx) the State Board of Regents, as provided in Section 53B-6-104;
- 2395 (yy) certain funds appropriated from the General Fund to the State Board of Regents
2396 for teacher preparation programs, as provided in Section 53B-6-104;
- 2397 (zz) a certain portion of monies collected for administrative costs under the School
2398 Institutional Trust Lands Management Act, as provided under Section 53C-3-202;
- 2399 (aaa) certain surcharges on residence and business telecommunications access lines
2400 imposed by the Public Service Commission, as provided in Section 54-8b-10;
- 2401 (bbb) certain fines collected by the Division of Occupational and Professional
2402 Licensing for violation of unlawful or unprofessional conduct that are used for education and
2403 enforcement purposes, as provided in Section 58-17b-505;
- 2404 (ccc) the Nurse Education and Enforcement Fund created in Section 58-31b-103;
- 2405 (ddd) funding of the controlled substance database, as provided in Section 58-37-7.7;
- 2406 (eee) the Certified Nurse Midwife Education and Enforcement Fund created in Section
2407 58-44a-103;
- 2408 (fff) funding for the building inspector's education program, as provided in Section
2409 58-56-9;
- 2410 (ggg) certain fines collected by the Division of Occupational and Professional
2411 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
2412 provided in Section 58-63-103;
- 2413 (hhh) the Professional Geologist Education and Enforcement Fund created in Section
2414 58-76-103;

2415 (iii) certain monies in the Water Resources Conservation and Development Fund, as
 2416 provided in Section 59-12-103;

2417 (jjj) funds paid to the Division of Real Estate for the cost of a criminal background
 2418 check for broker and sales agent licenses, as provided in Section 61-2-9;

2419 (kkk) the Utah Housing Opportunity Restricted Account created in Section 61-2-28;

2420 (lll) funds paid to the Division of Real Estate for the cost of a criminal background
 2421 check for a mortgage loan license, as provided in Section 61-2c-202;

2422 (mmm) funds paid to the Division of Real Estate in relation to examination of records
 2423 in an investigation, as provided in Section 61-2c-401;

2424 (nnn) certain funds donated to the Department of Human Services, as provided in
 2425 Section 62A-1-111;

2426 (ooo) certain funds donated to the Division of Child and Family Services, as provided
 2427 in Section 62A-4a-110;

2428 [~~(ppp) the Mental Health Therapist Grant and Scholarship Program, as provided in~~
 2429 ~~Section 62A-13-109;~~]

2430 [~~(qqq)~~ (ppp) assessments for DUI violations that are forwarded to an account created
 2431 by a county treasurer, as provided in Section 62A-15-503;

2432 [~~(rrr)~~ (qqq) appropriations to the Division of Services for People with Disabilities, as
 2433 provided in Section 62A-5-102;

2434 [~~(sss)~~ (rrr) certain donations to the Division of Substance Abuse and Mental Health, as
 2435 provided in Section 62A-15-103;

2436 [~~(ttt)~~ (sss) certain funds received by the Division of Parks and Recreation from the sale
 2437 or disposal of buffalo, as provided under Section 63-11-19.2;

2438 [~~(uuu)~~ (ttt) revenue for golf user fees at the Wasatch Mountain State Park, Palisades
 2439 State Park, or Jordan River State Park, as provided under Section 63-11-19.5;

2440 [~~(vvv)~~ (uuu) revenue for golf user fees at the Green River State Park, as provided
 2441 under Section 63-11-19.6;

2442 [~~(www)~~ (vvv) the Centennial Nonmotorized Paths and Trail Crossings Program
 2443 created under Section 63-11a-503;

2444 [~~(xxx)~~ (www) the Bonneville Shoreline Trail Program created under Section
 2445 63-11a-504;

2446 [~~(yyy)~~] (xxx) the account for the Utah Geological Survey, as provided in Section
2447 63-73-10;

2448 [~~(zzz)~~] (yyy) the Risk Management Fund created under Section 63A-4-201;

2449 [~~(aaa)~~] (zzz) the Child Welfare Parental Defense Fund created in Section 63A-11-203;

2450 [~~(bbb)~~] (aaa) the Constitutional Defense Restricted Account created in Section
2451 63C-4-103;

2452 [~~(ccc)~~] (bbb) a portion of the funds appropriated to the Utah Seismic Safety
2453 Commission, as provided in Section 63C-6-104;

2454 [~~(ddd)~~] (ccc) funding for the Medical Education Program administered by the
2455 Medical Education Council, as provided in Section 63C-8-102;

2456 [~~(eee)~~] (ddd) certain monies payable for commission expenses of the Pete Suazo
2457 Utah Athletic Commission, as provided under Section 63C-11-301;

2458 [~~(fff)~~] (eee) funds collected for publishing the Division of Administrative Rules'
2459 publications, as provided in Section 63G-3-402;

2460 [~~(ggg)~~] (fff) the appropriation to fund the Governor's Office of Economic
2461 Development's Enterprise Zone Act, as provided in Section 63M-1-416;

2462 [~~(hhh)~~] (ggg) the Tourism Marketing Performance Account, as provided in Section
2463 63M-1-1406;

2464 [~~(iii)~~] (hhh) certain funding for rural development provided to the Office of Rural
2465 Development in the Governor's Office of Economic Development, as provided in Section
2466 63M-1-1604;

2467 [~~(jjj)~~] (iii) certain monies in the Development for Disadvantaged Rural Communities
2468 Restricted Account, as provided in Section 63M-1-2003;

2469 [~~(kkk)~~] (jjj) appropriations to the Utah Science Technology and Research Governing
2470 Authority, created under Section 63M-2-301, as provided under Section 63M-3-302;

2471 [~~(HH)~~] (kkkk) certain monies in the Rural Broadband Service Fund, as provided in
2472 Section 63M-1-2303;

2473 [~~(mmmm)~~] (llll) funds collected from monthly offender supervision fees, as provided
2474 in Section 64-13-21.2;

2475 [~~(mm)~~] (mmmm) funds collected by the housing of state probationary inmates or state
2476 parole inmates, as provided in Subsection 64-13e-104(2);

2477 [~~(oooo)~~] (nnnn) the Sovereign Lands Management account created in Section 65A-5-1;
2478 [~~(pppp)~~] (oooo) certain forestry and fire control funds utilized by the Division of
2479 Forestry, Fire, and State Lands, as provided in Section 65A-8-103;
2480 [~~(qqqq)~~] (pppp) the Department of Human Resource Management user training
2481 program, as provided in Section 67-19-6;
2482 [~~(rrrr)~~] (qqqq) funds for the University of Utah Poison Control Center program, as
2483 provided in Section 69-2-5.5;
2484 [~~(ssss)~~] (rrrr) appropriations to the Transportation Corridor Preservation Revolving
2485 Loan Fund, as provided in Section 72-2-117;
2486 [~~(tttt)~~] (ssss) appropriations to the Local Transportation Corridor Preservation Fund, as
2487 provided in Section 72-2-117.5;
2488 [~~(uuuu)~~] (tttt) appropriations to the Tollway Restricted Special Revenue Fund, as
2489 provided in Section 77-2-120;
2490 [~~(vvvv)~~] (uuuu) appropriations to the Aeronautics Construction Revolving Loan Fund,
2491 as provided in Section 77-2-122;
2492 [~~(wwww)~~] (vvvv) appropriations to the State Park Access Highways Improvement
2493 Program, as provided in Section 72-3-207;
2494 [~~(xxxx)~~] (wwww) the Traffic Noise Abatement Program created in Section 72-6-112;
2495 [~~(yyyy)~~] (xxxx) certain funds received by the Office of the State Engineer for well
2496 drilling fines or bonds, as provided in Section 73-3-25;
2497 [~~(zzzz)~~] (yyyy) certain monies appropriated to increase the carrying capacity of the
2498 Jordan River that are transferred to the Division of Parks and Recreation, as provided in
2499 Section 73-10e-1;
2500 [~~(aaaa)~~] (zzzz) certain fees for the cost of electronic payments under the State Boating
2501 Act, as provided in Section 73-18-25;
2502 [~~(bbbb)~~] (aaaa) certain monies appropriated from the Water Resources Conservation
2503 and Development Fund, as provided in Section 73-23-2;
2504 [~~(cccc)~~] (bbbb) the Lake Powell Pipeline Project Operation and Maintenance Fund
2505 created in Section 73-28-404;
2506 [~~(dddd)~~] (cccc) certain funds in the Water Development and Flood Mitigation
2507 Reserve Account, as provided in Section 73-103-1;

2508 [~~(eeeeee)~~] (ddddd) certain funds appropriated for compensation for special prosecutors,
2509 as provided in Section 77-10a-19;

2510 [~~(fffff)~~] (eeeee) the Indigent Aggravated Murder Defense Trust Fund created in Section
2511 77-32-601;

2512 [~~(ggggg)~~] (fffff) the Indigent Felony Defense Trust Fund created in Section 77-32-701;

2513 [~~(hhhhh)~~] (ggggg) funds donated or paid to a juvenile court by private sources, as
2514 provided in Subsection 78A-6-203(c);

2515 [~~(iiiiii)~~] (hhhhh) a state rehabilitative employment program, as provided in Section
2516 78A-6-210; and

2517 [~~(jjjjj)~~] (iiiiii) fees from the issuance and renewal of licenses for certified court
2518 interpreters, as provided in Section 78B-1-146.

2519 (2) No revenue collection, appropriation from a fund or account, or appropriation to a
2520 program may be treated as nonlapsing unless:

2521 (a) it is expressly referenced by this section;

2522 (b) it is designated in a condition of appropriation in the appropriations bill; or

2523 (c) nonlapsing authority is granted under Section 63J-1-603.

2524 (3) Each legislative appropriations subcommittee shall review the accounts and funds
2525 that have been granted nonlapsing authority under this section or Section 63J-1-603.

2526 Section 34. Section **63M-1-1502** is amended to read:

2527 **63M-1-1502. Definitions.**

2528 As used in this part:

2529 (1) "Advisory board" means the Utah Pioneer Communities [~~Program~~] Advisory Board
2530 created in Section 63M-1-1503 within the office.

2531 (2) "Community" means a city, county, town, or any combination of these.

2532 (3) "Revitalization" means the process of engaging in activities to increase economic
2533 activity while preserving and building upon a location's historically significant characteristics.

2534 Section 35. Section **67-1a-6.5** is amended to read:

2535 **67-1a-6.5. Certification of local entity boundary actions.**

2536 (1) As used in this section:

2537 (a) "Applicable certificate" means:

2538 (i) for the impending incorporation of a city, town, local district, or conservation

2539 district, a certificate of incorporation;

2540 (ii) for the impending creation of a county, school district, special service district,
2541 community development and renewal agency, or interlocal entity, a certificate of creation;

2542 (iii) for the impending annexation of territory to an existing local entity, a certificate of
2543 annexation;

2544 (iv) for the impending withdrawal or disconnection of territory from an existing local
2545 entity, a certificate of withdrawal or disconnection, respectively;

2546 (v) for the impending consolidation of multiple local entities, a certificate of
2547 consolidation;

2548 (vi) for the impending division of a local entity into multiple local entities, a certificate
2549 of division;

2550 (vii) for the impending adjustment of a common boundary between local entities, a
2551 certificate of boundary adjustment; and

2552 (viii) for the impending dissolution of a local entity, a certificate of dissolution.

2553 (b) "Approved final local entity plat" means a final local entity plat, as defined in
2554 Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by
2555 the county surveyor.

2556 (c) "Approving authority" has the same meaning as defined in Section 17-23-20.

2557 (d) "Boundary action" has the same meaning as defined in Section 17-23-20.

2558 (e) "Center" means the Automated Geographic Reference Center created under Section
2559 63F-1-506.

2560 (f) "Community development and renewal agency" has the same meaning as defined in
2561 Section 17C-1-102.

2562 (g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

2563 (h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

2564 (i) "Local district" has the same meaning as defined in Section 17B-1-102.

2565 (j) "Local entity" means a county, city, town, school district, local district, community
2566 development and renewal agency, special service district, conservation district, or interlocal
2567 entity.

2568 (k) "Notice of an impending boundary action" means a written notice, as described in
2569 Subsection (3), that provides notice of an impending boundary action.

2570 (1) "Special service district" has the same meaning as defined in Section 17D-1-102.
2571 (2) Within 10 days after receiving a notice of an impending boundary action, the
2572 lieutenant governor shall:
2573 (a) (i) issue the applicable certificate, if:
2574 (A) the lieutenant governor determines that the notice of an impending boundary action
2575 meets the requirements of Subsection (3); and
2576 (B) except in the case of an impending local entity dissolution, the notice of an
2577 impending boundary action is accompanied by an approved final local entity plat;
2578 (ii) send the applicable certificate to the local entity's approving authority;
2579 (iii) return the original of the approved final local entity plat to the local entity's
2580 approving authority;
2581 (iv) send a copy of the applicable certificate and approved final local entity plat to:
2582 (A) the State Tax Commission;
2583 (B) the center; and
2584 (C) the county assessor, county surveyor, county auditor, and county attorney of each
2585 county in which the property depicted on the approved final local entity plat is located; and
2586 (v) send a copy of the applicable certificate to the state auditor, if the boundary action
2587 that is the subject of the applicable certificate is:
2588 (A) the incorporation or creation of a new local entity;
2589 (B) the consolidation of multiple local entities;
2590 (C) the division of a local entity into multiple local entities; or
2591 (D) the dissolution of a local entity; or
2592 (b) (i) send written notification to the approving authority that the lieutenant governor
2593 is unable to issue the applicable certificate, if:
2594 (A) the lieutenant governor determines that the notice of an impending boundary action
2595 does not meet the requirements of Subsection (3); or
2596 (B) the notice of an impending boundary action is:
2597 (I) not accompanied by an approved final local entity plat; or
2598 (II) accompanied by a plat or final local entity plat that has not been [~~certified~~
2599 approved] as a final local entity plat by the county surveyor under Section 17-23-20; and
2600 (ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is

2601 unable to issue the applicable certificate.

2602 (3) Each notice of an impending boundary action shall:

2603 (a) be directed to the lieutenant governor;

2604 (b) contain the name of the local entity or, in the case of an incorporation or creation,
2605 future local entity, whose boundary is affected or established by the boundary action;

2606 (c) describe the type of boundary action for which an applicable certificate is sought;

2607 and

2608 (d) (i) contain a statement, signed and verified by the approving authority, certifying
2609 that all requirements applicable to the boundary action have been met; or

2610 (ii) in the case of the dissolution of a municipality, be accompanied by a certified copy
2611 of the court order approving the dissolution of the municipality.

2612 (4) The lieutenant governor may require the approving authority to submit a paper or
2613 electronic copy of a notice of an impending boundary action and approved final local entity plat
2614 in conjunction with the filing of the original of those documents.

2615 (5) (a) The lieutenant governor shall:

2616 (i) keep, index, maintain, and make available to the public each notice of an impending
2617 boundary action, approved final local entity plat, applicable certificate, and other document that
2618 the lieutenant governor receives or generates under this section;

2619 (ii) make a copy of each document listed in Subsection (5)(a)(i) available on the
2620 Internet for 12 months after the lieutenant governor receives or generates the document;

2621 (iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any
2622 person who requests a paper copy; and

2623 (iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to
2624 any person who requests a certified copy.

2625 (b) The lieutenant governor may charge a reasonable fee for a paper copy or certified
2626 copy of a document that the lieutenant governor provides under this Subsection (5).

2627 Section 36. Section **67-4a-102 (Effective 07/01/11)** is amended to read:

2628 **67-4a-102 (Effective 07/01/11). Definitions.**

2629 As used in this chapter:

2630 (1) "Administrator" means the deputy state treasurer assigned by the state treasurer to
2631 administer the law governing unclaimed property in Utah.

2632 (2) "Apparent owner" means the person whose name appears on the records of the
2633 holder as the person entitled to property held, issued, or owing by the holder.

2634 (3) (a) "Bank draft" means a check, draft, or similar instrument on which a banking or
2635 financial organization is directly liable.

2636 (b) "Bank draft" includes:

2637 (i) a cashier's check; and

2638 (ii) a certified check.

2639 (c) "Bank draft" does not include:

2640 (i) a traveler's check; or

2641 (ii) a money order.

2642 (4) "Banking organization" means:

2643 (a) a bank;

2644 (b) an industrial bank;

2645 (c) a trust company;

2646 (d) a savings bank; or

2647 (e) any organization defined by other law as a bank or banking organization.

2648 (5) "Business association" means a nonpublic corporation, joint stock company,
2649 investment company, business trust, partnership, or association for business purposes of two or
2650 more individuals, whether or not for profit, including:

2651 (a) a banking organization;

2652 (b) a financial organization;

2653 (c) an insurance company; or

2654 (d) a utility.

2655 (6) "Cashier's check" means a check that:

2656 (a) is drawn by a banking organization on itself;

2657 (b) is signed by an officer of the banking organization; and

2658 (c) authorizes payment of the amount shown on its face to the payee.

2659 (7) "Class action" means a legal action:

2660 (a) certified by the court as a class action; or

2661 (b) treated by the court as a class action without being formally certified as a class
2662 action.

2663 (8) (a) "Deposit in a financial institution" means a demand, savings, or matured time
2664 deposit with a banking or financial organization.

2665 (b) "Deposit in a financial institution" includes:

2666 (i) any interest or dividends on a deposit; and

2667 (ii) a deposit that is automatically renewable.

2668 (9) "Domicile" means:

2669 (a) the state of incorporation of a corporation; and

2670 (b) the state of the principal place of business of an unincorporated person.

2671 (10) "Financial organization" means:

2672 (a) a savings and loan association; or

2673 (b) a credit union.

2674 (11) "Gift card" means a payment device such as a plastic card that:

2675 (a) is usable at:

2676 (i) a single merchant;

2677 (ii) an affiliated group of merchants; or

2678 (iii) multiple, unaffiliated merchants;

2679 (b) contains a means for the electronic storage of information including:

2680 (i) a microprocessor chip;

2681 (ii) a magnetic stripe; or

2682 (iii) a bar code;

2683 (c) is prefunded before it is used, whether or not monies may be added to the payment
2684 device after it is used; and

2685 (d) is redeemable for goods or services.

2686 (12) "Government entity" means:

2687 (a) the state;

2688 (b) an administrative unit of the state;

2689 (c) a political subdivision of the state;

2690 (d) an administrative unit of a political subdivision of the state; or

2691 (e) an officer or employee of an entity described in Subsections (12)(a) through (d).

2692 (13) "Holder" means a person, wherever organized or domiciled, who is:

2693 (a) in possession of property belonging to another;

2694 (b) a trustee;
2695 (c) indebted to another on an obligation; or
2696 (d) charged with the duty of paying or delivering intangible property under Section
2697 67-4a-302.

2698 (14) "Insurance company" means an association, corporation, fraternal or mutual
2699 benefit organization, whether or not for profit, that is engaged in providing insurance coverage,
2700 including:

- 2701 (a) accident insurance;
- 2702 (b) burial insurance;
- 2703 (c) casualty insurance;
- 2704 (d) credit life insurance;
- 2705 (e) contract performance insurance;
- 2706 (f) dental insurance;
- 2707 (g) fidelity insurance;
- 2708 (h) fire insurance;
- 2709 (i) health insurance;
- 2710 (j) hospitalization insurance;
- 2711 (k) illness insurance;
- 2712 (l) life insurance, including endowments and annuities;
- 2713 (m) malpractice insurance;
- 2714 (n) marine insurance;
- 2715 (o) mortgage insurance;
- 2716 (p) surety insurance; and
- 2717 (q) wage protection insurance.

2718 (15) (a) "Intangible property" includes:
2719 (i) money, a check, a draft, a deposit in a financial institution, interest, a dividend, and
2720 income;

2721 (ii) a credit balance, a customer ~~[payment]~~ overpayment, a security deposit, a refund,
2722 unpaid wages, an unused airline ticket, and an unidentified remittance;

2723 (iii) a stock, a mutual fund, and other intangible ownership interests in a business
2724 association;

- 2725 (iv) monies deposited to redeem a stock, bond, or coupon, and other securities or to
2726 make a distribution;
- 2727 (v) a bond, note, and any other debt obligation;
- 2728 (vi) an amount due and payable under the terms of an insurance policy;
- 2729 (vii) an amount distributable from a trust or custodial fund established under a plan to
2730 provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit
2731 sharing, employee savings, supplemental unemployment insurance or similar benefits; and
- 2732 (viii) an amount distributable from a mineral interest in land.
- 2733 (b) "Intangible property" does not include patronage capital of an electric, telephone,
2734 and agricultural cooperative.
- 2735 (16) "Last-known address" means a description of the location of the apparent owner
2736 sufficient for the purpose of the delivery of mail.
- 2737 (17) "Mineral" means oil, gas, uranium, sulphur, lignite, coal, and any other substance
2738 that is ordinarily and naturally considered a mineral, regardless of the depth at which the oil,
2739 gas, uranium, sulphur, lignite, coal, or other substance is found.
- 2740 (18) "Mineral proceeds" includes:
- 2741 (a) all obligations to pay resulting from the production and sale of minerals, including:
- 2742 (i) net revenue interest;
- 2743 (ii) royalties;
- 2744 (iii) overriding royalties;
- 2745 (iv) production payments; and
- 2746 (v) joint operating agreements; and
- 2747 (b) all obligations for the acquisition and retention of a mineral lease, including:
- 2748 (i) bonuses;
- 2749 (ii) delay rentals;
- 2750 (iii) shut-in royalties; and
- 2751 (iv) minimum royalties.
- 2752 (19) (a) "Money order" means a negotiable draft issued by a business association for
2753 which the business association is not directly liable.
- 2754 (b) "Money order" does not mean a cashier's check.
- 2755 (20) "Net intangible property" means intangible property that is held, issued, or owing

2756 in the ordinary course of a holder's business:

2757 (a) plus any income or increment derived from the intangible property; and

2758 (b) less any lawful charges.

2759 (21) "Owner" means:

2760 (a) a depositor in the case of a deposit;

2761 (b) a beneficiary in the case of a trust other than a deposit in trust;

2762 (c) a creditor, claimant, or payee in the case of other intangible property; or

2763 (d) a person or that person's legal representative having a legal or equitable interest in

2764 property subject to this chapter.

2765 (22) (a) "Ownership purchase funds" means any funds paid toward the purchase of a

2766 share, a mutual investment certificate, or any other interest in a banking or financial

2767 organization.

2768 (b) "Ownership purchase funds" includes any interest or dividends paid on those funds.

2769 (23) "Person" means:

2770 (a) an individual;

2771 (b) a business association;

2772 (c) a government entity;

2773 (d) a public corporation;

2774 (e) a public authority;

2775 (f) an estate;

2776 (g) a trust;

2777 (h) two or more persons having a joint or common interest; or

2778 (i) any other legal or commercial entity.

2779 (24) "State" means any state, district, commonwealth, territory, insular possession, or

2780 any other area subject to the legislative authority of the United States.

2781 (25) "Utility" means a person who owns or operates for public use any plant,

2782 equipment, property, franchise, or license for:

2783 (a) the transmission of communications, including cable television; or

2784 (b) the production, storage, transmission, sale, delivery, or furnishing of electricity,

2785 water, steam, or gas.

2786 Section 37. Section **76-5-404** is amended to read:

2787 **76-5-404. Forcible sexual abuse.**

2788 (1) A person commits forcible sexual abuse if the victim is 14 years of age or older and,
2789 under circumstances not amounting to rape, object rape, sodomy, or attempted rape or sodomy,
2790 the actor touches the anus, buttocks, or any part of the genitals of another, or touches the breast
2791 of a female, or otherwise takes indecent liberties with another, or causes another to take
2792 indecent liberties with the actor or another, with intent to cause substantial emotional or bodily
2793 pain to any person or with the intent to arouse or gratify the sexual desire of any person,
2794 without the consent of the other, regardless of the sex of any participant.

2795 (2) Forcible sexual abuse is:

2796 (a) except as provided in Subsection (2)(b), a felony of the second degree, punishable
2797 by a term of imprisonment of not less than one year nor more than 15 years; or

2798 (b) except as provided in Subsection (3), a felony of the first degree, punishable by a
2799 term of imprisonment for 15 years and which may be for life, if the trier of fact finds that
2800 during the course of the commission of the forcible sexual abuse the defendant caused serious
2801 bodily injury to another.

2802 (3) If, when imposing a sentence under Subsection (2)(b), a court finds that a lesser
2803 term than the term described in Subsection (2)(b) is in the interests of justice and states the
2804 reasons for this finding on the record, the court may impose a term of imprisonment of not less
2805 than:

2806 (a) 10 years and which may be for life; or

2807 (b) six years and which may be for life.

2808 (4) Imprisonment under Subsection (2)(b) or (3) is mandatory in accordance with
2809 Section 76-3-406.

2810 Section 38. Section **77-36-1** is amended to read:

2811 **77-36-1. Definitions.**

2812 As used in this chapter:

2813 (1) "Cohabitant" has the same meaning as in Section 78B-7-102.

2814 (2) "Department" means the Department of Public Safety.

2815 (3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter
2816 3, Divorce.

2817 (4) "Domestic violence" means any criminal offense involving violence or physical

2818 harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to
2819 commit a criminal offense involving violence or physical harm, when committed by one
2820 cohabitant against another. "Domestic violence" also means commission or attempt to commit,
2821 any of the following offenses by one cohabitant against another:

- 2822 (a) aggravated assault, as described in Section 76-5-103;
- 2823 (b) assault, as described in Section 76-5-102;
- 2824 (c) criminal homicide, as described in Section 76-5-201;
- 2825 (d) harassment, as described in Section 76-5-106;
- 2826 (e) electronic communication harassment, as described in Section 76-9-201;
- 2827 (f) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections
2828 76-5-301, 76-5-301.1, and 76-5-302;
- 2829 (g) mayhem, as described in Section 76-5-105;
- 2830 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
2831 Title 76, Chapter 5a, Sexual Exploitation of Children;
- 2832 (i) stalking, as described in Section 76-5-106.5;
- 2833 (j) unlawful detention, as described in Section 76-5-304;
- 2834 (k) violation of a protective order or ex parte protective order, as described in Section
2835 76-5-108;
- 2836 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
2837 Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;
- 2838 (m) possession of a deadly weapon with intent to assault, as described in Section
2839 76-10-507;
- 2840 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
2841 person, building, or vehicle, as described in Section 76-10-508;
- 2842 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly
2843 conduct is the result of a plea agreement in which the defendant was originally charged with
2844 any of the domestic violence offenses otherwise described in this Subsection [~~(2)~~] (4).
2845 Conviction of disorderly conduct as a domestic violence offense, in the manner described in
2846 this Subsection [~~(2)~~] (4)(o), does not constitute a misdemeanor crime of domestic violence
2847 under 18 U.S.C. Section 921, and is exempt from the provisions of the federal Firearms Act, 18
2848 U.S.C. Section 921 et seq.; or

2849 (p) child abuse as described in Section 76-5-109.1.

2850 (5) "Marital status" means married and living together, divorced, separated, or not
2851 married.

2852 (6) "Married and living together" means a man and a woman whose marriage was
2853 solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

2854 (7) "Not married" means any living arrangement other than married and living together,
2855 divorced, or separated.

2856 (8) "Separated" means a man and a woman who have had their marriage solemnized
2857 under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

2858 (9) "Victim" means a cohabitant who has been subjected to domestic violence.

2859 Section 39. Section **78A-6-702** is amended to read:

2860 **78A-6-702. Serious youth offender -- Procedure.**

2861 (1) Any action filed by a county attorney, district attorney, or attorney general charging
2862 a minor 16 years of age or older with a felony shall be by criminal information and filed in the
2863 juvenile court if the information charges any of the following offenses:

2864 (a) any felony violation of:

2865 (i) Section 76-6-103, aggravated arson;

2866 (ii) Subsection 76-5-103(1)(a), aggravated assault, involving intentionally causing
2867 serious bodily injury to another;

2868 (iii) Section 76-5-302, aggravated kidnaping;

2869 (iv) Section 76-6-203, aggravated burglary;

2870 (v) Section 76-6-302, aggravated robbery;

2871 (vi) Section 76-5-405, aggravated sexual assault;

2872 (vii) Section [~~76-10-508~~] 76-10-508.1, felony discharge of a firearm [~~from a vehicle~~];

2873 (viii) Section 76-5-202, attempted aggravated murder; or

2874 (ix) Section 76-5-203, attempted murder; or

2875 (b) an offense other than those listed in Subsection (1)(a) involving the use of a
2876 dangerous weapon which would be a felony if committed by an adult, and the minor has been
2877 previously adjudicated or convicted of an offense involving the use of a dangerous weapon
2878 which also would have been a felony if committed by an adult.

2879 (2) All proceedings before the juvenile court related to charges filed under Subsection

2880 (1) shall be conducted in conformity with the rules established by the Utah Supreme Court.

2881 (3) (a) If the information alleges the violation of a felony listed in Subsection (1), the
2882 state shall have the burden of going forward with its case and the burden of proof to establish
2883 probable cause to believe that one of the crimes listed in Subsection (1) has been committed
2884 and that the defendant committed it. If proceeding under Subsection (1)(b), the state shall have
2885 the additional burden of proving by a preponderance of the evidence that the defendant has
2886 previously been adjudicated or convicted of an offense involving the use of a dangerous
2887 weapon.

2888 (b) If the juvenile court judge finds the state has met its burden under this Subsection
2889 (3), the court shall order that the defendant be bound over and held to answer in the district
2890 court in the same manner as an adult unless the juvenile court judge finds that all of the
2891 following conditions exist:

2892 (i) the minor has not been previously adjudicated delinquent for an offense involving
2893 the use of a dangerous weapon which would be a felony if committed by an adult;

2894 (ii) that if the offense was committed with one or more other persons, the minor
2895 appears to have a lesser degree of culpability than the codefendants; and

2896 (iii) that the minor's role in the offense was not committed in a violent, aggressive, or
2897 premeditated manner.

2898 (c) Once the state has met its burden under this Subsection (3) as to a showing of
2899 probable cause, the defendant shall have the burden of going forward and presenting evidence
2900 as to the existence of the above conditions.

2901 (d) If the juvenile court judge finds by clear and convincing evidence that all the above
2902 conditions are satisfied, the court shall so state in its findings and order the minor held for trial
2903 as a minor and shall proceed upon the information as though it were a juvenile petition.

2904 (4) If the juvenile court judge finds that an offense has been committed, but that the
2905 state has not met its burden of proving the other criteria needed to bind the defendant over
2906 under Subsection (1), the juvenile court judge shall order the defendant held for trial as a minor
2907 and shall proceed upon the information as though it were a juvenile petition.

2908 (5) At the time of a bind over to district court a criminal warrant of arrest shall issue.
2909 The defendant shall have the same right to bail as any other criminal defendant and shall be
2910 advised of that right by the juvenile court judge. The juvenile court shall set initial bail in

2911 accordance with Title 77, Chapter 20, Bail.

2912 (6) If an indictment is returned by a grand jury charging a violation under this section,
2913 the preliminary examination held by the juvenile court judge need not include a finding of
2914 probable cause that the crime alleged in the indictment was committed and that the defendant
2915 committed it, but the juvenile court shall proceed in accordance with this section regarding the
2916 additional considerations listed in Subsection (3)(b).

2917 (7) When a defendant is charged with multiple criminal offenses in the same
2918 information or indictment and is bound over to answer in the district court for one or more
2919 charges under this section, other offenses arising from the same criminal episode and any
2920 subsequent misdemeanors or felonies charged against him shall be considered together with
2921 those charges, and where the court finds probable cause to believe that those crimes have been
2922 committed and that the defendant committed them, the defendant shall also be bound over to
2923 the district court to answer for those charges.

2924 (8) A minor who is bound over to answer as an adult in the district court under this
2925 section or on whom an indictment has been returned by a grand jury is not entitled to a
2926 preliminary examination in the district court.

2927 (9) Allegations contained in the indictment or information that the defendant has
2928 previously been adjudicated or convicted of an offense involving the use of a dangerous
2929 weapon, or is 16 years of age or older, are not elements of the criminal offense and do not need
2930 to be proven at trial in the district court.

2931 (10) If a minor enters a plea to, or is found guilty of, any of the charges filed or any
2932 other offense arising from the same criminal episode, the district court retains jurisdiction over
2933 the minor for all purposes, including sentencing.

2934 (11) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice
2935 Services regain jurisdiction and any authority previously exercised over the minor when there
2936 is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

2937 Section 40. Section **78B-4-102** is amended to read:

2938 **78B-4-102. Liability protection for volunteers -- Exceptions.**

2939 (1) Except as provided in Subsection (2), no volunteer providing services for a
2940 nonprofit organization incurs any legal liability for any act or omission of the volunteer while
2941 providing services for the nonprofit organization and no volunteer incurs any personal financial

2942 liability for any tort claim or other action seeking damage for an injury arising from any act or
2943 omission of the volunteer while providing services for the nonprofit organization if:

2944 (a) the individual was acting in good faith and reasonably believed he was acting
2945 within the scope of his official functions and duties with the nonprofit organization; and

2946 (b) the damage or injury was not caused by an intentional or knowing act by the
2947 volunteer which constitutes illegal, willful, or wanton misconduct.

2948 (2) The protection against volunteer liability provided by this section does not apply:

2949 (a) to injuries resulting from a volunteer's operation of a motor vehicle, a vessel,
2950 aircraft or other vehicle for which a pilot or operator's license is required;

2951 (b) when a suit is brought by an authorized officer of a state or local government to
2952 enforce a federal, state, or local law; or

2953 (c) where the nonprofit organization for which the volunteer is working fails to provide
2954 a financially secure source of recovery for individuals who suffer injuries as a result of actions
2955 taken by the volunteer on behalf of the nonprofit organization.

2956 (3) Nothing in this section shall bar an action by a volunteer against an organization, its
2957 officers, or other persons who intentionally or knowingly misrepresent that a financially secure
2958 source of recovery does or will exist during a period when such a source does not or will not in
2959 fact exist.

2960 (4) Nothing in this section shall be construed to place a duty upon a nonprofit
2961 organization to provide a financially secure source of recovery.

2962 (5) The granting of immunity from liability to a volunteer under this section does not
2963 [~~effect~~] affect the liability of the nonprofit organization providing the financially secure source
2964 of recovery.

2965 Section 41. Section **78B-4-514** is amended to read:

2966 **78B-4-514. Definitions -- Immunity for architects and engineers during**
2967 **emergencies.**

2968 (1) As used in this section:

2969 (a) "Architect" means a person licensed in accordance with Title 58, Chapter 3a,
2970 Architects Licensing Act.

2971 (b) "Declared state of emergency" means a state of emergency declared by the governor
2972 of this state or by the chief executive officer of a political subdivision, in accordance with Title

2973 [~~63A~~] 63K, Chapter 4, Disaster Response and Recovery Act.

2974 (c) "Professional engineer" means a person licensed in accordance with Title 58,
2975 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

2976 (d) "Public official" means an appointed or elected federal, state, or local official,
2977 including building inspectors and police and fire chiefs, acting within the scope and jurisdiction
2978 of [~~their~~] the official's authority during a declared emergency.

2979 (2) An architect or professional engineer, acting in good faith and within the scope of
2980 [~~their~~] his or her respective [~~licenses~~] license, is not liable for:

2981 (a) any acts, errors, or omissions; or

2982 (b) personal injury, wrongful death, property damage, or any other loss arising from
2983 architectural or engineering services provided by the architect or engineer:

2984 (i) as a non-paid volunteer at the request of a public official; and

2985 (ii) during, or for 90 days following, a declared state of emergency.

2986 (3) Nothing in Subsection (2) shall be construed to provide immunity to an architect or
2987 engineer for architectural or engineering services that are not within the scope of licensure.

2988 Section 42. Section **79-2-402** is amended to read:

2989 **79-2-402. Outdoor recreation facilities -- Participation in federal programs --**
2990 **Comprehensive plan.**

2991 (1) The executive director may, by following the procedures and requirements of Title
2992 63J, Chapter 5, Federal Funds Procedures Act, seek a federal grant or loan or participation in a
2993 federal program to plan and develop an outdoor recreation resource, including:

2994 (a) acquiring land or water; or

2995 (b) acquiring an interest in land or water.

2996 (2) (a) The executive director, in cooperation with the state planning coordinator and
2997 the state agency or political subdivision responsible for planning, acquisition, and development
2998 of outdoor recreation resources, may prepare, maintain, and update a comprehensive plan for
2999 the outdoor recreation resources of the state.

3000 (b) The executive director shall submit the plan and any plan amendment to the
3001 governor for the governor's review and approval.

3002 (3) By following the procedures and requirements of Title 63J, Chapter 5, Federal
3003 Funds Procedures Act, the executive director may:

3004 (a) apply to a United States [~~officer or~~] agency for participation in or the receipt of aid
3005 from a federal program regarding outdoor recreation;

3006 (b) in cooperation with other state agencies, enter into a contract or agreement with the
3007 United States or a United States agency;

3008 (c) keep financial and other records; and

3009 (d) furnish necessary reports to the United States official or agency.

3010 (4) In connection with obtaining the benefits of an outdoor recreation program, the
3011 executive director shall coordinate the department's activities with and represent the interests of
3012 all state agencies and political subdivisions having an interest in the planning, development,
3013 and maintenance of the outdoor recreation resource or facility.

3014 (5) The department may act as the agent of the state or a political subdivision to receive
3015 and to disburse federal money in accordance with the comprehensive plan.

3016 (6) The executive director may not make a commitment or enter into an agreement as
3017 authorized by this section and neither shall the governor approve a commitment or agreement
3018 unless sufficient funds are available to the department for meeting the state's share, if any, of
3019 project costs.

3020 (7) To the extent necessary to assure the proper operation and maintenance of areas and
3021 facilities acquired or developed pursuant to a program participated in by the state under this
3022 section, the areas and facilities shall be publicly maintained for outdoor recreation purposes.

3023 (8) The executive director may enter into and administer an agreement with the United
3024 States or a United States agency with the governor's approval for planning, acquisition, and
3025 development projects involving participating federal-aid funds on behalf of a political
3026 subdivision, if the political subdivision gives necessary assurance to the executive director that:

3027 (a) the political subdivision has available sufficient funds to meet the political
3028 subdivision's share, if any, of the cost of the project; and

3029 (b) the political subdivision will operate and maintain an acquired or developed area at
3030 the expense of the political subdivision for public outdoor recreation use.

3031 Section 43. **Repealer.**

3032 This bill repeals:

3033 Section **26-8a-209, Fully automated external defibrillator statewide database.**

3034 Section 44. **Effective date.**

3035 This bill takes effect on May 11, 2010, except that the amendments to Section
3036 67-4a-102 (Effective 07/01/11) take effect on July 1, 2011.

Legislative Review Note
as of 1-22-10 1:22 PM

Office of Legislative Research and General Counsel

S.B. 110 - Revisor's Statute

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
