

30 **15-7-4**, as enacted by Laws of Utah 1983, Chapter 62
31 **15A-2-103**, as last amended by Laws of Utah 2013, Chapters 279 and 297
32 **16-6a-1701**, as last amended by Laws of Utah 2014, Chapter 189
33 **17-53-301**, as last amended by Laws of Utah 2014, Chapter 189
34 **17B-2a-404**, as last amended by Laws of Utah 2014, Chapters 357, 362, and 377
35 **17B-2a-405**, as last amended by Laws of Utah 2008, Chapter 360
36 **17B-2a-1007**, as last amended by Laws of Utah 2008, Chapter 360
37 **20A-1-103**, as enacted by Laws of Utah 2014, Chapter 17
38 **20A-7-613**, as enacted by Laws of Utah 2014, Chapter 395
39 **23-25-2**, as enacted by Laws of Utah 1992, Chapter 260
40 **26-18-3.6**, as last amended by Laws of Utah 2012, Chapter 41
41 **31A-8a-103**, as last amended by Laws of Utah 2013, Chapter 135
42 **31A-17-503**, as last amended by Laws of Utah 2011, Chapter 297
43 **31A-17-512**, as last amended by Laws of Utah 2011, Chapter 297
44 **31A-22-408**, as last amended by Laws of Utah 2011, Chapter 297
45 **31A-22-626**, as last amended by Laws of Utah 2013, Chapter 167
46 **31A-22-640**, as last amended by Laws of Utah 2014, Chapter 219
47 **32B-3-201**, as enacted by Laws of Utah 2010, Chapter 276
48 **32B-8-102**, as enacted by Laws of Utah 2010, Chapter 276
49 **34-48-202**, as enacted by Laws of Utah 2013, Chapter 94
50 **34A-2-111**, as last amended by Laws of Utah 2013, Chapter 72
51 **34A-2-410**, as last amended by Laws of Utah 2008, Chapter 349
52 **36-11-401**, as last amended by Laws of Utah 2014, Chapter 335
53 **38-1a-102**, as last amended by Laws of Utah 2014, Chapter 293
54 **38-8-1**, as last amended by Laws of Utah 2013, Chapter 163
55 **41-6a-1011**, as last amended by Laws of Utah 2014, Chapter 225
56 **41-6a-1620**, as renumbered and amended by Laws of Utah 2005, Chapter 2
57 **41-6a-1642**, as last amended by Laws of Utah 2013, Chapter 113

- 58 **47-3-102**, as renumbered and amended by Laws of Utah 2013, Chapter 155
- 59 **48-1-32**, Utah Code Annotated 1953
- 60 **48-1-35**, Utah Code Annotated 1953
- 61 **48-1-38**, Utah Code Annotated 1953
- 62 **49-11-801**, as last amended by Laws of Utah 2010, Chapter 266
- 63 **49-20-411**, as last amended by Laws of Utah 2014, Chapter 302
- 64 **51-8-301**, as enacted by Laws of Utah 2007, Chapter 59
- 65 **53-2a-105**, as renumbered and amended by Laws of Utah 2013, Chapter 295
- 66 **53-2a-202**, as renumbered and amended by Laws of Utah 2013, Chapter 295
- 67 **53-2a-204**, as last amended by Laws of Utah 2013, Chapter 304 and renumbered and
- 68 amended by Laws of Utah 2013, Chapter 295
- 69 **53-2a-1104**, as renumbered and amended by Laws of Utah 2013, Chapter 295
- 70 **53-5a-104**, as enacted by Laws of Utah 2014, Chapter 431
- 71 **53-5c-201**, as enacted by Laws of Utah 2013, Chapter 188
- 72 **53A-1-603**, as last amended by Laws of Utah 2013, Chapter 161
- 73 **53A-1-1104**, as last amended by Laws of Utah 2014, Chapter 403
- 74 **53A-1a-508**, as repealed and reenacted by Laws of Utah 2014, Chapter 363
- 75 **53A-1a-601**, as last amended by Laws of Utah 2013, Chapter 413
- 76 **53A-12-102**, as last amended by Laws of Utah 2013, Chapter 377
- 77 **53A-15-603**, as enacted by Laws of Utah 2010, Chapter 207
- 78 **53A-17a-165**, as last amended by Laws of Utah 2014, Chapter 193
- 79 **53B-24-102**, as renumbered and amended by Laws of Utah 2013, Chapter 28
- 80 **53B-24-202**, as renumbered and amended by Laws of Utah 2013, Chapter 28
- 81 **53B-24-303**, as renumbered and amended by Laws of Utah 2013, Chapter 28
- 82 **53B-24-402**, as last amended by Laws of Utah 2013, Chapter 167 and renumbered and
- 83 amended by Laws of Utah 2013, Chapter 28
- 84 **53D-1-301**, as enacted by Laws of Utah 2014, Chapter 426
- 85 **53D-1-402**, as enacted by Laws of Utah 2014, Chapter 426

86 **57-8a-209**, as last amended by Laws of Utah 2014, Chapter 397
87 **57-17-3**, as last amended by Laws of Utah 2014, Chapter 397
88 **57-17-5**, as repealed and reenacted by Laws of Utah 2014, Chapter 397
89 **58-11a-302**, as last amended by Laws of Utah 2013, Chapter 13
90 **58-17b-308**, as last amended by Laws of Utah 2007, Chapter 279
91 **58-31d-103**, as last amended by Laws of Utah 2007, Chapter 57
92 **58-37-2**, as last amended by Laws of Utah 2012, Chapter 297
93 **58-37-4**, as last amended by Laws of Utah 2013, Chapters 83 and 88
94 **58-37a-6**, as last amended by Laws of Utah 2002, Chapter 185
95 **58-37c-3**, as last amended by Laws of Utah 2013, Chapters 262, 278, and 413
96 **58-37c-15**, as last amended by Laws of Utah 2002, Chapter 185
97 **58-37d-7**, as last amended by Laws of Utah 2002, Chapter 185
98 **58-55-302**, as last amended by Laws of Utah 2014, Chapter 402
99 **58-60-103**, as last amended by Laws of Utah 2012, Chapter 179
100 **58-67-302.7**, as enacted by Laws of Utah 2011, Chapter 206
101 **59-2-1017**, as enacted by Laws of Utah 2013, Chapter 180
102 **59-2-1326**, as repealed and reenacted by Laws of Utah 1988, Chapter 3
103 **59-12-353**, as last amended by Laws of Utah 2004, Chapters 156 and 255
104 **61-2c-502**, as last amended by Laws of Utah 2010, Chapter 379
105 **62A-2-121**, as last amended by Laws of Utah 2009, Chapter 75
106 **62A-4a-102**, as last amended by Laws of Utah 2012, Chapter 293
107 **63A-3-502**, as last amended by Laws of Utah 2013, Chapter 74
108 **63G-2-202**, as last amended by Laws of Utah 2014, Chapter 373
109 **63G-2-703**, as renumbered and amended by Laws of Utah 2008, Chapter 382
110 **63G-6a-303**, as last amended by Laws of Utah 2014, Chapter 196
111 **63G-6a-904**, as last amended by Laws of Utah 2014, Chapter 196
112 **63G-6a-1702**, as last amended by Laws of Utah 2014, Chapter 196
113 **63G-10-403**, as last amended by Laws of Utah 2012, Chapters 91, 347 and last

114 amended by Coordination Clause, Laws of Utah 2012, Chapter 347
115 **63G-12-102**, as enacted by Laws of Utah 2011, Chapter 18
116 **63H-1-701**, as last amended by Laws of Utah 2010, Chapter 90
117 **63H-7-103**, as renumbered and amended by Laws of Utah 2014, Chapter 320
118 **63I-1-213**, as last amended by Laws of Utah 2013, Chapters 278 and 421
119 **63I-1-226**, as last amended by Laws of Utah 2014, Chapters 25 and 118
120 **63I-1-235**, as last amended by Laws of Utah 2014, Chapter 127
121 **63I-2-219**, as enacted by Laws of Utah 2014, Chapter 227
122 **63I-2-253**, as last amended by Laws of Utah 2014, Chapters 102, 189, 372, and 393
123 **63I-2-258**, as last amended by Laws of Utah 2013, Chapter 423
124 **63I-2-262**, as enacted by Laws of Utah 2012, Chapter 281
125 **63I-2-263**, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427
126 **63I-5-302**, as repealed and reenacted by Laws of Utah 2014, Chapter 433
127 **63M-1-3208**, as enacted by Laws of Utah 2014, Chapter 318
128 **65A-7-5**, as last amended by Laws of Utah 2011, Chapter 256
129 **67-5-3**, as last amended by Laws of Utah 1982, Chapter 76
130 **67-19a-202**, as last amended by Laws of Utah 2013, Chapter 427
131 **67-19a-402.5**, as enacted by Laws of Utah 2013, Chapter 427
132 **70A-2-601**, as enacted by Laws of Utah 1965, Chapter 154
133 **70A-2-610**, as enacted by Laws of Utah 1965, Chapter 154
134 **70A-2-615**, as enacted by Laws of Utah 1965, Chapter 154
135 **70A-4a-207**, as last amended by Laws of Utah 1993, Chapter 237
136 **72-4-302**, as last amended by Laws of Utah 2014, Chapter 387
137 **73-2-22**, as last amended by Laws of Utah 2013, Chapter 221
138 **73-22-3**, as enacted by Laws of Utah 1981, Chapter 188
139 **75-3-603**, as enacted by Laws of Utah 1983, Chapter 226
140 **76-5-109**, as last amended by Laws of Utah 2011, Chapter 366
141 **76-6-111**, as last amended by Laws of Utah 2010, Chapter 193

- 142 **76-6-501**, as last amended by Laws of Utah 2011, Chapter 324
- 143 **76-6-506.7**, as enacted by Laws of Utah 2003, Chapter 306
- 144 **76-6-1102**, as last amended by Laws of Utah 2013, Chapters 77, 119, and 278
- 145 **76-6-1303**, as enacted by Laws of Utah 2012, Chapter 32
- 146 **76-7-305**, as last amended by Laws of Utah 2014, Chapter 187
- 147 **76-10-808**, as enacted by Laws of Utah 1977, Chapter 92
- 148 **76-10-1108**, as last amended by Laws of Utah 2007, Chapter 180
- 149 **77-10a-12**, as last amended by Laws of Utah 2010, Chapter 96
- 150 **77-15a-104**, as enacted by Laws of Utah 2003, Chapter 11
- 151 **77-27-21.8**, as last amended by Laws of Utah 2012, Chapter 145
- 152 **77-32-301**, as last amended by Laws of Utah 2012, Chapter 180
- 153 **78A-6-606**, as last amended by Laws of Utah 2014, Chapter 314
- 154 **78A-6-1113**, as last amended by Laws of Utah 2011, Chapter 208
- 155 **78A-7-118**, as last amended by Laws of Utah 2012, Chapters 205 and 380
- 156 **78B-4-202**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 157 **78B-4-514**, as last amended by Laws of Utah 2010, Chapter 218
- 158 **78B-15-612**, as last amended by Laws of Utah 2014, Chapter 267

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

161 Section 1. Section **7-2-6** is amended to read:

162 **7-2-6. Possession by commissioner -- Notice -- Presentation, allowance, and**
 163 **disallowance of claims -- Objections to claims.**

164 (1) (a) Possession of an institution by the commissioner commences when notice of
 165 taking possession is:

166 (i) posted in each office of the institution located in this state; or

167 (ii) delivered to a controlling person or officer of the institution.

168 (b) All notices, records, and other information regarding possession of an institution by
 169 the commissioner may be kept confidential, and all court records and proceedings relating to

170 the commissioner's possession may be sealed from public access if:

171 (i) the commissioner finds it is in the best interests of the institution and its depositors
172 not to notify the public of the possession by the commissioner;

173 (ii) the deposit and withdrawal of funds and payment to creditors of the institution is
174 not suspended, restricted, or interrupted; and

175 (iii) the court approves.

176 (2) (a) (i) Within 15 days after taking possession of an institution or other person under
177 the jurisdiction of the department, the commissioner shall publish a notice to all persons who
178 may have claims against the institution or other person to file proof of their claims with the
179 commissioner before a date specified in the notice.

180 (ii) The filing date shall be at least 90 days after the date of the first publication of the
181 notice.

182 (iii) The notice shall be published:

183 (A) (I) in a newspaper of general circulation in each city or county in which the
184 institution or other person, or any subsidiary or service corporation of the institution, maintains
185 an office; and

186 (II) published again approximately 30 days and 60 days after the date of the first
187 publication; and

188 (B) as required in Section 45-1-101 for 60 days.

189 (b) (i) Within 60 days of taking possession of a depository institution, the
190 commissioner shall send a similar notice to all persons whose identity is reflected in the books
191 or records of the institution as depositors or other creditors, secured or unsecured, parties to
192 litigation involving the institution pending at the date the commissioner takes possession of the
193 institution, and all other potential claimants against the institution whose identity is reasonably
194 ascertainable by the commissioner from examination of the books and records of the
195 institution. No notice is required in connection with accounts or other liabilities of the
196 institution that will be paid in full or be fully assumed by another depository institution or trust
197 company. The notice shall specify a filing date for claims against the institution not less than

198 60 days after the date of mailing. Claimants whose claims against the institution have been
199 assumed by another depository institution or trust company pursuant to a merger or purchase
200 and assumption agreement with the commissioner, or a federal deposit insurance agency
201 appointed as receiver or liquidator of the institution, shall be notified of the assumption of their
202 claims and the name and address of the assuming party within 60 days after the claim is
203 assumed. Unless a purchase and assumption or merger agreement requires otherwise, the
204 assuming party shall give all required notices. Notice shall be mailed to the address appearing
205 in the books and records of the institution.

206 (ii) Inadvertent or unintentional failure to mail a notice to any person entitled to written
207 notice under this paragraph does not impose any liability on the commissioner or any receiver
208 or liquidator appointed by him beyond the amount the claimant would be entitled to receive if
209 the claim had been timely filed and allowed. The commissioner or any receiver or liquidator
210 appointed by him are not liable for failure to mail notice unless the claimant establishes that it
211 had no knowledge of the commissioner taking possession of the institution until after all
212 opportunity had passed for obtaining payment through filing a claim with the commissioner,
213 receiver, or liquidator.

214 (c) Upon good cause shown, the court having supervisory jurisdiction may extend the
215 time in which the commissioner may serve any notice required by this chapter.

216 (d) The commissioner has the sole power to adjudicate any claim against the
217 institution, its property or other assets, tangible or intangible, and to settle or compromise
218 claims within the priorities set forth in Section 7-2-15. Any action of the commissioner is
219 subject to judicial review as provided in Subsection (9).

220 (e) A receiver or liquidator of the institution appointed by the commissioner has all the
221 duties, powers, authority, and responsibilities of the commissioner under this section. All
222 claims against the institution shall be filed with the receiver or liquidator within the applicable
223 time specified in this section and the receiver or liquidator shall adjudicate the claims as
224 provided in Subsection (2)(d).

225 (f) The procedure established in this section is the sole remedy of claimants against an

226 institution or its assets in the possession of the commissioner.

227 (3) With respect to a claim which appears in the books and records of an institution or
228 other person in the possession of the commissioner as a secured claim, which, for purposes of
229 this section is a claim that constitutes an enforceable, perfected lien, evidenced in writing, on
230 the assets or other property of the institution:

231 (a) The commissioner shall allow or disallow each secured claim filed on or before the
232 filing date within 30 days after receipt of the claim and shall notify each secured claimant by
233 certified mail or in person of the basis for, and any conditions imposed on, the allowance or
234 disallowance.

235 (b) For all allowed secured claims, the commissioner shall be bound by the terms,
236 covenants, and conditions relating to the assets or other property subject to the claim, as set
237 forth in the note, bond, or other security agreement which evidences the secured claim, unless
238 the commissioner has given notice to the claimant of his intent to abandon the assets or other
239 property subject to the secured claim at the time the commissioner gave the notice described in
240 Subsection (3)(a).

241 (c) No petition for lifting the stay provided by Section 7-2-7 may be filed with respect
242 to a secured claim before the claim has been filed and allowed or disallowed by the
243 commissioner in accordance with Subsection (3)(a).

244 (4) With respect to all other claims other than secured claims:

245 (a) Each claim filed on or before the filing date shall be allowed or disallowed within
246 180 days after the final publication of notice.

247 (b) If notice of disallowance is not served upon the claimant by the commissioner
248 within 210 days after the date of final publication of notice, the claim is considered disallowed.

249 (c) The rights of claimants and the amount of a claim shall be determined as of the date
250 the commissioner took possession of the institution under this chapter. Claims based on
251 contractual obligations of the institution in existence on the date of possession may be allowed
252 unless the obligation of the institution is dependent on events occurring after the date of
253 possession, or the amount or worth of the claim cannot be determined before any distribution

254 of assets of the institution is made to claimants having the same priority under Section 7-2-15.

255 (d) (i) An unliquidated claim against the institution, including claims based on alleged
256 torts for which the institution would have been liable on the date the commissioner took
257 possession of the institution and any claims for a right to an equitable remedy for breach of
258 performance by the institution, may be filed in an estimated amount. The commissioner may
259 disallow or allow the claim in an amount determined by the commissioner, settle the claim in
260 an amount approved by the court, or, in his discretion, refer the claim to the court designated by
261 Section 7-2-2 for determination in accordance with procedures designated by the court. If the
262 institution held on the date of possession by the commissioner a policy of insurance that would
263 apply to the liability asserted by the claimant, the commissioner, or any receiver appointed by
264 him may assign to the claimant all rights of the institution under the insurance policy in full
265 satisfaction of the claim.

266 (ii) If the commissioner finds there are or may be issues of fact or law as to the validity
267 of a claim, liquidated or unliquidated, or its proper allowance or disallowance under the
268 provisions of this chapter, he may appoint a hearing examiner to conduct a hearing and to
269 prepare and submit recommended findings of fact and conclusions of law for final
270 consideration by the commissioner. The hearing shall be conducted as provided in rules or
271 regulations issued by the commissioner. The decision of the commissioner shall be based on
272 the record before the hearing examiner and information the commissioner considers relevant
273 and shall be subject to judicial review as provided in Subsection (9).

274 (e) A claim may be disallowed if it is based on actions or documents intended to
275 deceive the commissioner or any receiver or liquidator appointed by him.

276 (f) The commissioner may defer payment of any claim filed on behalf of a person who
277 was at any time in control of the institution within the meaning of Section 7-1-103, pending the
278 final determination of all claims of the institution against that person.

279 (g) The commissioner or any receiver appointed by him may disallow a claim that
280 seeks a dollar amount if it is determined by the court having jurisdiction under Section 7-2-2
281 that the commissioner or receiver or conservator will not have any assets with which to pay the

282 claim under the priorities established by Section 7-2-15.

283 (h) The commissioner may adopt rules to establish such alternative dispute resolution
284 processes as may be appropriate for the resolution of claims filed against an institution under
285 this chapter.

286 (i) In establishing alternative dispute resolution processes, the commissioner shall
287 strive for procedures that are expeditious, fair, independent, and low cost. The commissioner
288 shall seek to develop incentives for claimants to participate in the alternative dispute resolution
289 process.

290 (j) The commissioner may establish both binding and nonbinding processes, which
291 may be conducted by any government or private party, but all parties, including the claimant
292 and the commissioner or any receiver appointed by him, must agree to the use of the process in
293 a particular case.

294 (5) (a) Claims filed after the filing date are disallowed, unless:

295 [~~(a)~~] (i) the claimant who did not file his claim timely demonstrates that he did not
296 have notice or actual knowledge of the proceedings in time to file a timely proof of claim; and

297 [~~(b)~~] (ii) proof of the claim was filed prior to the last distribution of assets. For the
298 purpose of this subsection only, late filed claims may be allowed if proof was filed before the
299 final distribution of assets of the institution to claimants of the same priority and are payable
300 only out of the remaining assets of the institution.

301 [~~(c)~~] (b) A late filed claim may be disallowed under any other provision of this section.

302 (6) Debts owing to the United States or to any state or its subdivisions as a penalty or
303 forfeiture are not allowed, except for the amount of the pecuniary loss sustained by the act,
304 transaction, or proceeding out of which the penalty or forfeiture arose.

305 (7) Except as otherwise provided in Subsection 7-2-15(1)(a), interest accruing on any
306 claim after the commissioner has taken possession of an institution or other person under this
307 chapter may be disallowed.

308 (8) (a) A claim against an institution or its assets based on a contract or agreement may
309 be disallowed unless the agreement:

310 [~~(a)~~] (i) is in writing;
311 [~~(b)~~] (ii) is otherwise a valid and enforceable contract; and
312 [~~(c)~~] (iii) has continuously, from the time of its execution, been an official record of the
313 institution.

314 (b) The requirements of this Subsection (8) do not apply to claims for goods sold or
315 services rendered to an institution in the ordinary course of business by trade creditors who do
316 not customarily use written agreements or other documents.

317 (9) (a) Objection to any claim allowed or disallowed may be made by any depositor or
318 other claimant by filing a written objection with the commissioner within 30 days after service
319 of the notice of allowance or disallowance. The commissioner shall present the objection to
320 the court for hearing and determination upon written notice to the claimant and to the filing
321 party. The notice shall set forth the time and place of hearing. After the 30-day period, no
322 objection may be filed. This Subsection (9) does not apply to secured claims allowed under
323 Subsection (3).

324 (b) The hearing shall be based on the record before the commissioner and any
325 additional evidence the court allowed to provide the parties due process of law.

326 (c) The court may not reverse or otherwise modify the determination of the
327 commissioner with respect to the claim unless it finds the determination of the commissioner to
328 be arbitrary, capricious, or otherwise contrary to law. The burden of proof is on the party
329 objecting to the determination of the commissioner.

330 (d) An appeal from any final judgment of the court with respect to a claim may be
331 taken as provided by law by the claimant, the commissioner, or any person having standing to
332 object to the allowance or disallowance of the claim.

333 (10) If a claim against the institution has been asserted in any judicial, administrative,
334 or other proceeding pending at the time the commissioner took possession of the institution
335 under this chapter or under Chapter 19, Acquisition of Failing Depository Institutions or
336 Holding Companies, the claimant shall file copies of all documents of record in the pending
337 proceeding with the commissioner within the time for filing claims as provided in Subsection

338 (2). Such a claim shall be allowed or disallowed within 90 days of the receipt of the complete
339 record of the proceedings. No application to lift the stay of a pending proceeding shall be filed
340 until the claim has been allowed or disallowed. The commissioner may petition the court
341 designated by Section 7-2-2 to lift the stay to determine whether the claim should be allowed or
342 disallowed.

343 (11) All claims allowed by the commissioner and not disallowed or otherwise modified
344 by the court under Subsection (9), if not paid within 30 days after allowance, shall be
345 evidenced by a certificate payable only out of the assets of the institution in the possession of
346 the commissioner, subject to the priorities set forth in Section 7-2-15. This provision does not
347 apply to a secured claim allowed by the commissioner under Subsection (3)(a).

348 Section 2. Section 7-17-9 is amended to read:

349 **7-17-9. Actions on accounts established prior to 1979 -- Limitations on recovery.**

350 (1) With respect to any reserve account established prior to July 1, 1979 and for which
351 no legal action is pending as of January 1, 1979, no recovery shall be had in any action brought
352 to require payment of interest on, or other compensation for, the use prior to July 1, 1979, of
353 the funds in such account unless:

354 (a) An agreement in writing expressly so providing was executed by the borrower and
355 the lender; or

356 (b) The borrower, or his successors or assigns, establishes by clear and convincing
357 evidence an agreement between the parties that the lender would pay interest on or to otherwise
358 compensate the borrower for the use of the funds in such account. Use in the loan documents
359 of such words as "trust" or "pledge" alone does not establish the intent of the parties; and

360 (c) There is no federal law or regulation prohibiting the payment of interest on or
361 otherwise compensating the borrower for the use of the funds in such an account.

362 (2) No action seeking payment of interest on or other compensation for the use of the
363 funds in any reserve account for any period prior to July 1, 1979, shall be brought after June 30,
364 1981. Any recovery in any such action shall be limited to the four-year period immediately
365 preceding the commencement of the action. No recovery shall be had in respect of any reserve

366 account established prior to July 1, 1979 greater than if the provisions of Section 7-17-3 of this
367 act were applicable to such accounts.

368 (3) With respect to any reserve account established prior to July 1, 1979, an agreement
369 in writing between the lender and the borrower, or his successors or assigns, that:

370 (a) the provisions of Section 7-17-3 of this act shall apply to all payments made
371 subsequent to July 1, 1979[;]; or

372 (b) the borrower may exercise, for the period subsequent to July 1, 1979, either of the
373 options provided in Section 7-17-4 of this act, shall bar any recovery by the borrower, his
374 successors or assigns, for interest on or other compensation for the use of the funds in such
375 account for any period prior to July 1, 1979.

376 Section 3. Section 10-3-717 is amended to read:

377 **10-3-717. Purpose of resolutions.**

378 Unless otherwise required by law, the governing body may:

379 (1) exercise all administrative powers by resolution including:

380 [(1)] (a) establishing water and sewer rates;

381 [(2)] (b) establishing charges for garbage collection and fees charged for municipal
382 services;

383 [(3)] (c) establishing personnel policies and guidelines; and

384 [(4)] (d) regulating the use and operation of municipal property[~~: Punishment, fines or~~
385 ~~forfeitures may not be imposed by resolution.~~]; and

386 (2) not impose a punishment, fine, or forfeiture by resolution.

387 Section 4. Section 11-14-103 is amended to read:

388 **11-14-103. Bond issues authorized -- Purposes -- Use of bond proceeds.**

389 (1) Any local political subdivision may, in the manner and subject to the limitations
390 and restrictions contained in this chapter, issue its negotiable bonds for the purpose of paying
391 all or part of the cost of:

392 (a) acquiring, improving, or extending any one or more improvements, facilities, or
393 property that the local political subdivision is authorized by law to acquire, improve, or extend;

394 (b) acquiring, or acquiring an interest in, any one or more or any combination of the
395 following types of improvements, facilities, or property to be owned by the local political
396 subdivision, either alone or jointly with one or more other local political subdivisions, or for
397 the improvement or extension of any of those wholly or jointly owned improvements, facilities,
398 or properties:

399 (i) public buildings of every nature, including without limitation, offices, courthouses,
400 jails, fire, police and sheriff's stations, detention homes, and any other buildings to
401 accommodate or house lawful activities of a local political subdivision;

402 (ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment
403 plants, and any other improvements, facilities, or property used in connection with the
404 acquisition, storage, transportation, and supplying of water for domestic, industrial, irrigation,
405 recreational, and other purposes and preventing pollution of water;

406 (iii) sewer systems, sewage treatment plants, incinerators, and other improvements,
407 facilities, or property used in connection with the collection, treatment, and disposal of sewage,
408 garbage, or other refuse;

409 (iv) drainage and flood control systems, storm sewers, and any other improvements,
410 facilities, or property used in connection with the collection, transportation, or disposal of
411 water;

412 (v) recreational facilities of every kind, including without limitation, athletic and play
413 facilities, playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps,
414 parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts,
415 auditoriums, stadiums, arenas, and theaters;

416 (vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the
417 holding of public assemblies, conventions, and other meetings;

418 (vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings,
419 lots, and facilities;

420 (viii) airports, landing fields, landing strips, and air navigation facilities;

421 (ix) educational facilities, including without limitation, schools, gymnasiums,

422 auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;

423 (x) hospitals, convalescent homes, and homes for the aged or indigent; and

424 (xi) electric light works, electric generating systems, and any other improvements,

425 facilities, or property used in connection with the generation and acquisition of electricity for

426 these local political subdivisions and transmission facilities and substations if they do not

427 duplicate transmission facilities and substations of other entities operating in the state prepared

428 to provide the proposed service unless these transmission facilities and substations proposed to

429 be constructed will be more economical to these local political subdivisions; or

430 (c) new construction, renovation, or improvement to a state highway within the

431 boundaries of the local political subdivision or an environmental study for a state highway

432 within the boundaries of the local political subdivision.

433 (2) Except as provided in Subsection (1)(c), any improvement, facility, or property

434 under Subsection (1) need not lie within the limits of the local political subdivision.

435 (3) A cost under Subsection (1) may include:

436 (a) the cost of equipment and furnishings for such improvements, facilities, or

437 property;

438 (b) all costs incident to the authorization and issuance of bonds, including engineering,

439 legal, and fiscal advisers' fees;

440 (c) costs incident to the issuance of bond anticipation notes, including interest to accrue

441 on bond anticipation notes;

442 (d) interest estimated to accrue on the bonds during the period to be covered by the

443 construction of the improvement, facility, or property and for 12 months after that period; and

444 (e) other amounts which the governing body finds necessary to establish bond reserve

445 funds and to provide working capital related to the improvement, facility, or property.

446 (4) The proceeds from bonds issued on or after May 14, 2013 may not be used:

447 (a) for operation and maintenance expenses for more [~~for~~] than one year after the date

448 any of the proceeds are first used for those expenses; or

449 (b) for capitalization of interest more than five years after the bonds are issued.

450 Section 5. Section 11-27-9 is amended to read:

451 **11-27-9. Prerequisites to issuance of state general obligation refunding bonds.**

452 No general obligation refunding bonds of the state may be issued under this chapter,
453 unless:

454 [(a)] (1) the tax provided in Section 11-27-3.5 is sufficient to pay annual interest and to
455 pay the principal of the refunding bonds within 20 years from the final passage of the law
456 authorizing the bonds to be refunded thereby~~;~~; or

457 [(b)] (2) the legislature has approved the issuance of general obligation refunding
458 bonds and provided for levying a tax annually, sufficient to pay the annual interest and to pay
459 the principal of the general obligation refunding bonds within 20 years from the final passage
460 of the law approving the refunding bonds as provided in Article XIII, Sec. 2(11), Utah
461 Constitution.

462 Section 6. Section 13-35-103 is amended to read:

463 **13-35-103. Utah Powersport Vehicle Franchise Advisory Board -- Creation --**
464 **Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest.**

465 (1) There is created within the department the Utah Powersport Vehicle Franchise
466 Advisory Board that consists of:

467 (a) the executive director or the executive director's designee; and

468 (b) six members appointed by the executive director, with the concurrence of the
469 governor, as follows:

470 (i) three new powersport vehicle franchisees, ~~[one from]~~ each ~~[of the three]~~ from a
471 different congressional ~~[districts]~~ district in the state; and

472 (ii) (A) three members representing powersport vehicle franchisors registered by the
473 department pursuant to Section 13-35-105;

474 (B) three members of the general public, none of whom shall be related to any
475 franchisee; or

476 (C) three members consisting of any combination of these representatives under this
477 Subsection (1)(b)(ii).

478 (2) (a) The executive director shall also appoint, with the concurrence of the governor,
479 three alternate members, with at least one alternate from each of the designations set forth in
480 Subsections (1)(b)(i) and (1)(b)(ii), except that the new powersport vehicle franchisee alternate
481 or alternates for the designation under Subsection (1)(b)(i) may be from any congressional
482 district.

483 (b) An alternate shall take the place of a regular advisory board member from the same
484 designation at a meeting of the advisory board where that regular advisory board member is
485 absent or otherwise disqualified from participating in the advisory board meeting.

486 (3) (a) (i) Members of the advisory board appointed under Subsections (1)(b) and (2)
487 shall be appointed for a term of four years.

488 (ii) No specific term shall apply to the executive director or the executive director's
489 designee.

490 (b) The executive director may adjust the term of members who were appointed to the
491 advisory board prior to July 1, 2002, by extending the unexpired term of a member for up to
492 two additional years in order to insure that approximately half of the members are appointed
493 every two years.

494 (c) In the event of a vacancy on the advisory board of a member appointed under
495 Subsection (1)(b) or (2), the executive director with the concurrence of the governor, shall
496 appoint an individual to complete the unexpired term of the member whose office is vacant.

497 (d) A member may not be appointed to more than two consecutive terms.

498 (4) (a) The executive director or the executive director's designee shall be the chair of
499 the advisory board.

500 (b) The department shall keep a record of all hearings, proceedings, transactions,
501 communications, and recommendations of the advisory board.

502 (5) (a) Four or more members of the advisory board constitute a quorum for the
503 transaction of business.

504 (b) The action of a majority of a quorum present is considered the action of the
505 advisory board.

506 (6) (a) A member of the advisory board may not participate as a board member in a
507 proceeding or hearing:

508 (i) involving the member's business or employer; or

509 (ii) when a member, a member's business, family, or employer has a pecuniary interest
510 in the outcome or other conflict of interest concerning an issue before the advisory board.

511 (b) If a member of the advisory board is disqualified under Subsection (6)(a), the
512 executive director shall select the appropriate alternate member to act on the issue before the
513 advisory board as provided in Subsection (2).

514 (7) Except for the executive director or the executive director's designee, an individual
515 may not be appointed or serve on the advisory board while holding any other elective or
516 appointive state or federal office.

517 (8) A member may not receive compensation or benefits for the member's service, but
518 may receive per diem and travel expenses in accordance with:

519 (a) Section 63A-3-106;

520 (b) Section 63A-3-107; and

521 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
522 63A-3-107.

523 (9) The department shall provide necessary staff support to the advisory board.

524 Section 7. Section 15-7-4 is amended to read:

525 **15-7-4. Registration system established by issuer.**

526 (1) (a) Each issuer is authorized to establish and maintain a system of registration with
527 respect to each obligation it issues.

528 (b) The system described in this Subsection (1) may either be:

529 ~~(a)~~ (i) a system pursuant to which only certificated registered public obligations are
530 issued~~[-or (b)]~~;

531 (ii) a system pursuant to which only uncertificated registered public obligations are
532 issued~~[-];~~ or

533 ~~(c)~~ (iii) a system pursuant to which both certificated and uncertificated registered

534 public obligations are issued.

535 (c) The issuer may amend, discontinue, and reinstitute [~~any~~] a system established under
536 this section, from time to time, subject to covenants.

537 (2) The system shall be established, amended, discontinued, or reinstated, for the
538 issuer by, and shall be maintained for the issuer as provided by, the official or official body.

539 (3) The system shall be described in the registered public obligation or in the official
540 actions which provide for original issuance of the registered public obligation, and in
541 subsequent official actions providing for amendments and other matters from time to time. The
542 description may be by reference to a program of the issuer which is established by the official
543 or official body.

544 (4) The system shall define the method or methods by which transfer of the registered
545 public obligation is effective with respect to the issuer, and by which payment of principal and
546 any interest shall be made. The system may permit the issuance of registered public obligations
547 in any denomination to represent several registered public obligations of smaller
548 denominations. The system may also provide for the form of any certificated registered public
549 obligation or of any writing relating to an uncertificated registered public obligation, for
550 identifying numbers or other designations, for a sufficient supply of certificates for subsequent
551 transfers, for record and payment dates, for varying denominations, for communications to
552 holders or owners of obligations, and for accounting, cancelled certificate destruction,
553 registration and release of security interests and other incidental matters. Unless the issuer
554 otherwise provides, the record date for interest payable on the first or fifteenth days of a month
555 shall be the fifteenth day or the last business day of the preceding month, respectively, and for
556 interest payable on other than the first or fifteenth days of a month, shall be the fifteenth
557 calendar day before the interest payment date.

558 (5) Under a system pursuant to which both certificated and uncertificated registered
559 public obligations are issued, both types of registered public obligations may be regularly
560 issued, or one type may be regularly issued and the other type issued only under described
561 circumstances or to particular described categories of owners and provision may be made for

562 registration and release of security interests in registered public obligations.

563 (6) The system may include covenants of the issuer as to amendments,
564 discontinuances, and reinstatutions of the system and the effect of such on the exemption of
565 interest from the income tax provided for by the Code.

566 (7) Whenever an issuer issues an uncertificated registered public obligation, the system
567 of registration may provide that, as long as the uncertified registered obligation remains
568 outstanding and unpaid, a true copy of the official actions of the issuer relating to the
569 uncertificated registered public obligation will be maintained by the issuer or by the person, if
570 any, maintaining the system on behalf of the issuer. A copy of such official actions verified by
571 an authorized officer is admissible before any court of record, administrative body, or
572 arbitration panel without further authentication.

573 (8) Nothing in this act precludes conversion from one form of registered public
574 obligation provided by this act to a form of obligation not provided by this act if interest on the
575 converted obligation continues to be exempt from income taxation under the Code.

576 (9) Rights provided by other laws with respect to obligations in forms not provided by
577 this act shall, to the extent not inconsistent with this act, apply with respect to registered public
578 obligations issued in forms authorized by this act.

579 Section 8. Section **15A-2-103** is amended to read:

580 **15A-2-103. Specific editions adopted of construction code of a nationally**
581 **recognized code authority.**

582 (1) Subject to the other provisions of this part, the following construction codes are
583 incorporated by reference, and together with the amendments specified in Chapter 3, Part 3,
584 Statewide Amendments to International Plumbing Code, and Chapter 4, Local Amendments
585 Incorporated as Part of State Construction Code, are the construction standards to be applied to
586 building construction, alteration, remodeling, and repair, and in the regulation of building
587 construction, alteration, remodeling, and repair in the state:

588 (a) the 2012 edition of the International Building Code, including Appendix J, issued
589 by the International Code Council;

590 (b) the 2012 edition of the International Residential Code, issued by the International
591 Code Council;

592 (c) the 2012 edition of the International Plumbing Code, issued by the International
593 Code Council;

594 (d) the 2012 edition of the International Mechanical Code, issued by the International
595 Code Council;

596 (e) the 2012 edition of the International Fuel Gas Code, issued by the International
597 Code Council;

598 (f) the 2011 edition of the National Electrical Code, issued by the National Fire
599 Protection Association;

600 (g) the 2012 edition of the International Energy Conservation Code, issued by the
601 International Code Council;

602 (h) subject to Subsection 15A-2-104(2), the HUD Code;

603 (i) subject to Subsection 15A-2-104(1), Appendix E of the 2012 edition of the
604 International Residential Code, issued by the International Code Council; and

605 (j) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model
606 Manufactured Home Installation Standard, issued by the National Fire Protection Association.

607 (2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire
608 Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code,
609 issued by the International Code Council, with the alternatives or amendments approved by the
610 Utah Division of Forestry, as a construction code that may be adopted by a local compliance
611 agency by local ordinance or other similar action as a local amendment to the codes listed in
612 this section.

613 Section 9. Section **16-6a-1701** is amended to read:

614 **16-6a-1701. Application to existing domestic nonprofit corporations -- Reports of**
615 **domestic and foreign nonprofit corporation.**

616 (1) Except as otherwise provided in Section 16-6a-1704, this chapter applies to
617 domestic nonprofit corporations as follows:

618 (a) domestic nonprofit corporations in existence on April 30, 2001, that were
 619 incorporated under any general statute of this state providing for incorporation of nonprofit
 620 corporations, including all nonprofit corporations organized under any former provisions of
 621 ~~[this chapter]~~ Title 16, Chapter 6;

622 (b) mutual irrigation, canal, ditch, reservoir, and water companies and water users'
 623 associations organized and existing under the laws of this state on April 30, 2001;

624 (c) corporations organized under the provisions of Title 16, Chapter 7, Corporations
 625 Sole, for purposes of applying all provisions relating to merger or consolidation; and

626 (d) to actions taken by the directors, officers, and members of the entities described in
 627 Subsections (1)(a), (b), and (c) after April 30, 2001.

628 (2) Domestic nonprofit corporations to which this chapter applies, that are organized
 629 and existing under the laws of this state on April 30, 2001:

630 (a) shall continue in existence with all the rights and privileges applicable to nonprofit
 631 corporations organized under this chapter; and

632 (b) from April 30, 2001 shall have all the rights and privileges and shall be subject to
 633 all the remedies, restrictions, liabilities, and duties prescribed in this chapter except as
 634 otherwise specifically provided in this chapter.

635 (3) Every existing domestic nonprofit corporation and foreign nonprofit corporation
 636 qualified to conduct affairs in this state on April 30, 2001 shall file an annual report with the
 637 division setting forth the information prescribed by Section 16-6a-1607. The annual report
 638 shall be filed at such time as would have been required had this chapter not taken effect and
 639 shall be filed annually thereafter as required in Section 16-6a-1607.

640 Section 10. Section 17-53-301 is amended to read:

641 **17-53-301. General powers, duties, and functions of county executive.**

642 (1) The elected county executive is the chief executive officer of the county.

643 (2) ~~[Except]~~ Each county executive shall exercise all executive powers, have all
 644 executive duties, and perform all executive functions of the county, including those enumerated
 645 in this part, except as expressly provided otherwise in statute and except as contrary to the

646 powers, duties, and functions of other county officers expressly provided for in:

647 (a) Chapter 16, County Officers;

648 (b) Chapter 17, County Assessor;

649 (c) Chapter 18a, Powers and Duties of County and District Attorney; [~~Chapter 19,~~

650 ~~County Auditor,]~~

651 (d) Chapter 19a, County Auditor;

652 (e) Chapter 20, County Clerk;

653 (f) Chapter 21, Recorder;

654 (g) Chapter 22, Sheriff;

655 (h) Chapter 23, County Surveyor; and

656 (i) Chapter 24, County Treasurer~~]; each county executive shall exercise all executive~~
657 ~~powers, have all executive duties, and perform all executive functions of the county, including~~
658 ~~those enumerated in this part].~~

659 (3) A county executive may take any action required by law and necessary to the full
660 discharge of the executive's duties, even though the action is not expressly authorized in
661 statute.

662 Section 11. Section ~~17B-2a-404~~ is amended to read:

663 **17B-2a-404. Improvement district board of trustees.**

664 (1) As used in this section:

665 (a) "County district" means an improvement district that does not include within its
666 boundaries any territory of a municipality.

667 (b) "County member" means a member of a board of trustees of a county district.

668 (c) "Electric district" means an improvement district that was created for the purpose of
669 providing electric service.

670 (d) "Included municipality" means a municipality whose boundaries are entirely
671 contained within but do not coincide with the boundaries of an improvement district.

672 (e) "Municipal district" means an improvement district whose boundaries coincide
673 with the boundaries of a single municipality.

674 (f) "Regular district" means an improvement district that is not a county district,
675 electric district, or municipal district.

676 (g) "Remaining area" means the area of a regular district that:

677 (i) is outside the boundaries of an included municipality; and

678 (ii) includes the area of an included municipality whose legislative body elects, under
679 Subsection [~~(4)~~] (5)(a)(ii), not to appoint a member to the board of trustees of the regular
680 district.

681 (h) "Remaining area member" means a member of a board of trustees of a regular
682 district who is appointed, or, if applicable, elected to represent the remaining area of the
683 district.

684 (2) The legislative body of the municipality included within a municipal district may:

685 (a) elect, at the time of the creation of the district, to be the board of trustees of the
686 district; and

687 (b) adopt at any time a resolution providing for:

688 (i) the election of board of trustees members, as provided in Section 17B-1-306; or

689 (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

690 (3) (a) The legislative body of a county whose unincorporated area is partly or
691 completely within a county district may:

692 (i) elect, at the time of the creation of the district, to be the board of trustees of the
693 district, even though a member of the legislative body of the county may not meet the
694 requirements of Subsection 17B-1-302(1)(a);

695 (ii) adopt at any time a resolution providing for:

696 (A) the election of board of trustees members, as provided in Section 17B-1-306; or

697 (B) except as provided in Subsection (4), the appointment of board of trustees
698 members, as provided in Section 17B-1-304; and

699 (iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative
700 body of the county to the board of trustees, except that the legislative body of the county may
701 not appoint more than three members of the legislative body of the county to the board of

702 trustees.

703 (b) A legislative body of a county whose unincorporated area is partly or completely
704 within a county district may take an action under Subsection (3)(a)(iii) if:

705 (i) more than 35% of the residences within a county district that receive service from
706 the district are seasonally occupied homes, as defined in Subsection 17B-1-302(1)(b)(i)(B);

707 (ii) the board of trustees are appointed by the legislative body of the county; and

708 (iii) there are at least two appointed board members who meet the requirements of
709 Subsection 17B-1-302(1), except that a member of the legislative body of the county need not
710 satisfy the requirements of Subsection 17B-1-302(1).

711 (4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a
712 resolution providing for the appointment of board of trustees members as provided in
713 Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of
714 trustees unless:

715 (a) the elected board has ceased to function;

716 (b) the terms of all of the elected board members have expired without the board
717 having called an election; or

718 (c) the elected board of trustees unanimously adopts a resolution approving the change
719 from an elected to an appointed board.

720 (5) (a) (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each
721 included municipality shall each appoint one member to the board of trustees of a regular
722 district.

723 (ii) The legislative body of an included municipality may elect not to appoint a member
724 to the board under Subsection (5)(a)(i).

725 (b) Except as provided in Subsection (6), the legislative body of each county whose
726 boundaries include a remaining area shall appoint all other members to the board of trustees of
727 a regular district.

728 (6) Notwithstanding Subsection (3), each remaining area member of a regular district
729 and each county member of a county district shall be elected, as provided in Section

730 17B-1-306, if:

731 (a) the petition or resolution initiating the creation of the district provides for remaining
732 area or county members to be elected;

733 (b) the district holds an election to approve the district's issuance of bonds;

734 (c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii),
735 not to appoint a member to the board of trustees; or

736 (d) (i) at least 90 days before the municipal general election or regular general election,
737 as applicable, a petition is filed with the district's board of trustees requesting remaining area
738 members or county members, as the case may be, to be elected; and

739 (ii) the petition is signed by registered voters within the remaining area or county
740 district, as the case may be, equal in number to at least 10% of the number of registered voters
741 within the remaining area or county district, respectively, who voted in the last gubernatorial
742 election.

743 (7) Subject to Section 17B-1-302, the number of members of a board of trustees of a
744 regular district shall be:

745 (a) the number of included municipalities within the district, if:

746 (i) the number is an odd number; and

747 (ii) the district does not include a remaining area;

748 (b) the number of included municipalities plus one, if the number of included
749 municipalities within the district is even; and

750 (c) the number of included municipalities plus two, if:

751 (i) the number of included municipalities is odd; and

752 (ii) the district includes a remaining area.

753 (8) (a) Except as provided in Subsection (8)(b), each remaining area member of the
754 board of trustees of a regular district shall reside within the remaining area.

755 (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining
756 area member shall be chosen from the district at large if:

757 (i) the population of the remaining area is less than 5% of the total district population;

758 or

759 (ii) (A) the population of the remaining area is less than 50% of the total district
760 population; and

761 (B) the majority of the members of the board of trustees are remaining area members.

762 (c) Application of Subsection (8)(b) may not prematurely shorten the term of any
763 remaining area member serving the remaining area member's elected or appointed term on May
764 11, 2010.

765 (9) If the election of remaining area or county members of the board of trustees is
766 required because of a bond election, as provided in Subsection [~~(9)~~] (6)(b):

767 (a) a person may file a declaration of candidacy if:

768 (i) the person resides within:

769 (A) the remaining area, for a regular district; or

770 (B) the county district, for a county district; and

771 (ii) otherwise qualifies as a candidate;

772 (b) the board of trustees shall, if required, provide a ballot separate from the bond
773 election ballot, containing the names of candidates and blanks in which a voter may write
774 additional names; and

775 (c) the election shall otherwise be governed by Title 20A, Election Code.

776 (10) (a) (i) This Subsection (10) applies to the board of trustees members of an electric
777 district.

778 (ii) Subsections (2) through (9) do not apply to an electric district.

779 (b) The legislative body of the county in which an electric district is located may
780 appoint the initial board of trustees of the electric district as provided in Section [17B-1-304](#).

781 (c) After the initial board of trustees is appointed as provided in Subsection (10)(b),
782 each member of the board of trustees of an electric district shall be elected by persons using
783 electricity from and within the district.

784 (d) Each member of the board of trustees of an electric district shall be a user of
785 electricity from the district and, if applicable, the division of the district from which elected.

786 (e) The board of trustees of an electric district may be elected from geographic
787 divisions within the district.

788 (f) A municipality within an electric district is not entitled to automatic representation
789 on the board of trustees.

790 Section 12. Section **17B-2a-405** is amended to read:

791 **17B-2a-405. Board of trustees of certain sewer improvement districts.**

792 (1) As used in this section:

793 (a) "Jurisdictional boundaries" means:

794 (i) for a qualified county, the boundaries that include:

795 (A) the area of the unincorporated part of the county that is included within a sewer
796 improvement district; and

797 (B) the area of each nonappointing municipality that is included within the sewer
798 improvement district; and

799 (ii) for a qualified municipality, the boundaries that include the area of the municipality
800 that is included within a sewer improvement district.

801 (b) "Nonappointing municipality" means a municipality that:

802 (i) is partly included within a sewer improvement district; and

803 (ii) is not a qualified municipality.

804 (c) "Qualified county" means a county:

805 (i) some or all of whose unincorporated area is included within a sewer improvement
806 district; or

807 (ii) which includes within its boundaries a nonappointing municipality.

808 (d) "Qualified county member" means a member of a board of trustees of a sewer
809 improvement district appointed under Subsection (3)(a)(ii).

810 (e) "Qualified municipality" means a municipality that is partly or entirely included
811 within a sewer improvement district that includes:

812 (i) all of the municipality that is capable of receiving sewage treatment service from the
813 sewer improvement district; and

- 814 (ii) more than half of:
- 815 (A) the municipality's land area; or
- 816 (B) the assessed value of all private real property within the municipality.
- 817 (f) "Qualified municipality member" means a member of a board of trustees of a sewer
- 818 improvement district appointed under Subsection (3)(a)(i).
- 819 (g) "Sewer improvement district" means an improvement district that:
- 820 (i) provides sewage collection, treatment, and disposal service; and
- 821 (ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to
- 822 continue to appoint its board of trustees members as provided in this section.
- 823 (2) (a) Notwithstanding Section 17B-2a-404, the board of trustees members of a sewer
- 824 improvement district shall be appointed as provided in this section.
- 825 (b) The board of trustees of a sewer improvement district may revoke the election
- 826 under Subsection (1)(d)~~(fii)~~ and become subject to the provisions of Section 17B-2a-404 only
- 827 by the unanimous vote of all members of the sewer improvement district's board of trustees at a
- 828 time when there is no vacancy on the board.
- 829 (3) (a) The board of trustees of each sewer improvement district shall consist of:
- 830 (i) at least one person but not more than three persons appointed by the mayor of each
- 831 qualified municipality, with the consent of the legislative body of that municipality; and
- 832 (ii) at least one person but not more than three persons appointed by:
- 833 (A) the county executive, with the consent of the county legislative body, for a
- 834 qualified county operating under a county executive-council form of county government; or
- 835 (B) the county legislative body, for each other qualified county.
- 836 (b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent
- 837 the area within the jurisdictional boundaries of the qualified county.
- 838 (4) Notwithstanding Subsection 17B-1-302(2), the number of board of trustees
- 839 members of a sewer improvement district shall be the number that results from application of
- 840 Subsection (3)(a).
- 841 (5) Except as provided in this section, an appointment to the board of trustees of a

842 sewer improvement district is governed by Section 17B-1-304.

843 (6) A quorum of a board of trustees of a sewer improvement district consists of
844 members representing more than 50% of the total number of qualified county and qualified
845 municipality votes under Subsection (7).

846 (7) (a) Subject to Subsection (7)(b), each qualified county and each qualified
847 municipality is entitled to one vote on the board of trustees of a sewer improvement district for
848 each \$10,000,000, or fractional part larger than 1/2 of that amount, of assessed valuation of
849 private real property taxable for district purposes within the respective jurisdictional
850 boundaries, as shown by the assessment records of the county and evidenced by a certificate of
851 the county auditor.

852 (b) Notwithstanding Subsection (7)(a), each qualified county and each qualified
853 municipality shall have at least one vote.

854 (8) If a qualified county or qualified municipality appoints more than one board
855 member, all the votes to which the qualified county or qualified municipality is entitled under
856 Subsection (7) for an item of board business shall collectively be cast by a majority of the
857 qualified county members or qualified municipal members, respectively, present at a meeting
858 of the board of trustees.

859 Section 13. Section **17B-2a-1007** is amended to read:

860 **17B-2a-1007. Contract assessments.**

861 (1) As used in this section:

862 (a) "Assessed land" means:

863 (i) for a contract assessment under a water contract with a private water user, the land
864 owned by the private water user that receives the beneficial use of water under the water
865 contract; or

866 (ii) for a contract assessment under a water contract with a public water user, the land
867 within the boundaries of the public water user that is within the boundaries of the water
868 conservancy district and that receives the beneficial use of water under the water contract.

869 (b) "Contract assessment" means an assessment levied as provided in this section by a

870 water conservancy district on assessed land.

871 (c) "Governing body" means:

872 (i) for a county, city, or town, the legislative body of the county, city, or town;

873 (ii) for a local district, the board of trustees of the local district;

874 (iii) for a special service district:

875 (A) the legislative body of the county, city, or town that established the special service
876 district, if no administrative control board has been appointed under Section 17D-1-301; or

877 (B) the administrative control board of the special service district, if an administrative
878 control board has been appointed under Section 17D-1-301; and

879 (iv) for any other political subdivision of the state, the person or body with authority to
880 govern the affairs of the political subdivision.

881 (d) "Petitioner" means a private petitioner or a public petitioner.

882 (e) "Private petitioner" means an owner of land within a water conservancy district
883 who submits a petition to a water conservancy district under Subsection (3) to enter into a
884 water contract with the district.

885 (f) "Private water user" means an owner of land within a water conservancy district
886 who enters into a water contract with the district.

887 (g) "Public petitioner" means a political subdivision of the state:

888 (i) whose territory is partly or entirely within the boundaries of a water conservancy
889 district; and

890 (ii) that submits a petition to a water conservancy district under Subsection (3) to enter
891 into a water contract with the district.

892 (h) "Public water user" means a political subdivision of the state:

893 (i) whose territory is partly or entirely within the boundaries of a water conservancy
894 district; and

895 (ii) that enters into a water contract with the district.

896 (i) "Water contract" means a contract between a water conservancy district and a
897 private water user or a public water user under which the water user purchases, leases, or

898 otherwise acquires the beneficial use of water from the water conservancy district for the
899 benefit of:

- 900 (i) land owned by the private water user; or
- 901 (ii) land within the public water user's boundaries that is also within the boundaries of
902 the water conservancy district.

903 (j) "Water user" means a private water user or a public water user.

904 (2) A water conservancy district may levy a contract assessment as provided in this
905 section.

906 (3) (a) The governing body of a public petitioner may authorize its chief executive
907 officer to submit a written petition on behalf of the public petitioner to a water conservancy
908 district requesting to enter into a water contract.

909 (b) A private petitioner may submit a written petition to a water conservancy district
910 requesting to enter into a water contract.

911 (c) Each petition under this Subsection (3) shall include:

- 912 (i) the petitioner's name;
- 913 (ii) the quantity of water the petitioner desires to purchase or otherwise acquire;
- 914 (iii) a description of the land upon which the water will be used;
- 915 (iv) the price to be paid for the water;
- 916 (v) the amount of any service, turnout, connection, distribution system, or other charge
917 to be paid;
- 918 (vi) whether payment will be made in cash or annual installments;
- 919 (vii) a provision requiring the contract assessment to become a lien on the land for
920 which the water is petitioned and is to be allotted; and
- 921 (viii) an agreement that the petitioner is bound by the provisions of this part and the
922 rules and regulations of the water conservancy district board of trustees.

923 (4) (a) If the board of a water conservancy district desires to consider a petition
924 submitted by a petitioner under Subsection (3), the board shall:

- 925 (i) publish notice of the petition and of the hearing required under Subsection (4)(a)(ii)

926 at least once a week in two successive weeks in a newspaper of general circulation within the
927 county in which the political subdivision or private petitioner's land, as the case may be, is
928 located; and

929 (ii) hold a public hearing on the petition.

930 (b) Each notice under Subsection (4)(a)(i) shall:

931 (i) state that a petition has been filed and that the district is considering levying a
932 contract assessment; and

933 (ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

934 (c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the
935 water conservancy district shall:

936 (A) allow any interested person to appear and explain why the petition should not be
937 granted; and

938 (B) consider each written objection to the granting of the petition that the board
939 receives before or at the hearing.

940 (ii) The board of trustees may adjourn and reconvene the hearing as the board
941 considers appropriate.

942 (d) (i) Any interested person may file with the board of the water conservancy district,
943 at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting
944 a petition.

945 (ii) Each person who fails to submit a written objection within the time provided under
946 Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and
947 levying a contract assessment.

948 (5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of
949 trustees of a water conservancy district may:

950 (a) deny the petition; or

951 (b) grant the petition, if the board considers granting the petition to be in the best
952 interests of the district.

953 (6) The board of a water conservancy district that grants a petition under this section

954 may:

955 (a) make an allotment of water for the benefit of assessed land;

956 (b) authorize any necessary construction to provide for the use of water upon the terms
957 and conditions stated in the water contract;

958 (c) divide the district into units and fix a different rate for water purchased or otherwise
959 acquired and for other charges within each unit, if the rates and charges are equitable, although
960 not equal and uniform, for similar classes of services throughout the district; and

961 (d) levy a contract assessment on assessed land.

962 (7) (a) The board of trustees of each water conservancy district that levies a contract
963 assessment under this section shall:

964 (i) cause a certified copy of the resolution, ordinance, or order levying the assessment
965 to be recorded in the office of the recorder of each county in which assessed land is located;
966 and

967 (ii) on or before July 1 of each year after levying the contract assessment, certify to the
968 auditor of each county in which assessed land is located the amount of the contract assessment.

969 (b) Upon the recording of the resolution or ordinance under Subsection (7)(a)(i), the
970 contract assessment associated with allotting water to the assessed land under the water
971 contract becomes a perpetual lien on the assessed land.

972 (c) Each county in which assessed land is located shall collect the contract assessment
973 in the same manner as taxes levied by the county.

974 (8) (a) The board of trustees of each water conservancy district that levies a contract
975 assessment under this section shall:

976 (i) hold a public hearing, before August 8 of each year in which a contract assessment
977 is levied, to hear and consider objections filed under Subsection (8)(b); and

978 (ii) twice publish a notice, at least a week apart:

979 (A) (I) in a newspaper of general circulation in each county with assessed land included
980 within the district boundaries; or

981 (II) if there is no newspaper of general circulation within the county, in a newspaper of

982 general circulation in an adjoining county;

983 (B) that contains:

984 (I) a general description of the assessed land;

985 (II) the amount of the contract assessment; and

986 (III) the time and place of the public hearing under Subsection (8)(a)(i).

987 (b) An owner of assessed land within the water conservancy district who believes that
988 the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the
989 hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to
990 the assessment, stating the grounds for the objection.

991 (c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and
992 consider the evidence and arguments supporting each objection.

993 (ii) After hearing and considering the evidence and arguments supporting an objection,
994 the board of trustees:

995 (A) shall enter a written order, stating its decision; and

996 (B) may modify the assessment.

997 (d) (i) An owner of assessed land may file a petition in district court seeking review of
998 a board of trustees' order under Subsection (8)(c)~~(i)~~(ii)(A).

999 (ii) Each petition under Subsection (8)(d)(i) shall:

1000 (A) be filed within 30 days after the board enters its written order;

1001 (B) state specifically the part of the board's order for which review is sought; and

1002 (C) be accompanied by a bond with good and sufficient security in an amount not
1003 exceeding \$200, as determined by the court clerk.

1004 (iii) If more than one owner of assessed land seeks review, the court may, upon a
1005 showing that the reviews may be consolidated without injury to anyone's interests, consolidate
1006 the reviews and hear them together.

1007 (iv) The court shall act as quickly as possible after a petition is filed.

1008 (v) A court may not disturb a board of trustees' order unless the court finds that the
1009 contract assessment on the petitioner's assessed land is manifestly disproportionate to

1010 assessments imposed upon other land in the district.

1011 (e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is
1012 conclusively considered to have been made in proportion to the benefits conferred on the land
1013 in the district.

1014 (9) Each resolution, ordinance, or order under which a water conservancy district
1015 levied a Class B, Class C, or Class D assessment before April 30, 2007 under the law in effect
1016 at the time of the levy is validated, ratified, and confirmed, and a water conservancy district
1017 may continue to levy the assessment according to the terms of the resolution, ordinance, or
1018 order.

1019 (10) A contract assessment is not a levy of an ad valorem property tax and is not
1020 subject to the limits stated in Section [17B-2a-1006](#).

1021 Section 14. Section **20A-1-103** is amended to read:

1022 **20A-1-103. Severability clause.**

1023 If any provision of [~~2014 General Session S.B. 54~~] Laws of Utah 2014, Chapter 17, or
1024 the application of any provision of [~~2014 General Session S.B. 54~~] Laws of Utah 2014, Chapter
1025 17, to any person or circumstance is held invalid by a final decision of a court of competent
1026 jurisdiction, the remainder of [~~2014 General Session S.B. 54~~] Laws of Utah 2014, Chapter 17,
1027 shall be given effect without the invalid provision or application. The provisions of [~~2014~~
1028 ~~General Session S.B. 54~~] Laws of Utah 2014, Chapter 17, are severable.

1029 Section 15. Section **20A-7-613** is amended to read:

1030 **20A-7-613. Property tax referendum petition.**

1031 (1) As used in this section:

1032 (a) "Certified tax rate" is as defined in Subsection [59-2-924\(3\)\(a\)](#).

1033 (b) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year
1034 that begins on July 1 and ends on June 30.

1035 (2) Except as provided in this section, the requirements of this part apply to a
1036 referendum petition challenging a fiscal year taxing entity's legislative body's vote to impose a
1037 tax rate that exceeds the certified tax rate.

1038 (3) Notwithstanding Subsection 20A-7-604(5), the local clerk shall number each of the
1039 referendum packets and return them to the sponsors within two working days.

1040 (4) Notwithstanding Subsection 20A-7-606(1), the sponsors shall deliver each signed
1041 and verified referendum packet to the county clerk of the county in which the packet was
1042 circulated no later than 40 days after the day on which the local clerk complies with Subsection
1043 (3).

1044 (5) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the
1045 actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on
1046 which the county clerk receives the signed and verified referendum packet as described in
1047 Subsection (4).

1048 (6) The local clerk shall take the actions required by Section 20A-7-607 within two
1049 working days after the day on which the local clerk receives the referendum packets from the
1050 county clerk.

1051 (7) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the
1052 ballot title within two working days after the day on which the referendum petition is declared
1053 sufficient for submission to a vote of the people.

1054 (8) Notwithstanding Subsection 20A-7-609(2)[~~(d)~~](c), a referendum that qualifies for
1055 the ballot under this section shall appear on the ballot for the earlier of the next regular general
1056 election or the next municipal general election unless a special election is called.

1057 (9) Notwithstanding the requirements related to absentee ballots under this title:

1058 (a) the election officer shall prepare absentee ballots for those voters who have
1059 requested an absentee ballot as soon as possible after the ballot title is prepared as described in
1060 Subsection (7); and

1061 (b) the election officer shall mail absentee ballots on a referendum under this section
1062 the later of:

1063 (i) the time provided in Section 20A-3-305 or 20A-16-403; or

1064 (ii) the time that absentee ballots are prepared for mailing under this section.

1065 (10) Section 20A-7-402 does not apply to a referendum described in this section.

1066 (11) (a) If a majority of voters does not vote against imposing the tax at a rate
1067 calculated to generate the increased revenue budgeted, adopted, and approved by the fiscal year
1068 taxing entity's legislative body:

1069 (i) the certified tax rate for the fiscal year during which the referendum petition is filed
1070 is its most recent certified tax rate; and

1071 (ii) the proposed increased revenues for purposes of establishing the certified tax rate
1072 for the fiscal year after the fiscal year described in Subsection (11)(a)(i) are the proposed
1073 increased revenues budgeted, adopted, and approved by the fiscal year taxing entity's legislative
1074 body before the filing of the referendum petition.

1075 (b) If a majority of voters votes against imposing a tax at the rate established by the
1076 vote of the fiscal year taxing entity's legislative body, the certified tax rate for the fiscal year
1077 taxing entity is its most recent certified tax rate.

1078 (c) If the tax rate is set in accordance with Subsection (11)(a)(ii), a fiscal year taxing
1079 entity is not required to comply with the notice and public hearing requirements of Section
1080 [59-2-919](#) if the fiscal year taxing entity complies with those notice and public hearing
1081 requirements before the referendum petition is filed.

1082 (12) The ballot title shall, at a minimum, include in substantially this form the
1083 following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount
1084 sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as
1085 budgeted, adopted, and approved by the [name of the taxing entity]".

1086 (13) A fiscal year taxing entity shall pay the county the costs incurred by the county
1087 that are directly related to meeting the requirements of this section and that the county would
1088 not have incurred but for compliance with this section.

1089 (14) (a) An election officer shall include on a ballot a referendum that has not yet
1090 qualified for placement on the ballot, if:

1091 (i) sponsors file an application for a referendum described in this section;

1092 (ii) the ballot will be used for the election for which the sponsors are attempting to
1093 qualify the referendum; and

1094 (iii) the deadline for qualifying the referendum for placement on the ballot occurs after
1095 the day on which the ballot will be printed.

1096 (b) If an election officer includes on a ballot a referendum described in Subsection
1097 (14)(a), the ballot title shall comply with Subsection (12).

1098 (c) If an election officer includes on a ballot a referendum described in Subsection
1099 (14)(a) that does not qualify for placement on the ballot, the election officer shall inform the
1100 voters by any practicable method that the referendum has not qualified for the ballot and that
1101 votes cast in relation to the referendum will not be counted.

1102 Section 16. Section **23-25-2** is amended to read:

1103 **23-25-2. Adoption and text of compact.**

1104 (1) The participating states find that:

1105 (a) Wildlife resources are managed in trust by the respective states for the benefit of all
1106 residents and visitors.

1107 (b) The protection of the wildlife resources of a state is materially affected by the
1108 degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules
1109 relating to the management of the resources.

1110 (c) The preservation, protection, management, and restoration of wildlife contributes
1111 immeasurably to the aesthetic, recreational, and economic aspects of the natural resources.

1112 (d) Wildlife resources are valuable without regard to political boundaries; therefore,
1113 every person should be required to comply with wildlife preservation, protection, management,
1114 and restoration laws, ordinances, and administrative rules and regulations of the participating
1115 states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap,
1116 or possess wildlife.

1117 (e) Violation of wildlife laws interferes with the management of wildlife resources and
1118 may endanger the safety of persons and property.

1119 (f) The mobility of many wildlife law violators necessitates the maintenance of
1120 channels of communication among the various states.

1121 (g) Usually, a person who is cited for a wildlife violation in a state other than his home

1122 state:

1123 (i) is required to post collateral or bond to secure appearance for a trial at a later date;

1124 or

1125 (ii) is taken directly into custody until collateral or bond is posted; or

1126 (iii) is taken directly to court for an immediate appearance.

1127 (h) The purpose of the enforcement practices set forth in Subsection (1)(g) [~~of this~~
1128 ~~article~~] is to ensure compliance with the terms of a wildlife citation by the cited person who, if
1129 permitted to continue on his way after receiving the citation, could return to his home state and
1130 disregard his duty under the terms of the citation.

1131 (i) In most instances, a person receiving a wildlife citation in his home state is
1132 permitted to accept the citation from the officer at the scene of the violation and immediately
1133 continue on his way after agreeing or being instructed to comply with the terms of the citation.

1134 (j) The practices described in Subsection (1)(g) [~~of this article~~] cause unnecessary
1135 inconvenience and, at times, a hardship for the person who is unable at the time to post
1136 collateral, furnish a bond, stand trial, or pay a fine, and is compelled to remain in custody until
1137 some alternative arrangement is made.

1138 (k) The enforcement practices described in Subsection (1)(g) [~~of this article~~] consume
1139 an undue amount of enforcement time.

1140 (2) It is the policy of the participating states to:

1141 (a) promote compliance with the statutes, laws, ordinances, regulations, and
1142 administrative rules relating to the management of wildlife resources in their respective states;

1143 (b) recognize the suspension of wildlife license privileges of a person whose license
1144 privileges have been suspended by a participating state and treat the suspension as if it had
1145 occurred in their state;

1146 (c) allow a violator, except as provided in Subsection 23-25-4(2), to accept a wildlife
1147 citation and, without delay, proceed on his way, whether or not the violator is a resident of the
1148 state in which the citation was issued, provided that the violator's home state is a party to this
1149 compact;

1150 (d) report to the appropriate participating state, as provided in the compact manual, a
1151 conviction recorded against a person whose home state was not the issuing state;

1152 (e) allow the home state to recognize and treat convictions recorded against its
1153 residents, which convictions occurred in a participating state, as though they had occurred in
1154 the home state;

1155 (f) extend cooperation to its fullest extent among the participating states for enforcing
1156 compliance with the terms of a wildlife citation issued in one participating state to a resident of
1157 another state;

1158 (g) maximize effective use of law enforcement personnel and information; and

1159 (h) assist court systems in the efficient disposition of wildlife violations.

1160 Section 17. Section **26-18-3.6** is amended to read:

1161 **26-18-3.6. Income and resources from institutionalized spouses.**

1162 (1) As used in this section:

1163 (a) "Community spouse" means the spouse of an institutionalized spouse.

1164 (b) (i) "Community spouse monthly income allowance" means an amount by which the
1165 minimum monthly maintenance needs allowance for the spouse exceeds the amount of monthly
1166 income otherwise available to the community spouse, determined without regard to the
1167 allowance, except as provided in Subsection (1)(b)(ii).

1168 (ii) If a court has entered an order against an institutionalized spouse for monthly
1169 income for the support of the community spouse, the community spouse monthly income
1170 allowance for the spouse may not be less than the amount of the monthly income so ordered.

1171 (c) "Community spouse resource allowance" is an amount by which the greatest of the
1172 following exceeds the amount of the resources otherwise available to the community spouse:

1173 (i) \$15,804;

1174 (ii) the lesser of the spousal share computed under Subsection (4) or \$76,740;

1175 (iii) the amount established in a hearing held under Subsection (11); or

1176 (iv) the amount transferred by court order under Subsection [~~(11)~~] (12)(c).

1177 (d) "Excess shelter allowance" for a community spouse means the amount by which the

1178 sum of the spouse's expense for rent or mortgage payment, taxes, and insurance, and in the case
1179 of condominium or cooperative, required maintenance charge, for the community spouse's
1180 principal residence and the spouse's actual expenses for electricity, natural gas, and water
1181 utilities or, at the discretion of the department, the federal standard utility allowance under
1182 SNAP as defined in Section 35A-1-102, exceeds 30% of the amount described in Subsection
1183 (9).

1184 (e) "Family member" means a minor dependent child, dependent parents, or dependent
1185 sibling of the institutionalized spouse or community spouse who are residing with the
1186 community spouse.

1187 (f) (i) "Institutionalized spouse" means a person who is residing in a nursing facility
1188 and is married to a spouse who is not in a nursing facility.

1189 (ii) An "institutionalized spouse" does not include a person who is not likely to reside
1190 in a nursing facility for at least 30 consecutive days.

1191 (g) "Nursing care facility" is defined in Section 26-21-2.

1192 (2) The division shall comply with this section when determining eligibility for
1193 medical assistance for an institutionalized spouse.

1194 (3) For services furnished during a calendar year beginning on or after January 1, 1999,
1195 the dollar amounts specified in Subsections (1)(c)(i), (1)(c)(ii), and (10)(b) shall be increased
1196 by the division by the amount as determined annually by the federal [~~Health Care Financing~~
1197 ~~Administration~~] Centers for Medicare and Medicaid Services.

1198 (4) The division shall compute, as of the beginning of the first continuous period of
1199 institutionalization of the institutionalized spouse:

1200 (a) the total value of the resources to the extent either the institutionalized spouse or
1201 the community spouse has an ownership interest; and

1202 (b) a spousal share, which is 1/2 of the resources described in Subsection (4)(a).

1203 (5) At the request of an institutionalized spouse or a community spouse, at the
1204 beginning of the first continuous period of institutionalization of the institutionalized spouse
1205 and upon the receipt of relevant documentation of resources, the division shall promptly assess

1206 and document the total value described in Subsection (4)(a) and shall provide a copy of that
1207 assessment and documentation to each spouse and shall retain a copy of the assessment. When
1208 the division provides a copy of the assessment, it shall include a notice stating that the spouse
1209 may request a hearing under Subsection (11).

1210 (6) When determining eligibility for medical assistance under this chapter:

1211 (a) Except as provided in Subsection (6)(b), all the resources held by either the
1212 institutionalized spouse, community spouse, or both, are considered to be available to the
1213 institutionalized spouse.

1214 (b) Resources are considered to be available to the institutionalized spouse only to the
1215 extent that the amount of those resources exceeds the amounts specified in Subsections
1216 (1)(c)(i) through (iv) at the time of application for medical assistance under this chapter.

1217 (7) The division may not find an institutionalized spouse to be ineligible for medical
1218 assistance by reason of resources determined under Subsection (5) to be available for the cost
1219 of care when:

1220 (a) the institutionalized spouse has assigned to the state any rights to support from the
1221 community spouse;

1222 (b) (i) except as provided in Subsection (7)(b)(ii), the institutionalized spouse lacks the
1223 ability to execute an assignment due to physical or mental impairment;

1224 (ii) Subsection (7)(b)(i) does not prevent the division from seeking a court order
1225 seeking an assignment of support; or

1226 (c) the division determines that denial of medical assistance would cause an undue
1227 burden.

1228 (8) During the continuous period in which an institutionalized spouse is in an
1229 institution and after the month in which an institutionalized spouse is eligible for medical
1230 assistance, the resources of the community spouse may not be considered to be available to the
1231 institutionalized spouse.

1232 (9) When an institutionalized spouse is determined to be eligible for medical
1233 assistance, in determining the amount of the spouse's income that is to be applied monthly for

1234 the cost of care in the nursing care facility, the division shall deduct from the spouse's monthly
1235 income the following amounts in the following order:

1236 (a) a personal needs allowance, the amount of which is determined by the division;

1237 (b) a community spouse monthly income allowance, but only to the extent that the
1238 income of the institutionalized spouse is made available to, or for the benefit of, the community
1239 spouse;

1240 (c) a family allowance for each family member, equal to at least 1/3 of the amount that
1241 the amount described in Subsection (10)(a)(i) exceeds the amount of monthly income of that
1242 family member; and

1243 (d) amounts for incurred expenses for the medical or remedial care for the
1244 institutionalized spouse.

1245 (10) (a) Except as provided in Subsection (10)(b), the division shall establish a
1246 minimum monthly maintenance needs allowance for each community spouse which is not less
1247 than the sum of:

1248 (i) 150% of the current poverty guideline for a two-person family unit that applies to
1249 this state as established by the United States Department of Health and Human Services; and

1250 (ii) an excess shelter allowance.

1251 (b) The amount provided in Subsection (10)(a) may not exceed \$1,976, unless a court
1252 order establishes a higher amount.

1253 (11) (a) An institutionalized spouse or a community spouse may request a hearing with
1254 respect to the determinations described in Subsections (11)(e)(i) through (v) if an application
1255 for medical assistance has been made on behalf of the institutionalized spouse.

1256 (b) A hearing under this subsection regarding the community spouse resource
1257 allowance shall be held by the division within 90 days from the date of the request for the
1258 hearing.

1259 (c) If either spouse establishes that the community spouse needs income, above the
1260 level otherwise provided by the minimum monthly maintenance needs allowance, due to
1261 exceptional circumstances resulting in significant financial duress, there shall be substituted,

1262 for the minimum monthly maintenance needs allowance provided under Subsection (10), an
1263 amount adequate to provide additional income as is necessary.

1264 (d) If either spouse establishes that the community spouse resource allowance, in
1265 relation to the amount of income generated by the allowance is inadequate to raise the
1266 community spouse's income to the minimum monthly maintenance needs allowance, there shall
1267 be substituted, for the community spouse resource allowance, an amount adequate to provide a
1268 minimum monthly maintenance needs allowance.

1269 (e) A hearing may be held under this subsection if either the institutionalized spouse or
1270 community spouse is dissatisfied with a determination of:

- 1271 (i) the community spouse monthly income allowance;
- 1272 (ii) the amount of monthly income otherwise available to the community spouse;
- 1273 (iii) the computation of the spousal share of resources under Subsection (4);
- 1274 (iv) the attribution of resources under Subsection (6); or
- 1275 (v) the determination of the community spouse resource allocation.

1276 (12) (a) An institutionalized spouse may transfer an amount equal to the community
1277 spouse resource allowance, but only to the extent the resources of the institutionalized spouse
1278 are transferred to or for the sole benefit of the community spouse.

1279 (b) The transfer under Subsection (12)(a) shall be made as soon as practicable after the
1280 date of the initial determination of eligibility, taking into account the time necessary to obtain a
1281 court order under Subsection (12)(c).

1282 (c) Chapter 19, Medical Benefits Recovery Act, does not apply if a court has entered an
1283 order against an institutionalized spouse for the support of the community spouse.

1284 Section 18. Section **31A-8a-103** is amended to read:

1285 **31A-8a-103. Scope and purposes.**

1286 (1) A person shall comply with the provisions of this chapter if the person operates a
1287 health discount program in this state.

1288 (2) Notwithstanding any provision in this title, a person who only operates or markets a
1289 health discount program is exempt from:

- 1290 (a) Section [31A-4-113](#);
- 1291 (b) Section [31A-4-113.5](#);
- 1292 (c) Chapter 6a, Service Contracts;
- 1293 (d) Chapter 7, Nonprofit Health Service Insurance Corporations;
- 1294 (e) Section [31A-8-209](#);
- 1295 (f) Section [31A-8-211](#);
- 1296 (g) Section [31A-8-214](#);
- 1297 (h) [~~Chapters 9 through~~] Chapter 9, Insurance Fraternal, Chapter 10, Annuities,
- 1298 Chapter 11, Motor Clubs, and Chapter 12, State Risk Management Fund;
- 1299 (i) [~~Chapters 17~~] Chapter 17, Determination of Financial Condition, and Chapter 18,
- 1300 Investments;
- 1301 (j) Chapter 19a, Utah Rate Regulation Act;
- 1302 (k) Sections [31A-23a-103](#) and [31A-23a-104](#);
- 1303 (l) [~~Chapters 25~~] Chapter 25, Third Party Administrators, and Chapter 26, Insurance
- 1304 Adjusters;
- 1305 (m) [~~Chapters 28~~] Chapter 28, Guaranty Associations, and Chapter 29, Comprehensive
- 1306 Health Insurance Pool Act; and
- 1307 (n) [~~Chapters 35 through~~] Chapter 35, Bail Bond Act, Chapter 36, Life Settlements
- 1308 Act, Chapter 37, Captive Insurance Companies Act, and Chapter 38, Federal Health Care Tax
- 1309 Credit Program Act.
- 1310 (3) A person licensed under this title as an accident and health insurer or health
- 1311 maintenance organization:
- 1312 (a) is not required to obtain a license as required by Section [31A-8a-201](#) to operate a
- 1313 health discount program; and
- 1314 (b) is required to comply with all other provisions of this chapter.
- 1315 (4) The purposes of this chapter include:
- 1316 (a) full disclosure in the sale of health discount programs;
- 1317 (b) reasonable regulation of the marketing and disclosure practices of health discount

1318 program operators; and

1319 (c) licensing standards for health discount programs.

1320 (5) Nothing in this chapter prohibits a health discount program operator from
1321 marketing a health discount program operator's own services without a health discount program
1322 marketer license.

1323 Section 19. Section **31A-17-503** is amended to read:

1324 **31A-17-503. Actuarial opinion of reserves.**

1325 (1) This section becomes operative on December 31, 1993.

1326 (2) General: Every life insurance company doing business in this state shall annually
1327 submit the opinion of a qualified actuary as to whether the reserves and related actuarial items
1328 held in support of the policies and contracts specified by the commissioner by rule are
1329 computed appropriately, are based on assumptions which satisfy contractual provisions, are
1330 consistent with prior reported amounts, and comply with applicable laws of this state. The
1331 commissioner by rule shall define the specifics of this opinion and add any other items
1332 considered to be necessary to its scope.

1333 (3) Actuarial analysis of reserves and assets supporting reserves:

1334 (a) Every life insurance company, except as exempted by or pursuant to rule, shall also
1335 annually include in the opinion required by Subsection (2), an opinion of the same qualified
1336 actuary as to whether the reserves and related actuarial items held in support of the policies and
1337 contracts specified by the commissioner by rule, when considered in light of the assets held by
1338 the company with respect to the reserves and related actuarial items, including the investment
1339 earnings on the assets and the considerations anticipated to be received and retained under the
1340 policies and contracts, make adequate provision for the company's obligations under the
1341 policies and contracts, including the benefits under the expenses associated with the policies
1342 and contracts.

1343 (b) The commissioner may provide by rule for a transition period for establishing any
1344 higher reserves which the qualified actuary may consider necessary in order to render the
1345 opinion required by this section.

1346 (4) Requirement for opinion under Subsection (3): Each opinion required by
1347 Subsection (3) shall be governed by the following provisions:

1348 (a) A memorandum, in form and substance acceptable to the commissioner as specified
1349 by rule, shall be prepared to support each actuarial opinion.

1350 (b) If the insurance company fails to provide a supporting memorandum at the request
1351 of the commissioner within a period specified by rule or the commissioner determines that the
1352 supporting memorandum provided by the insurance company fails to meet the standards
1353 prescribed by the rule or is otherwise unacceptable to the commissioner, the commissioner may
1354 engage a qualified actuary at the expense of the company to review the opinion and the basis
1355 for the opinion and prepare such supporting memorandum as is required by the commissioner.

1356 (5) Requirement for all opinions: Every opinion shall be governed by the following
1357 provisions:

1358 (a) The opinion shall be submitted with the annual statement reflecting the valuation of
1359 the reserve liabilities for each year ending on or after December 31, 1993.

1360 (b) The opinion shall apply to all business in force including individual and group
1361 health insurance plans, in form and substance acceptable to the commissioner as specified by
1362 rule.

1363 (c) The opinion shall be based on standards adopted from time to time by the Actuarial
1364 Standards Board and on such additional standards as the commissioner may by rule prescribe.

1365 (d) In the case of an opinion required to be submitted by a foreign or alien company,
1366 the commissioner may accept the opinion filed by that company with the insurance supervisory
1367 official of another state if the commissioner determines that the opinion reasonably meets the
1368 requirements applicable to a company domiciled in this state.

1369 (e) For the purposes of this section, "qualified actuary" means a member in good
1370 standing of the American Academy of Actuaries who meets the requirements set forth by
1371 department rule.

1372 (f) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for
1373 damages to any person, other than the insurance company and the commissioner, for any act,

1374 error, omission, decision, or conduct with respect to the actuary's opinion.

1375 (g) Disciplinary action by the commissioner against the company or the qualified
1376 actuary shall be defined in rules by the commissioner.

1377 (h) (i) Any memorandum in support of the opinion, and any other material provided by
1378 the company to the commissioner in connection therewith, are considered protected records
1379 under Section 63G-2-305 and may not be made public and are not subject to subpoena under
1380 Subsection 63G-2-202(7), other than for the purpose of defending an action seeking damages
1381 from any person by reason of any action required by this section or rules promulgated under
1382 this section.

1383 (ii) However, the memorandum or other material may otherwise be released by the
1384 commissioner;

1385 [(†)] (A) with the written consent of the company; or

1386 [(†)] (B) to the American Academy of Actuaries upon request stating that the
1387 memorandum or other material is required for the purpose of professional disciplinary
1388 proceedings and setting forth procedures satisfactory to the commissioner for preserving the
1389 confidentiality of the memorandum or other material.

1390 (iii) Once any portion of the confidential memorandum is cited in its marketing or is
1391 cited before any governmental agency other than the department or is released to the news
1392 media, all portions of the memorandum are no longer confidential.

1393 Section 20. Section 31A-17-512 is amended to read:

1394 **31A-17-512. Reserve calculation -- Indeterminate premium plans.**

1395 [(†)] In the case of any plan of life insurance which provides for future premium
1396 determination, the amounts of which are to be determined by the insurance company based on
1397 then estimates of future experience, or in the case of any plan of life insurance or annuity which
1398 is of such a nature that the minimum reserves cannot be determined by the methods described
1399 in Sections 31A-17-507, 31A-17-508, and 31A-17-511, the reserves which are held under any
1400 such plan shall:

1401 [(†)] (1) be appropriate in relation to the benefits and the pattern of premiums for that

1402 plan; and

1403 ~~[(b)]~~ (2) be computed by a method which is consistent with the principles of this part,
1404 as determined by rules promulgated by the commissioner.

1405 Section 21. Section **31A-22-408** is amended to read:

1406 **31A-22-408. Standard Nonforfeiture Law for Life Insurance.**

1407 (1) This section is known as the "Standard Nonforfeiture Law for Life Insurance." It
1408 does not apply to group life insurance.

1409 (2) In the case of policies issued on or after July 1, 1961, no policy of life insurance,
1410 except as stated in Subsection (8), may be delivered or issued for delivery in this state unless it
1411 contains in substance the following provisions, or corresponding provisions which in the
1412 opinion of the commissioner are at least as favorable to the defaulting or surrendering
1413 policyholder as are the minimum requirements hereinafter specified, and are essentially in
1414 compliance with Subsection (8):

1415 (a) That, in the event of default in any premium payment, after premiums have been
1416 paid for at least one full year the company will grant, upon proper request not later than 60 days
1417 after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated
1418 in the policy, effective as of such due date, of such amount as is specified in this section. In
1419 lieu of that stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper
1420 request not later than 60 days after the due date of the premium in default, an actuarially
1421 equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer
1422 period of death benefits or, if applicable, a greater amount or earlier payment of endowment
1423 benefits.

1424 (b) That, upon surrender of the policy within 60 days after the due date of any premium
1425 payment in default after premiums have been paid for at least three full years in the case of
1426 ordinary insurance or five full years in the case of industrial insurance, the company will pay,
1427 in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as is
1428 specified in this section.

1429 (c) That a specified paid-up nonforfeiture benefit shall become effective as specified in

1430 the policy unless the person entitled to make such election elects another available option not
1431 later than 60 days after the due date of the premium in default.

1432 (d) That, if the policy shall have been paid by the completion of all premium payments
1433 or if it is continued under any paid-up nonforfeiture benefit which became effective on or after
1434 the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in
1435 the case of industrial insurance, the company will pay upon surrender of the policy within 30
1436 days after any policy anniversary, a cash surrender value in the amount specified in this section.

1437 (e) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled
1438 changes in benefits or premiums, or which provide an option for changes in benefits or
1439 premiums other than a change to a new policy, a statement of the mortality table, interest rate,
1440 and method used in calculating cash surrender values and the paid-up nonforfeiture benefits
1441 available under the policy. In the case of all other policies, a statement of the mortality table
1442 and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture
1443 benefit, if any, available under the policy on each policy anniversary either during the first 20
1444 policy years or during the term of the policy, whichever is shorter, such values and benefits to
1445 be calculated upon the assumption that there are no dividends or paid-up additions credited to
1446 the policy and that there is no indebtedness to the company on the policy.

1447 (f) A statement that the cash surrender values and the paid-up nonforfeiture benefits
1448 available under the policy are not less than the minimum values and benefits required by or
1449 pursuant to the insurance law of the state in which the policy is delivered; an explanation of the
1450 manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by
1451 the existence of any paid-up additions credited to the policy or any indebtedness to the
1452 company on the policy; if a detailed statement of the method of computation of the values and
1453 benefits shown in the policy is not stated therein, a statement that such method of computation
1454 has been filed with the insurance supervisory official of the state in which the policy is
1455 delivered; and a statement of the method to be used in calculating the cash surrender value and
1456 paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the
1457 last anniversary for which such values and benefits are consecutively shown in the policy.

1458 (g) Any of the foregoing provisions or portions thereof not applicable by reason of the
 1459 plan of insurance may, to the extent inapplicable, be omitted from the policy.

1460 (h) The company shall reserve the right to defer the payment of any cash surrender
 1461 value for a period of six months after demand therefor with surrender of the policy with the
 1462 consent of the commissioner; provided, however, that the policy shall remain in full force and
 1463 effect until the insurer has made the payment.

1464 (3) (a) Any cash surrender value available under the policy in the event of default in a
 1465 premium payment due on any policy anniversary, whether or not required by Subsection (2),
 1466 shall be an amount not less than the excess, if any, of the present value, on such anniversary, of
 1467 the future guaranteed benefits which would have been provided for by the policy, including any
 1468 existing paid-up additions, if there had been no default, over the sum of:

1469 ~~[(a)]~~ (i) the then present value of the adjusted premiums as defined in Subsections (5)
 1470 and (6), corresponding to premiums which would have fallen due on and after such
 1471 anniversary~~];~~ and

1472 ~~[(b)]~~ (ii) the amount of any indebtedness to the company on the policy.

1473 (b) Provided, however, that for any policy issued on or after the operative date of
 1474 Subsection (6)(d) as defined therein, which provides supplemental life insurance or annuity
 1475 benefits at the option of the insured and for an identifiable additional premium by rider or
 1476 supplemental policy provision, the cash surrender value referred to in ~~[the first paragraph of~~
 1477 ~~this subsection]~~ Subsection (3)(a) shall be an amount not less than the sum of the cash
 1478 surrender value as defined in ~~[such paragraph]~~ Subsection (3)(a) for an otherwise similar policy
 1479 issued at the same age without such rider or supplemental policy provision and the cash
 1480 surrender value as defined in ~~[such paragraph]~~ Subsection (3)(a) for a policy which provides
 1481 only the benefits otherwise provided by such rider or supplemental policy provision.

1482 (c) Provided, further, that for any family policy issued on or after the operative date of
 1483 Subsection (6)(d) as defined therein, which defines a primary insured and provides term
 1484 insurance on the life of the spouse of the primary insured expiring before the spouse's age 71,
 1485 the cash surrender value referred to in ~~[the first paragraph of this subsection]~~ Subsection (3)(a)

1486 shall be an amount not less than the sum of the cash surrender value as defined in ~~[such~~
1487 ~~paragraph]~~ Subsection (3)(a) for an otherwise similar policy issued at the same age without
1488 such term insurance on the life of the spouse and the cash surrender value as defined in ~~[such~~
1489 ~~paragraph]~~ Subsection (3)(a) for a policy which provides only the benefits otherwise provided
1490 by such term insurance on the life of the spouse.

1491 (d) Any cash surrender value available within 30 days after any policy anniversary
1492 under any policy paid-up by completion of all premium payments or any policy continued
1493 under any paid-up nonforfeiture benefit, whether or not required by Subsection (2) shall be an
1494 amount not less than the present value, on such anniversary, of the future guaranteed benefits
1495 provided for by the policy, including any existing paid-up additions, decreased by any
1496 indebtedness to the company on the policy.

1497 (4) Any paid-up nonforfeiture benefit available under the policy in the event of default
1498 in a premium payment due on any policy anniversary shall be such that its present value as of
1499 such anniversary shall be at least equal to the cash surrender value then provided for by the
1500 policy or, if none is provided for, that cash surrender value which would have been required by
1501 this section in the absence of the condition that premiums shall have been paid for at least a
1502 specified period.

1503 (5) (a) (i) This Subsection (5)~~(a)~~ does not apply to policies issued on or after the
1504 operative date of Subsection (6)(d) as defined therein.

1505 (ii) Except as provided in Subsection (5)(c), the adjusted premiums for any policy shall
1506 be calculated on an annual basis and shall be such uniform percentage of the respective
1507 premiums specified in the policy for each policy year, excluding any extra premiums charged
1508 because of impairments or special hazards, that the present value, at the date of issue of the
1509 policy, of all such adjusted premiums shall be equal to the sum of:

1510 ~~[(i)]~~ (A) the then present value of the future guaranteed benefits provided for by the
1511 policy;

1512 ~~[(i)]~~ (B) 2% of the amount of insurance, if the insurance be uniform in amount, or of
1513 the equivalent uniform amount if the amount of insurance varies with duration of the policy;

1514 [(iii)] (C) 40% of the adjusted premium for the first policy year; and
 1515 [(iv)] (D) 25% of either the adjusted premium for the first policy year or the adjusted
 1516 premium for a whole life policy of the same uniform or equivalent uniform amount with
 1517 uniform premiums for the whole of life issued at the same age for the same amount of
 1518 insurance, whichever is less.

1519 (iii) Provided, however, that in applying the percentages specified in Subsections
 1520 (5)(a)[(iii)](ii)(C) and [(iv)] (D), no adjusted premium shall be considered to exceed 4% of the
 1521 amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for
 1522 the purpose of this [section] Subsection (5) shall be the date as of which the rated age of the
 1523 insured is determined.

1524 (b) In the case of a policy providing an amount of insurance varying with duration of
 1525 the policy, the equivalent uniform amount thereof for the purpose of this [section] Subsection
 1526 (5) shall be considered to be the uniform amount of insurance provided by an otherwise similar
 1527 policy, containing the same endowment benefit or benefits, if any, issued at the same age and
 1528 for the same term, the amount of which does not vary with duration and the benefits under
 1529 which have the same present value at the date of issue as the benefits under the policy;
 1530 provided, however, that in the case of a policy providing a varying amount of insurance issued
 1531 on the life of a child under age 10, the equivalent uniform amount may be computed as though
 1532 the amount of insurance provided by the policy prior to the attainment of age 10 were the
 1533 amount provided by such policy at age 10.

1534 (c) (i) The adjusted premiums for any policy providing term insurance benefits by rider
 1535 or supplemental policy provision shall be equal to the sum of:

1536 [(i)] (A) the adjusted premiums for an otherwise similar policy issued at the same age
 1537 without such term insurance benefits, increased[-]; and

1538 (B) during the period for which premiums for such term insurance benefits are payable,
 1539 [~~by (ii)~~] the adjusted premiums for such term insurance[-~~the~~].

1540 (ii) The foregoing items [(i) and (ii) of this] (A) and (B) of Subsection (5)(c)(i) being
 1541 calculated separately and as specified in Subsections (5)(a) and (b) except that, for the purposes

1542 of ~~[(ii), (iii), and (iv)]~~ (B), (C), and (D) of Subsection (5)(a)(ii), the amount of insurance or
1543 equivalent uniform amount of insurance used in calculation of the adjusted premiums referred
1544 to in ~~[(ii)]~~ (B) of ~~[this]~~ Subsection (5)(c)(i) shall be equal to the excess of the corresponding
1545 amount determined for the entire policy over the amount used in the calculation of the adjusted
1546 premiums in ~~[(i)]~~ (A) of this Subsection (5)(c)(i).

1547 (d) Except as otherwise provided in Subsection (6), all adjusted premiums and present
1548 values referred to in this section shall for all policies of ordinary insurance be calculated on the
1549 basis of the Commissioner's 1941 Standard Ordinary Mortality Table, provided that for any
1550 category of ordinary insurance issued on female risks, adjusted premiums and present values
1551 may be calculated according to an age not more than three years younger than the actual age of
1552 the insured and such calculations for all policies of industrial insurance shall be made on the
1553 basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the
1554 basis of the rate of interest, not exceeding 3-1/2% per annum, specified in the policy for
1555 calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that
1556 in calculating the present value of any paid-up term insurance with accompanying pure
1557 endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be
1558 not more than 130% of the rates of mortality according to such applicable table. Provided,
1559 further, that for insurance issued on a substandard basis, the calculation of any such adjusted
1560 premiums and present values may be based on such other table of mortality as may be specified
1561 by the company and approved by the commissioner.

1562 (6) (a) This Subsection (6)(a) does not apply to ordinary policies issued on or after the
1563 operative date of Subsection (6)(d) as defined therein. In the case of ordinary policies issued
1564 on or after the operative date of Subsection (6)(a) as defined in Subsection (6)(b), all adjusted
1565 premiums and present values referred to in this section shall be calculated on the basis of the
1566 Commissioner's 1958 Standard Ordinary Mortality Table and the rate of interest as specified in
1567 the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided
1568 that such rate of interest may not exceed 3-1/2% per annum for policies issued before June 1,
1569 1973, 4% per annum for policies issued on or after May 31, 1973, and before April 2, 1980,

1570 and the rate of interest may not exceed 5-1/2% per annum for policies issued after April 2,
1571 1980, except that for any single premium whole life or endowment insurance policy a rate of
1572 interest not exceeding 6-1/2% per annum may be used, and provided that for any category of
1573 ordinary insurance issued on female risks, adjusted premiums and present values may be
1574 calculated according to an age not more than six years younger than the actual age of the
1575 insured. Provided, however, that in calculating the present value of any paid-up term insurance
1576 with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of
1577 mortality assumed may be not more than those shown in the Commissioner's 1958 Extended
1578 Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the
1579 calculation of any such adjusted premiums and present values may be based on such other table
1580 of mortality as may be specified by the company and approved by the commissioner.

1581 (b) Any company may file with the commissioner a written notice of its election to
1582 comply with the provisions of Subsection (6)(a) after a specified date before January 1, 1966.
1583 After filing such notice, then upon such specified date, which is the operative date of
1584 Subsection (6)(a) for such company, this Subsection (6)(a) shall become operative with respect
1585 to the ordinary policies thereafter issued by such company. If a company makes no such
1586 election, the operative date of Subsection (6)(a) for such company is January 1, 1966.

1587 (c) (i) This Subsection (6)(c) does not apply to industrial policies issued after the
1588 operative date of Subsection (6)(d) as defined therein. In the case of industrial policies issued
1589 on or after the operative date of this Subsection (6)(c) as defined herein, all adjusted premiums
1590 and present values referred to in this section shall be calculated on the basis of the
1591 Commissioner's 1961 Standard Industrial Mortality Table and the rate of interest specified in
1592 the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided
1593 that such rate of interest may not exceed 3-1/2% per annum for policies issued before June 1,
1594 1973, 4% per annum for policies issued after May 31, 1973, and before April 2, 1980, and
1595 5-1/2% per annum for policies issued after April 2, 1980, except that for any single premium
1596 whole life or endowment insurance policy issued after April 2, 1980, a rate of interest not
1597 exceeding 6-1/2% per annum may be used. Provided, however, that in calculating the present

1598 value of any paid-up term insurance with accompanying pure endowment, if any, offered as a
1599 nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the
1600 Commissioner's 1961 Industrial Extended Term Insurance Table. Provided, further, that for
1601 insurance issued on a substandard basis, the calculation of any such adjusted premiums and
1602 present values may be based on such other table of mortality as may be specified by the
1603 company and approved by the commissioner.

1604 (ii) Any company may file with the commissioner a written notice of its election to
1605 comply with the provisions of this Subsection (6)(c) after a specified date before January 1,
1606 1968. After filing such notice, then upon that specified date, which is the operative date of this
1607 Subsection (6)(c) for such company, this Subsection (6)(c) shall become operative with respect
1608 to the industrial policies thereafter issued by such company. If a company makes no such
1609 election, the operative date of this Subsection (6)(c) for such company shall be January 1, 1968.

1610 (d) (i) This Subsection (6)(d) applies to all policies issued on or after the operative date
1611 of this Subsection (6)(d) as defined herein. Except as provided in Subsection (6)(d)(vii), the
1612 adjusted premiums for any policy shall be calculated on an annual basis and shall be such
1613 uniform percentage of the respective premiums specified in the policy for each policy year,
1614 excluding amounts payable as extra premiums to cover impairments or special hazards and also
1615 excluding any uniform annual contract charge or policy fee specified in the policy in a
1616 statement of the method to be used in calculating the cash surrender values and paid-up
1617 nonforfeiture benefits, that the present value, at the date of issue of policy, of all adjusted
1618 premiums shall be equal to the sum of:

1619 (A) the then present value of the future guaranteed benefits provided for by the policy;

1620 (B) 1% of either the amount of insurance, if the insurance be uniform in amount, or the
1621 average amount of insurance at the beginning of each of the first 10 policy years; and

1622 (C) 125% of the nonforfeiture net level premium as hereinafter defined. Provided,
1623 however, that in applying the percentage specified in (C), no nonforfeiture net level premium
1624 shall be considered to exceed 4% of either the amount of insurance, if the insurance be uniform
1625 in amount, or the average amount of insurance at the beginning of each of the first 10 policy

1626 years. The date of issue of a policy for the purpose of this Subsection (6)(d) shall be the date as
1627 of which the rated age of the insured is determined.

1628 (ii) The nonforfeiture net level premium shall be equal to the present value, at the date
1629 of issue of the policy, of the guaranteed benefits provided for by the policy divided by the
1630 present value, at the date of issue of the policy, of an annuity of one per annum payable on the
1631 date of issue of the policy and on each anniversary of such policy on which a premium falls
1632 due.

1633 (iii) In the case of policies which cause on a basis guaranteed in the policy unscheduled
1634 changes in benefits or premiums, or which provide an option for changes in benefits or
1635 premiums other than change to a new policy, the adjusted premiums and present values shall
1636 initially be calculated on the assumption that future benefits and premiums do not change from
1637 those stipulated at the date of issue of the policy. At the time of any such change in the
1638 benefits or premiums the future adjusted premiums, nonforfeiture net level premiums, and
1639 present values shall be recalculated on the assumption that future benefits and premiums do not
1640 change from those stipulated by the policy immediately after the change.

1641 (iv) Except as otherwise provided in Subsection (6)(d)(vii), the recalculated future
1642 adjusted premiums for any such policy shall be such uniform percentage of the respective
1643 future premiums specified in the policy for each policy year, excluding amounts specified in
1644 the policy for each policy year, excluding amounts payable as extra premiums to cover
1645 impairments and special hazards, and also excluding any uniform annual contract charge or
1646 policy fee specified in the policy in a statement of the method to be used in calculating the cash
1647 surrender values and paid-up nonforfeiture benefits, that the present value, at the time of
1648 change to the newly defined benefits or premiums, of all such future adjusted premiums shall
1649 be equal to the excess of:

1650 (A) the sum of:

1651 (I) the then present value of the then future guaranteed benefits provided for by the
1652 policy; and

1653 (II) the additional expense allowance, if any; over

1654 (B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture
1655 benefit under the policy.

1656 (v) The additional expense allowance, at the time of the change to the newly defined
1657 benefits or premiums, shall be the sum of:

1658 (A) 1% of the excess, if positive, of the average amount of insurance at the beginning
1659 of each of the first 10 policy years subsequent to the change over the average amount of
1660 insurance prior to the change at the beginning of each of the first 10 policy years subsequent to
1661 the time of the most recent previous change, or, if there has been no previous change, the date
1662 of issue of the policy; and

1663 (B) 125% of the increase, if positive, in the nonforfeiture net level premium.

1664 (vi) The recalculated nonforfeiture net level premium shall be equal to~~the result~~
1665 ~~obtained by dividing (A) by (B) where~~]:

1666 (A) [~~equals~~] the sum of:

1667 (I) the nonforfeiture net level premium applicable prior to the change times the present
1668 value of an annuity of one per annum payable on each anniversary of the policy on or
1669 subsequent to the date of the change on which a premium would have fallen due had the
1670 change not occurred; and

1671 (II) the present value of the increase in future guaranteed benefits provided for by the
1672 policy; [~~and~~] divided by

1673 (B) [~~equals~~] the present value of an annuity of one per annum payable on each
1674 anniversary of the policy on or subsequent to the date of change on which a premium falls due.

1675 (vii) Notwithstanding any other provision of this Subsection (6)(d) to the contrary, in
1676 the case of a policy issued on a substandard basis which provides reduced graded amounts of
1677 insurance so that, in each policy year, such policy has the same tabular mortality cost as an
1678 otherwise similar policy issued on the standard basis which provides higher uniform amounts
1679 of insurance, adjusted premiums and present values for such substandard policy may be
1680 calculated as if it were issued to provide such higher uniform amounts of insurance on the
1681 standard basis.

1682 (viii) All adjusted premiums and present values referred to in this section shall:
1683 (A) for all policies of ordinary insurance be calculated on the basis of:
1684 ~~(A)~~ (I) the Commissioner's 1980 Standard Ordinary Mortality Table; or
1685 ~~(B)~~ (II) at the election of the company for any one or more specified plans of life
1686 insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select
1687 Mortality Factors; ~~shall~~

1688 (B) for all policies of industrial insurance be calculated on the basis of the
1689 Commissioner's 1961 Standard Industrial Mortality Table; and ~~shall~~

1690 (C) for all policies issued in a particular calendar year be calculated on the basis of a
1691 rate of interest not exceeding the nonforfeiture interest rate as defined in ~~this~~ Subsection
1692 ~~(6)(d)(x)~~, for policies issued in that calendar year. ~~Provided, however, that:~~

1693 (ix) Notwithstanding Subsection (6)(d)(viii):

1694 ~~(F)~~ (A) At the option of the company, calculations for all policies issued in a
1695 particular calendar year may be made on the basis of a rate of interest not exceeding the
1696 nonforfeiture interest rate, as defined in ~~this~~ Subsection ~~(6)(d)(x)~~, for policies issued in the
1697 immediately preceding calendar year.

1698 ~~(H)~~ (B) Under any paid-up nonforfeiture benefit, including any paid-up dividend
1699 additions, any cash surrender value available, whether or not required by Subsection (2), shall
1700 be calculated on the basis of the mortality table and rate of interest used in determining the
1701 amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

1702 ~~(H)~~ (C) A company may calculate the amount of any guaranteed paid-up
1703 nonforfeiture benefit, including paid-up additions under the policy, on the basis of an interest
1704 rate no lower than that specified in the policy for calculating cash surrender values.

1705 ~~(V)~~ (D) In calculating the present value of any paid-up term insurance with
1706 accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality
1707 assumed may be not more than those shown in the Commissioner's 1980 Extended Term
1708 Insurance Table for policies of ordinary insurance and not more than the Commissioner's 1961
1709 Industrial Extended Term Insurance Table for policies of industrial insurance.

1710 [~~(V)~~] (E) For insurance issued on a substandard basis, the calculation of any such
1711 adjusted premiums and present values may be based on appropriate modifications of the
1712 aforementioned tables.

1713 [~~(VI)~~] (F) Any ordinary mortality tables, adopted after 1980 by the National
1714 Association of Insurance Commissioners, that are approved by rules adopted by the
1715 commissioner for use in determining the minimum nonforfeiture standard, may be substituted
1716 for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year
1717 Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table.

1718 [~~(VII)~~] (G) Any industrial mortality tables, adopted after 1980 by the National
1719 Association of Insurance Commissioners, that are approved by rules adopted by the
1720 commissioner for use in determining the minimum nonforfeiture standard may be substituted
1721 for the Commissioner's 1961 Industrial Extended Term Insurance Table.

1722 [~~(ix)~~] (x) The nonforfeiture interest rate per annum for any policy issued in a particular
1723 calendar year shall be equal to 125% of the calendar year statutory valuation interest rate for
1724 such policy as defined in the Standard Valuation Law, rounded to the nearest one-fourth of 1%.

1725 [~~(x)~~] (xi) Notwithstanding any other provision in this title to the contrary, any refiling
1726 of nonforfeiture values or their methods of computation for any previously approved policy
1727 form which involves only a change in the interest rate or mortality table used to compute
1728 nonforfeiture values does not require refiling of any other provisions of that policy form.

1729 [~~(xi)~~] (xii) After the effective date of this Subsection (6)(d), any company may, at any
1730 time before January 1, 1989, file with the commissioner a written notice of its election to
1731 comply with the provisions of this subsection with regard to any number of plans of insurance
1732 after a specified date before January 1, 1989, which specified date shall be the operative date of
1733 this Subsection (6)(d) for the plan or plans, but if a company elects to make the provisions of
1734 this subsection operative before January 1, 1989, for fewer than all plans, the company shall
1735 comply with rules adopted by the commissioner. There is no limit to the number of times this
1736 election may be made. If the company makes no such election, the operative date of this
1737 subsection for such company shall be January 1, 1989.

1738 (7) In the case of any plan of life insurance which provides for future premium
1739 determination, the amounts of which are to be determined by the insurance company based on
1740 the estimates of future experience, or in the case of any plan of life insurance which is of such
1741 nature that minimum values cannot be determined by the methods described in Subsection (2),
1742 (3), (4), (5), (6)(a), (6)(b), (6)(c), or (6)(d) herein, then:

1743 (a) the insurer shall demonstrate to the satisfaction of the commissioner that the
1744 benefits provided under the plan are substantially as favorable to policyholders and insureds as
1745 the minimum benefits otherwise required by Subsection (2), (3), (4), (5), (6)(a), (6)(b), (6)(c),
1746 or (6)(d);

1747 (b) the plan of life insurance shall satisfy the commissioner that the benefits and the
1748 pattern of premiums of that plan are not such as to mislead prospective policyholders or
1749 insureds; and

1750 (c) the cash surrender values and paid-up nonforfeiture benefits provided by the plan
1751 may not be less than the minimum values and benefits required for the plan computed by a
1752 method consistent with the principles of this Standard Nonforfeiture Law for Life Insurance, as
1753 determined by rules adopted by the commissioner.

1754 (8) (a)(i) Any cash surrender value and any paid-up nonforfeiture benefit, available
1755 under the policy in the event of default in a premium payment due at any time other than on the
1756 policy anniversary, shall be calculated with allowance for the lapse of time and the payment of
1757 fractional premiums beyond the last preceding policy anniversary.

1758 (ii) All values referred to in Subsections (3), (4), (5), and (6) [~~of this section~~] may be
1759 calculated upon the assumption that any death benefit is payable at the end of the policy year of
1760 death.

1761 (iii) The net value of any paid-up additions, other than paid-up term additions, may not
1762 be less than the amounts used to provide such additions.

1763 (b) Notwithstanding the provisions of Subsection (3), additional benefits specified in
1764 Subsection (8)(c) and premiums for all such additional benefits shall be disregarded in
1765 ascertaining cash surrender values and nonforfeiture benefits required by this section, and no

1766 such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

1767 (c) Additional benefits referred to in Subsection (8)(b) include benefits payable:

1768 [(a)] (i) in the event of death or dismemberment by accident or accidental means[;];

1769 [(b)] (ii) in the event of total and permanent disability[;];

1770 [(c)] (iii) as reversionary annuity or deferred reversionary annuity benefits[;];

1771 [(d)] (iv) as term insurance benefits provided by a rider or supplemental policy

1772 provision to which, if issued as a separate policy, this section would not apply[;];

1773 [(e)] (v) as term insurance on the life of a child or on the lives of children provided in a

1774 policy on the life of a parent of the child, if such term insurance expires before the child's age is

1775 26, if uniform in amount after the child's age is one, and has not become paid-up by reason of

1776 the death of a parent of the child[;]; and

1777 [(f)] (vi) as other policy benefits additional to life insurance endowment benefits[; and

1778 ~~premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender~~

1779 ~~values and nonforfeiture benefits required by this section, and no such additional benefits shall~~

1780 ~~be required to be included in any paid-up nonforfeiture benefits].~~

1781 (9) (a) This Subsection (9), in addition to all other applicable subsections of this

1782 section, applies to all policies issued on or after January 1, 1985. Any cash surrender value

1783 available under the policy in the event of default in a premium payment due on any policy

1784 anniversary shall be in an amount which does not differ by more than 2/10 of 1% of either the

1785 amount of insurance, if the insurance be uniform in amount, or the average amount of

1786 insurance at the beginning of each of the first 10 policy years, from the sum of:

1787 [(a)] (i) the greater of zero and the basic cash value hereinafter specified[;]; and

1788 [(b)] (ii) the present value of any existing paid-up additions less the amount of any

1789 indebtedness to the company under the policy.

1790 (b) The basic cash value shall be equal to the present value, on such anniversary of the

1791 future guaranteed benefits which would have been provided for by the policy, excluding any

1792 existing paid-up additions and before deduction of any indebtedness to the company, if there

1793 had been no default, less the then present value of the nonforfeiture factors, as hereinafter

1794 defined, corresponding to premiums which would have fallen due on and after such
1795 anniversary. Provided, however, that the effects on the basic cash value of supplemental life
1796 insurance or annuity benefits or of family coverage, as described in Subsection (3) or (5),
1797 whichever is applicable, shall be the same as are the effects specified in Subsection (3) or (5),
1798 whichever is applicable, on the cash surrender values defined in that subsection.

1799 (c) The nonforfeiture factor for each policy year shall be an amount equal to a
1800 percentage of the adjusted premium for the policy year, as defined in Subsection (5) or (6)(d),
1801 whichever is applicable. Except as is required by the next succeeding sentence of this
1802 paragraph, such percentage:

1803 ~~[(a)]~~ (i) shall be the same percentage for each policy year between the second policy
1804 anniversary and the later of:

1805 ~~[(i)]~~ (A) the fifth policy anniversary; and

1806 ~~[(ii)]~~ (B) the first policy anniversary at which there is available under the policy a cash
1807 surrender value in an amount, before including any paid-up additions and before deducting any
1808 indebtedness, of at least 2/10 of 1% of either the amount of insurance, if the insurance be
1809 uniform in amount, or the average amount of insurance at the beginning of each of the first 10
1810 policy years; and

1811 ~~[(b)]~~ (ii) shall be such that no percentage after the later of the two policy anniversaries
1812 specified in Subsection (9)(a) may apply to fewer than five consecutive policy years.

1813 (d) Provided, that no basic cash value may be less than the value which would be
1814 obtained if the adjusted premiums for the policy, as defined in Subsection (5) or Subsection
1815 (6)(d), whichever is applicable, were substituted for the nonforfeiture factors in the calculation
1816 of the basic value.

1817 (e) All adjusted premiums and present values referred to in this Subsection (9) shall for
1818 a particular policy be calculated on the same mortality and interest bases as are used in
1819 demonstrating the policy's compliance with the other subsections of this nonforfeiture law.
1820 The cash surrender values referred to in this Subsection (9) shall include any endowment
1821 benefits provided for by the policy.

1822 (f) Any cash surrender value available other than in the event of default in a premium
1823 payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit
1824 available under the policy in the event of default in a premium payment shall be determined in
1825 manners consistent with the manners specified for determining the analogous minimum
1826 amounts in Subsections (2), (3), (4), (5), (6), and (8). The amounts of any cash surrender
1827 values and of any paid-up nonforfeiture benefits granted in connection with additional benefits
1828 such as those listed as Subsections (8)(a) through (f) shall conform with the principles of this
1829 Subsection (9).

1830 (10) (a) This section does not apply to any of the following:

1831 ~~(a)~~ (i) reinsurance;

1832 ~~(b)~~ (ii) group insurance;

1833 ~~(c)~~ (iii) pure endowment;

1834 ~~(d)~~ (iv) an annuity or reversionary annuity contract;

1835 ~~(e)~~ (v) a term policy of uniform amount, which provides no guaranteed nonforfeiture
1836 or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for
1837 which uniform premiums are payable during the entire term of the policy;

1838 ~~(f)~~ (vi) a term policy of decreasing amount, which provides no guaranteed
1839 nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified
1840 in Subsections (5) and (6), is less than the adjusted premium so calculated, on a term policy of
1841 uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or
1842 endowment benefits, issued at the same age and for the same initial amount of insurance, and
1843 for a term of 20 years or less expiring before age 71, for which uniform premiums are payable
1844 during the entire term of the policy;

1845 ~~(g)~~ (vii) a policy, which provides no guaranteed nonforfeiture or endowment benefits,
1846 for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit,
1847 at the beginning of any policy year, calculated as specified in Subsections (3), (4), (5), and (6)
1848 exceeds 2-1/2% of the amount of insurance at the beginning of the same policy year; or

1849 ~~(h)~~ (viii) a policy which shall be delivered outside this state through an agent or other

1850 representative of the company issuing the policy.

1851 (b) For purposes of determining the applicability of this section, the age of expiry for a
1852 joint term insurance policy shall be the age of expiry of the oldest life.

1853 (11) The commissioner may adopt rules interpreting, describing, and clarifying the
1854 application of this nonforfeiture law to any form of life insurance for which the interpretation,
1855 description, or clarification is considered necessary by the commissioner, including unusual
1856 and new forms of life insurance.

1857 Section 22. Section **31A-22-626** is amended to read:

1858 **31A-22-626. Coverage of diabetes.**

1859 (1) As used in this section, "diabetes" includes individuals with:

1860 (a) complete insulin deficiency or type 1 diabetes;

1861 (b) insulin resistant with partial insulin deficiency or type 2 diabetes; and

1862 (c) elevated blood glucose levels induced by pregnancy or gestational diabetes.

1863 (2) The commissioner shall establish, by rule, minimum standards of coverage for
1864 diabetes for accident and health insurance policies that provide a health insurance benefit
1865 before July 1, 2000.

1866 (3) In making rules under Subsection (2), the commissioner shall require rules:

1867 (a) with durational limits, amount limits, deductibles, and coinsurance for the treatment
1868 of diabetes equitable or identical to coverage provided for the treatment of other illnesses or
1869 diseases; and

1870 (b) that provide coverage for:

1871 (i) diabetes self-management training and patient management, including medical
1872 nutrition therapy as defined by rule, provided by an accredited or certified program and referred
1873 by an attending physician within the plan and consistent with the health plan provisions for
1874 self-management education:

1875 (A) recognized by the federal [~~Health Care Financing Administration~~] Centers for
1876 Medicare and Medicaid Services; or

1877 (B) certified by the Department of Health; and

1878 (ii) the following equipment, supplies, and appliances to treat diabetes when medically
1879 necessary:

1880 (A) blood glucose monitors, including those for the legally blind;

1881 (B) test strips for blood glucose monitors;

1882 (C) visual reading urine and ketone strips;

1883 (D) lancets and lancet devices;

1884 (E) insulin;

1885 (F) injection aides, including those adaptable to meet the needs of the legally blind, and
1886 infusion delivery systems;

1887 (G) syringes;

1888 (H) prescriptive oral agents for controlling blood glucose levels; and

1889 (I) glucagon kits.

1890 Section 23. Section **31A-22-640** is amended to read:

1891 **31A-22-640. Insurer and pharmacy benefit management services -- Registration**

1892 **-- Maximum allowable cost -- Audit restrictions.**

1893 (1) For purposes of this section:

1894 (a) "Maximum allowable cost" means:

1895 (i) a maximum reimbursement amount for a group of pharmaceutically and
1896 therapeutically equivalent drugs; or

1897 (ii) any similar reimbursement amount that is used by a pharmacy benefit manager to
1898 reimburse pharmacies for multiple source drugs.

1899 (b) "Obsolete" means a product that may be listed in national drug pricing compendia
1900 but is no longer available to be dispensed based on the expiration date of the last lot
1901 manufactured.

1902 (c) "Pharmacy benefit manager" means a person or entity that provides pharmacy
1903 benefit management services as defined in Section [49-20-502](#) on behalf of an insurer as defined
1904 in Subsection [31A-22-636\(1\)](#).

1905 (2) An insurer and an insurer's pharmacy benefit manager is subject to the pharmacy

1906 audit provisions of Section 58-17b-622.

1907 (3) A pharmacy benefit manager shall not use maximum allowable cost as a basis for
1908 reimbursement to a pharmacy unless:

1909 (a) the drug is listed as "A" or "B" rated in the most recent version of the United States
1910 Food and Drug Administration's approved drug products with therapeutic equivalent
1911 evaluations, also known as the "Orange Book," or has an "NR" or "NA" rating or similar rating
1912 by a nationally recognized reference; and

1913 (b) the drug is:

1914 (i) generally available for purchase in this state from a national or regional wholesaler;

1915 and

1916 (ii) not obsolete.

1917 (4) The maximum allowable cost may be determined using comparable and current
1918 data on drug prices obtained from multiple nationally recognized, comprehensive data sources,
1919 including wholesalers, drug file vendors, and pharmaceutical manufacturers for drugs that are
1920 available for purchase by pharmacies in the state.

1921 (5) For every drug for which the pharmacy benefit manager uses maximum allowable
1922 cost to reimburse a contracted pharmacy, the pharmacy benefit manager shall:

1923 (a) include in the contract with the pharmacy information identifying the national drug
1924 pricing compendia and other data sources used to obtain the drug price data;

1925 (b) review and make necessary adjustments to the maximum allowable cost, using the
1926 most recent data sources identified in Subsection (5)(a)~~(f)~~, at least once per week;

1927 (c) provide a process for the contracted pharmacy to appeal the maximum allowable
1928 cost in accordance with Subsection (6); and

1929 (d) include in each contract with a contracted pharmacy a process to obtain an update
1930 to the pharmacy product pricing files used to reimburse the pharmacy in a format that is readily
1931 available and accessible.

1932 (6) (a) The right to appeal in Subsection (5)~~(f)~~(c) shall be:

1933 (i) limited to 21 days following the initial claim adjudication; and

1934 (ii) investigated and resolved by the pharmacy benefit manager within 14 business
1935 days.

1936 (b) If an appeal is denied, the pharmacy benefit manager shall provide the contracted
1937 pharmacy with the reason for the denial and the identification of the national drug code of the
1938 drug that may be purchased by the pharmacy at a price at or below the price determined by the
1939 pharmacy benefit manager.

1940 (7) The contract with each pharmacy shall contain a dispute resolution mechanism in
1941 the event either party breaches the terms or conditions of the contract.

1942 (8) (a) To conduct business in the state, a pharmacy benefit manager shall register with
1943 the Division of Corporations and Commercial Code within the Department of Commerce and
1944 annually renew the registration. To register under this section, the pharmacy benefit manager
1945 shall submit an application which shall contain only the following information:

1946 (i) the name of the pharmacy benefit manager;

1947 (ii) the name and contact information for the registered agent for the pharmacy benefit
1948 manager; and

1949 (iii) if applicable, the federal employer identification number for the pharmacy benefit
1950 manager.

1951 (b) The Department of Commerce may establish a fee in accordance with Title 63J,
1952 Chapter 1, Budgetary Procedures Act, for the initial registration and the annual renewal of the
1953 registration, which may not exceed \$100 per year.

1954 (c) The following entities do not have to register as a pharmacy benefit manager under
1955 Subsection (8)(a) when the entity is providing formulary services to its own patients,
1956 employees, members, or beneficiaries:

1957 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility
1958 Licensing and Inspection Act;

1959 (ii) a pharmacy licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1960 (iii) a health care professional licensed under Title 58, Occupations and Professions;

1961 (iv) a health insurer; and

1962 (v) a labor union.

1963 (9) This section does not apply to a pharmacy benefit manager when the pharmacy
1964 benefit manager is providing pharmacy benefit management services on behalf of the state
1965 Medicaid program.

1966 Section 24. Section **32B-3-201** is amended to read:

1967 **32B-3-201. Nature of adjudicative proceedings under title.**

1968 (1) An adjudicative proceeding under this title, including a disciplinary proceeding, is a
1969 civil action, notwithstanding whether at issue in the adjudicative proceeding is a violation of
1970 statute that can be prosecuted criminally.

1971 (2) Unless specifically adopted in this title, a procedure or [~~principal~~] principle that is
1972 applicable to a criminal proceeding does not apply to an adjudicative proceeding permitted
1973 under this title including:

1974 (a) Title 76, Chapter 1, General Provisions;

1975 (b) Title 76, Chapter 2, Principles of Criminal Responsibility;

1976 (c) Title 76, Chapter 3, Punishments; and

1977 (d) Title 76, Chapter 4, Inchoate Offenses.

1978 (3) (a) The burden of proof in an adjudicative proceeding under this title is by a
1979 preponderance of the evidence.

1980 (b) If the subject of an adjudicative proceeding under this title asserts an affirmative
1981 defense, the subject has the burden of proof to establish the affirmative defense by the
1982 preponderance of the evidence.

1983 (4) In an adjudicative proceeding under this title, to find a violation of this title the
1984 commission:

1985 (a) is required to determine whether the conduct that constitutes the violation occurred;
1986 and

1987 (b) is not required to make a finding of knowledge or intent unless knowledge or intent
1988 is expressly made an element of the violation by statute.

1989 Section 25. Section **32B-8-102** is amended to read:

1990 **32B-8-102. Definitions.**

1991 As used in this chapter:

1992 (1) "Boundary of a resort building" means the physical boundary of the land reasonably
1993 related to a resort building and any structure or improvement to that land as determined by the
1994 commission.

1995 (2) "Dwelling" means a portion of a resort building:

1996 (a) owned by one or more individuals;

1997 (b) that is used or designated for use as a residence by one or more persons; and

1998 (c) that may be rented, loaned, leased, or hired out for a period of no longer than 30
1999 consecutive days by a person who uses it for a residence.

2000 (3) "Engaged in the management of the resort" may be defined by the commission by
2001 rule.

2002 (4) "Invitee" means an individual who in accordance with Subsection [32B-8-304\(12\)](#) is
2003 authorized to use a resort spa by a host who is:

2004 (a) a resident; or

2005 (b) a public customer.

2006 (5) "Provisions applicable to a sublicense" means:

2007 (a) for a full-service restaurant sublicense, Chapter 6, Part 2, Full-service Restaurant
2008 License;

2009 (b) for a limited-service restaurant sublicense, Chapter 6, Part 3, Limited-service
2010 Restaurant License;

2011 (c) for a club sublicense, Chapter 6, Part 4, Club License;

2012 (d) for an on-premise banquet sublicense, Chapter 6, Part 6, On-premise Banquet
2013 License;

2014 (e) for an on-premise beer retailer sublicense, Chapter 6, Part 7, On-premise Beer
2015 Retailer License; and

2016 (f) for a resort spa sublicense, Part 3, Resort Spa Sublicense.

2017 (6) "Public customer" means an individual who holds a customer card in accordance

- 2018 with Subsection [32B-8-304](#)~~(13)~~(12).
- 2019 (7) "Resident" means an individual who:
- 2020 (a) owns a dwelling located within a resort building; or
- 2021 (b) rents lodging accommodations for 30 consecutive days or less from:
- 2022 (i) an owner of a dwelling described in Subsection (7)(a); or
- 2023 (ii) the resort licensee.
- 2024 (8) "Resort" means a location:
- 2025 (a) on which is located one resort building; and
- 2026 (b) that is affiliated with a ski area that physically touches the boundary of the resort
- 2027 building.
- 2028 (9) "Resort building" means a building:
- 2029 (a) that is primarily operated to provide dwellings or lodging accommodations;
- 2030 (b) that has at least 150 units that consist of a dwelling or lodging accommodations;
- 2031 (c) that consists of at least 400,000 square feet:
- 2032 (i) including only the building itself; and
- 2033 (ii) not including areas such as above ground surface parking; and
- 2034 (d) of which at least 50% of the units described in Subsection (9)(b) consist of
- 2035 dwellings owned by a person other than the resort licensee.
- 2036 (10) "Resort spa" means a spa, as defined by rule by the commission, that is within the
- 2037 boundary of a resort building.
- 2038 (11) "Sublicense" means:
- 2039 (a) a full-service restaurant sublicense;
- 2040 (b) a limited-service restaurant sublicense;
- 2041 (c) a club sublicense;
- 2042 (d) an on-premise banquet sublicense;
- 2043 (e) an on-premise beer retailer sublicense; and
- 2044 (f) a resort spa sublicense.
- 2045 (12) "Sublicense premises" means a building, enclosure, or room used pursuant to a

2046 sublicense in connection with the storage, sale, furnishing, or consumption of an alcoholic
2047 product, unless otherwise defined in this title or in the rules made by the commission.

2048 Section 26. Section **34-48-202** is amended to read:

2049 **34-48-202. Permitted actions by an employer.**

2050 (1) This chapter does not prohibit an employer from doing any of the following:

2051 (a) requesting or requiring an employee to disclose a username or password required
2052 only to gain access to the following:

2053 (i) an electronic communications device supplied by or paid for in whole or in part by
2054 the employer; or

2055 (ii) an account or service provided by the employer, obtained by virtue of the
2056 employee's employment relationship with the employer, and used for the employer's business
2057 purposes;

2058 (b) disciplining or discharging an employee for transferring the employer's proprietary
2059 or confidential information or financial data to an employee's personal Internet account without
2060 the employer's authorization;

2061 (c) conducting an investigation or requiring an employee to cooperate in an
2062 investigation in any of the following:

2063 (i) if there is specific information about activity on the employee's personal Internet
2064 account, for the purpose of ensuring compliance with applicable laws, regulatory requirements,
2065 or prohibitions against work-related employee misconduct; or

2066 (ii) if the employer has specific information about an unauthorized transfer of the
2067 employer's proprietary information, confidential information, or financial data to an employee's
2068 personal Internet account;

2069 (d) restricting or prohibiting an employee's access to certain websites while using an
2070 electronic communications device supplied by, or paid for in whole or in part by, the employer
2071 or while using an employer's network or resources, in accordance with state and federal law; or

2072 (e) monitoring, reviewing, accessing, or blocking electronic data stored on an
2073 electronic communications device supplied by, or paid for in whole or in part by, the employer,

2074 or stored on an employer's network, in accordance with state and federal law.

2075 (2) Conducting an investigation or requiring an employee to cooperate in an
2076 investigation as specified in Subsection (1)(c) includes requiring the employee to share the
2077 content that has been reported in order to make a factual determination.

2078 (3) This chapter does not prohibit or restrict an employer from complying with a duty
2079 to screen employees or applicants before hiring or to monitor or retain employee
2080 communications that is established under federal law, by a self-regulatory organization under
2081 the Securities and Exchange Act of 1934, 15 U.S.C. Sec. 78c(a)(26), or in the course of a law
2082 enforcement employment application or law enforcement officer conduct investigation
2083 performed by a law enforcement agency.

2084 (4) This chapter does not prohibit or restrict an employer from viewing, accessing, or
2085 using information about an employee or applicant that can be obtained without the information
2086 described in Subsection [~~34A-48-201~~] 34-48-201(1) or that is available in the public domain.

2087 Section 27. Section **34A-2-111** is amended to read:

2088 **34A-2-111. Managed health care programs -- Other safety programs.**

2089 (1) As used in this section:

2090 (a) (i) "Health care provider" means a person who furnishes treatment or care to
2091 persons who have suffered bodily injury.

2092 (ii) "Health care provider" includes:

2093 (A) a hospital;

2094 (B) a clinic;

2095 (C) an emergency care center;

2096 (D) a physician;

2097 (E) a nurse;

2098 (F) a nurse practitioner;

2099 (G) a physician's assistant;

2100 (H) a paramedic; or

2101 (I) an emergency medical technician.

- 2102 (b) "Physician" means any health care provider licensed under:
- 2103 (i) Title 58, Chapter 5a, Podiatric Physician Licensing Act;
- 2104 (ii) Title 58, Chapter 24b, Physical Therapy Practice Act;
- 2105 (iii) Title 58, Chapter 67, Utah Medical Practice Act;
- 2106 (iv) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 2107 (v) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
- 2108 (vi) Title 58, Chapter 70a, Physician Assistant Act;
- 2109 (vii) Title 58, Chapter 71, Naturopathic Physician Practice Act;
- 2110 (viii) Title 58, Chapter 72, Acupuncture Licensing Act;
- 2111 (ix) Title 58, Chapter 73, Chiropractic Physician Practice Act; and
- 2112 (x) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered nurse.
- 2113 (c) "Preferred health care facility" means a facility:
- 2114 (i) that is a health care facility as defined in Section [26-21-2](#); and
- 2115 (ii) designated under a managed health care program.
- 2116 (d) "Preferred provider physician" means a physician designated under a managed
- 2117 health care program.
- 2118 (e) "Self-insured employer" is as defined in Section [34A-2-201.5](#).
- 2119 (2) (a) A self-insured employer and insurance carrier may adopt a managed health care
- 2120 program to provide employees the benefits of this chapter or Chapter 3, Utah Occupational
- 2121 Disease Act, beginning January 1, 1993. The plan shall comply with this Subsection (2).
- 2122 (b) (i) A preferred provider program may be developed if the preferred provider
- 2123 program allows a selection by the employee of more than one physician in the health care
- 2124 specialty required for treating the specific problem of an industrial patient.
- 2125 (ii) (A) Subject to the requirements of this section, if a preferred provider program is
- 2126 developed by an insurance carrier or self-insured employer, an employee is required to use:
- 2127 (I) preferred provider physicians; and
- 2128 (II) preferred health care facilities.
- 2129 (B) If a preferred provider program is not developed, an employee may have free

2130 choice of health care providers.

2131 (iii) The failure to do the following may, if the employee has been notified of the
2132 preferred provider program, result in the employee being obligated for any charges in excess of
2133 the preferred provider allowances:

2134 (A) use a preferred health care facility; or

2135 (B) initially receive treatment from a preferred provider physician.

2136 (iv) Notwithstanding the requirements of Subsections (2)(b)(i) through (iii), a
2137 self-insured employer or other employer may:

2138 (A) (I) (Aa) have its own health care facility on or near its worksite or premises; and

2139 (Bb) continue to contract with other health care providers; or

2140 (II) operate a health care facility; and

2141 (B) require employees to first seek treatment at the provided health care or contracted
2142 facility.

2143 (v) An employee subject to a preferred provider program or employed by an employer
2144 having its own health care facility may procure the services of any qualified health care
2145 provider:

2146 (A) for emergency treatment, if a physician employed in the preferred provider
2147 program or at the health care facility is not available for any reason;

2148 (B) for conditions the employee in good faith believes are nonindustrial; or

2149 (C) when an employee living in a rural area would be unduly burdened by traveling to:

2150 (I) a preferred provider physician; or

2151 (II) a preferred health care facility.

2152 (c) (i) (A) An employer, insurance carrier, or self-insured employer may enter into
2153 contracts with the following for the purposes listed in Subsection (2)(c)(i)(B):

2154 (I) health care providers;

2155 (II) medical review organizations; or

2156 (III) vendors of medical goods, services, and supplies including medicines.

2157 (B) A contract described in Subsection [(†)] (2)(c)(i)(A) may be made for the following

2158 purposes:

2159 (I) insurance carriers or self-insured employers may form groups in contracting for
2160 managed health care services with health care providers;

2161 (II) peer review;

2162 (III) methods of utilization review;

2163 (IV) use of case management;

2164 (V) bill audit;

2165 (VI) discounted purchasing; and

2166 (VII) the establishment of a reasonable health care treatment protocol program

2167 including the implementation of medical treatment and quality care guidelines that are:

2168 (Aa) scientifically based;

2169 (Bb) peer reviewed; and

2170 (Cc) consistent with standards for health care treatment protocol programs that the

2171 commission shall establish by rules made in accordance with Title 63G, Chapter 3, Utah

2172 Administrative Rulemaking Act, including the authority of the commission to approve a health

2173 care treatment protocol program before it is used or disapprove a health care treatment protocol

2174 program that does not comply with this Subsection (2)(c)(i)(B)(VII).

2175 (ii) An insurance carrier may make any or all of the factors in Subsection (2)(c)(i) a

2176 condition of insuring an entity in its insurance contract.

2177 (3) (a) In addition to a managed health care program, an insurance carrier may require

2178 an employer to establish a work place safety program if the employer:

2179 (i) has an experience modification factor of 1.00 or higher, as determined by the

2180 National Council on Compensation Insurance; or

2181 (ii) is determined by the insurance carrier to have a three-year loss ratio of 100% or

2182 higher.

2183 (b) A workplace safety program may include:

2184 (i) a written workplace accident and injury reduction program that:

2185 (A) promotes safe and healthful working conditions; and

2186 (B) is based on clearly stated goals and objectives for meeting those goals; and
2187 (ii) a documented review of the workplace accident and injury reduction program each
2188 calendar year delineating how procedures set forth in the program are met.
2189 (c) A written workplace accident and injury reduction program permitted under
2190 Subsection (3)(b)(i) should describe:
2191 (i) how managers, supervisors, and employees are responsible for implementing the
2192 program;
2193 (ii) how continued participation of management will be established, measured, and
2194 maintained;
2195 (iii) the methods used to identify, analyze, and control new or existing hazards,
2196 conditions, and operations;
2197 (iv) how the program will be communicated to all employees so that the employees are
2198 informed of work-related hazards and controls;
2199 (v) how workplace accidents will be investigated and corrective action implemented;
2200 and
2201 (vi) how safe work practices and rules will be enforced.
2202 (d) For the purposes of a workplace accident and injury reduction program of an
2203 eligible employer described in Subsection [34A-2-103\(7\)\(f\)](#), the workplace accident and injury
2204 reduction program shall:
2205 (i) include the provisions described in Subsections (3)(b) and (c), except that the
2206 employer shall conduct a documented review of the workplace accident and injury reduction
2207 program at least semiannually delineating how procedures set forth in the workplace accident
2208 and injury reduction program are met; and
2209 (ii) require a written agreement between the employer and all contractors and
2210 subcontractors on a project that states that:
2211 (A) the employer has the right to control the manner or method by which the work is
2212 executed;
2213 (B) if a contractor, subcontractor, or any employee of a contractor or subcontractor

2214 violates the workplace accident and injury reduction program, the employer maintains the right
2215 to:

- 2216 (I) terminate the contract with the contractor or subcontractor;
- 2217 (II) remove the contractor or subcontractor from the work site; or
- 2218 (III) require that the contractor or subcontractor not permit an employee that violates
2219 the workplace accident and injury reduction program to work on the project for which the
2220 employer is procuring work; and

2221 (C) the contractor or subcontractor shall provide safe and appropriate equipment
2222 subject to the right of the employer to:

- 2223 (I) inspect on a regular basis the equipment of a contractor or subcontractor; and
- 2224 (II) require that the contractor or subcontractor repair, replace, or remove equipment
2225 the employer determines not to be safe or appropriate.

2226 (4) The premiums charged to any employer who fails or refuses to establish a
2227 workplace safety program pursuant to Subsection (3)(b)(i) or (ii) may be increased by 5% over
2228 any existing current rates and premium modifications charged that employer.

2229 Section 28. Section **34A-2-410** is amended to read:

2230 **34A-2-410. Temporary disability -- Amount of payments -- State average weekly**
2231 **wage defined.**

2232 (1) (a) Subject to Subsections (1)(b) and (5), in case of temporary disability, so long as
2233 the disability is total, the employee shall receive 66-2/3% of that employee's average weekly
2234 wages at the time of the injury but:

2235 (i) not more than a maximum of 100% of the state average weekly wage at the time of
2236 the injury per week; and

2237 (ii) (A) subject to Subsections (1)(a)(ii)(B) and (C), not less than a minimum of \$45
2238 per week plus:

2239 (I) \$5 for a dependent spouse; and

2240 (II) \$5 for each dependent child under the age of 18 years, up to a maximum of four
2241 dependent children;

2242 (B) not to exceed the average weekly wage of the employee at the time of the injury;
2243 and

2244 (C) not to exceed 100% of the state average weekly wage at the time of the injury per
2245 week.

2246 (b) In no case shall the compensation benefits exceed 312 weeks at the rate of 100% of
2247 the state average weekly wage at the time of the injury over a period of 12 years from the date
2248 of the injury.

2249 (2) If a light duty medical release is obtained before the employee reaches a fixed state
2250 of recovery and no light duty employment is available to the employee from the employer,
2251 temporary disability benefits shall continue to be paid.

2252 (3) The "state average weekly wage" as referred to in this chapter and Chapter 3, Utah
2253 Occupational Disease Act, shall be determined by the commission as follows:

2254 (a) On or before June 1 of each year, the total wages reported on contribution reports to
2255 the Unemployment Insurance Division for the preceding calendar year shall be divided by the
2256 average monthly number of insured workers determined by dividing the total insured workers
2257 reported for the preceding year by 12.

2258 (b) The average annual wage obtained under Subsection (3)(a) shall be divided by 52.

2259 (c) The average weekly wage determined under Subsection (3)(b) is rounded to the
2260 nearest dollar.

2261 (4) The state average weekly wage determined under Subsection (3) shall be used as
2262 the basis for computing the maximum compensation rate for:

2263 (a) injuries or disabilities arising from occupational disease that occurred during the
2264 12-month period commencing July 1 following the June 1 determination; and

2265 (b) any death resulting from the injuries or disabilities arising from occupational
2266 disease.

2267 (5) The commission may reduce or terminate temporary disability compensation in
2268 accordance with Section [~~34-2-410.5~~] [34A-2-410.5](#).

2269 Section 29. Section **36-11-401** is amended to read:

2270 **36-11-401. Penalties.**

2271 (1) Any person who intentionally violates Section 36-11-103, 36-11-201, 36-11-301,
2272 36-11-302, 36-11-303, 36-11-304, 36-11-305, [~~36-11-308~~], or 36-11-403, is subject to the
2273 following penalties:

- 2274 (a) an administrative penalty of up to \$1,000 for each violation; and
- 2275 (b) for each subsequent violation of that same section within 24 months, either:
 - 2276 (i) an administrative penalty of up to \$5,000; or
 - 2277 (ii) suspension of the violator's lobbying license for up to one year, if the person is a
2278 lobbyist.

2279 (2) Any person who intentionally fails to file a financial report required by this chapter,
2280 omits material information from a license application form or financial report, or files false
2281 information on a license application form or financial report, is subject to the following
2282 penalties:

- 2283 (a) an administrative penalty of up to \$1,000 for each violation; or
- 2284 (b) suspension of the violator's lobbying license for up to one year, if the person is a
2285 lobbyist.

2286 (3) Any person who intentionally fails to file a financial report required by this chapter
2287 on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1)
2288 or (2), pay a penalty of up to \$50 per day for each day that the report is late.

2289 (4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108,
2290 or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years
2291 from the date of the conviction.

2292 (b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the
2293 lieutenant governor shall suspend a lobbyist's license for up to one year from the date of
2294 conviction.

2295 (5) (a) Any person who intentionally violates Section 36-11-301, 36-11-302, or
2296 36-11-303 is guilty of a class B misdemeanor.

2297 (b) The lieutenant governor shall suspend the lobbyist license of any person convicted

2298 under any of these sections for up to one year.

2299 (c) The suspension shall be in addition to any administrative penalties imposed by the
2300 lieutenant governor under this section.

2301 (d) Any person with evidence of a possible violation of this chapter may submit that
2302 evidence to the lieutenant governor for investigation and resolution.

2303 (6) A lobbyist who does not complete the training required by Section 36-11-307 is
2304 subject to the following penalties:

2305 (a) an administrative penalty of up to \$1,000 for each failure to complete the training
2306 required by Section 36-11-307; and

2307 (b) for two or more failures to complete the training required by Section 36-11-307
2308 within 24 months, suspension of the lobbyist's lobbying license.

2309 (7) Nothing in this chapter creates a third-party cause of action or appeal rights.

2310 Section 30. Section 38-1a-102 is amended to read:

2311 **38-1a-102. Definitions.**

2312 As used in this chapter:

2313 (1) "Alternate means" means a method of filing a legible and complete notice or other
2314 document with the registry other than electronically, as established by the division by rule.

2315 (2) "Anticipated improvement" means the improvement:

2316 (a) for which preconstruction service is performed; and

2317 (b) that is anticipated to follow the performing of preconstruction service.

2318 (3) "Applicable county recorder" means the office of the recorder of each county in
2319 which any part of the property on which a claimant claims or intends to claim a preconstruction
2320 or construction lien is located.

2321 (4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which
2322 the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting
2323 shares or other ownership interest.

2324 (5) "Claimant" means a person entitled to claim a preconstruction or construction lien.

2325 (6) "Compensation" means the payment of money for a service rendered or an expense

2326 incurred, whether based on:

2327 (a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or
2328 percentage fee, or commission; or

2329 (b) a combination of the bases listed in Subsection (6)(a).

2330 (7) "Construction lender" means a person who makes a construction loan.

2331 (8) "Construction lien" means a lien under this chapter for construction work.

2332 (9) "Construction loan" does not include a consumer loan secured by the equity in the
2333 consumer's home.

2334 (10) "Construction project" means an improvement that is constructed pursuant to an
2335 original contract.

2336 (11) "Construction work":

2337 (a) means labor, service, material, or equipment provided for the purpose and during
2338 the process of constructing, altering, or repairing an improvement; and

2339 (b) includes scheduling, estimating, staking, supervising, managing, materials testing,
2340 inspection, observation, and quality control or assurance involved in constructing, altering, or
2341 repairing an improvement.

2342 (12) "Contestable notice" means a notice of preconstruction service under Section
2343 [38-1a-401](#), a preliminary notice under Section [38-1a-501](#), or a notice of completion under
2344 Section [38-1a-506](#).

2345 (13) "Contesting person" means an owner, original contractor, subcontractor, or other
2346 interested person.

2347 (14) "Designated agent" means the third party the division contracts with as provided
2348 in Section [38-1a-202](#) to create and maintain the registry.

2349 (15) "Division" means the Division of Occupational and Professional Licensing created
2350 in Section [58-1-103](#).

2351 (16) "Entry number" means the reference number that:

2352 (a) the designated agent assigns to each notice or other document filed with the
2353 registry; and

2354 (b) is unique for each notice or other document.

2355 (17) "Final completion" means:

2356 (a) the date of issuance of a permanent certificate of occupancy by the local
2357 government entity having jurisdiction over the construction project, if a permanent certificate
2358 of occupancy is required;

2359 (b) the date of the final inspection of the construction work by the local government
2360 entity having jurisdiction over the construction project, if an inspection is required under a
2361 state-adopted building code applicable to the construction work, but no certificate of occupancy
2362 is required;

2363 (c) unless the owner is holding payment to ensure completion of construction work, the
2364 date on which there remains no substantial work to be completed to finish the construction
2365 work under the original contract, if a certificate of occupancy is not required and a final
2366 inspection is not required under an applicable state-adopted building code; or

2367 (d) the last date on which substantial work was performed under the original contract,
2368 if, because the original contract is terminated before completion of the construction work
2369 defined by the original contract, the local government entity having jurisdiction over the
2370 construction project does not issue a certificate of occupancy or perform a final inspection.

2371 (18) "First preliminary notice filing" means a preliminary notice that:

2372 (a) is the earliest preliminary notice filed on the construction project for which the
2373 preliminary notice is filed;

2374 (b) is filed on a construction project that, at the time the preliminary notice is filed, has
2375 not reached final completion; and

2376 (c) is not cancelled under Section [38-1a-307](#).

2377 (19) "Government project-identifying information" has the same meaning as defined in
2378 Section [38-1b-102](#).

2379 (20) "Improvement" means:

2380 (a) a building, infrastructure, utility, or other human-made structure or object
2381 constructed on or for and affixed to real property; or

2382 (b) a repair, modification, or alteration of a building, infrastructure, utility, or object
2383 referred to in Subsection ~~[(19)]~~ (20)(a).

2384 (21) "Interested person" means a person that may be affected by a construction project.

2385 (22) "Notice of commencement" means a notice required under Section 38-1b-201 for
2386 a government project, as defined in Section 38-1b-102.

2387 (23) "Original contract":

2388 (a) means a contract between an owner and an original contractor for preconstruction
2389 service or construction work; and

2390 (b) does not include a contract between an owner-builder and another person.

2391 (24) "Original contractor" means a person, including an owner-builder, that contracts
2392 with an owner to provide preconstruction service or construction work.

2393 (25) "Owner" means the person that owns the project property.

2394 (26) "Owner-builder" means an owner, including an owner who is also an original
2395 contractor, who:

2396 (a) contracts with one or more other persons for preconstruction service or construction
2397 work for an improvement on the owner's real property; and

2398 (b) obtains a building permit for the improvement.

2399 (27) "Preconstruction lien" means a lien under this chapter for a preconstruction
2400 service.

2401 (28) "Preconstruction service":

2402 (a) means to plan or design, or to assist in the planning or design of, an improvement or
2403 a proposed improvement:

2404 (i) before construction of the improvement commences; and

2405 (ii) for compensation separate from any compensation paid or to be paid for
2406 construction work for the improvement; and

2407 (b) includes consulting, conducting a site investigation or assessment, programming,
2408 preconstruction cost or quantity estimating, preconstruction scheduling, performing a
2409 preconstruction construction feasibility review, procuring construction services, and preparing

2410 a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan,
2411 drawing, specification, or contract document.

2412 (29) "Private project" means a construction project that is not a government project.

2413 (30) "Project property" means the real property on or for which preconstruction service
2414 or construction work is or will be provided.

2415 (31) "Registry" means the State Construction Registry under Part 2, State Construction
2416 Registry.

2417 (32) "Required notice" means:

2418 (a) a notice of preconstruction service under Section 38-1a-401;

2419 (b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;

2420 (c) a notice of commencement;

2421 (d) a notice of construction loan under Section 38-1a-601;

2422 (e) a notice under Section 38-1a-602 concerning a construction loan default;

2423 (f) a notice of intent to obtain final completion under Section 38-1a-506; or

2424 (g) a notice of completion under Section 38-1a-507.

2425 (33) "Subcontractor" means a person that contracts to provide preconstruction service
2426 or construction work to:

2427 (a) a person other than the owner; or

2428 (b) the owner, if the owner is an owner-builder.

2429 (34) "Substantial work" does not include repair work or warranty work.

2430 (35) "Supervisory subcontractor" means a person that:

2431 (a) is a subcontractor under contract to provide preconstruction service or construction
2432 work; and

2433 (b) contracts with one or more other subcontractors for the other subcontractor or
2434 subcontractors to provide preconstruction service or construction work that the person is under
2435 contract to provide.

2436 Section 31. Section 38-8-1 is amended to read:

2437 **38-8-1. Definitions.**

2438 As used in this chapter:

2439 (1) "Certified mail" means:

2440 (a) a method of mailing that is offered by the United States Postal Service and provides
2441 evidence of mailing; or

2442 (b) a method of mailing that is accompanied by a certificate of mailing executed by the
2443 individual who caused the notice to be mailed.

2444 (2) "Default" means the failure to perform in a timely manner any obligation or duty
2445 described in this chapter or the rental agreement.

2446 (3) "Email" means an electronic message or an executable program or computer file
2447 that contains an image of a message that is transmitted between two or more computers or
2448 electronic terminals, including electronic messages that are transmitted within or between
2449 computer networks.

2450 (4) "Last known address" means the postal address provided by an occupant in a rental
2451 agreement or, if the occupant provides a subsequent written notice of a change of address, the
2452 postal address provided in the written notice of a change of address.

2453 (5) "Last known email address" means the email address provided by an occupant in a
2454 rental agreement or, if the occupant provides a subsequent written notice of a change of
2455 address, the email address provided in the written notice of a change of address.

2456 (6) "Occupant" means a person, or the person's sublessee, successor, or assignee,
2457 entitled to the use of a storage space at a self-service storage facility under a rental agreement,
2458 to the exclusion of others.

2459 (7) "Owner" means:

2460 (a) the owner, operator, lessor, or sublessor of a self-service storage facility;

2461 (b) an agent of a person described in Subsection ~~[(11)]~~ (7)(a); or

2462 (c) any other person authorized by a person described in Subsection ~~[(11)]~~ (7)(a) to
2463 manage the facility or to receive rent from an occupant under a rental agreement.

2464 (8) "Personal property" means movable property not affixed to land and includes
2465 goods, merchandise, and household items.

2466 (9) "Rental agreement" means any written agreement or lease that establishes or
2467 modifies the terms, conditions, rules, or any other provisions relating to the use and occupancy
2468 of a unit or space at a self-service storage facility.

2469 (10) (a) "Self-service storage facility" means real property designed and used for the
2470 purpose of renting or leasing individual storage space to occupants who have access to the
2471 facility for the purpose of storing personal property.

2472 (b) "Self-service storage facility" does not include:

2473 (i) a warehouse described in Section 70A-7a-102;

2474 (ii) real property used for residential purposes; or

2475 (iii) a facility that issues a warehouse receipt, bill of lading, or other document of title
2476 for the personal property stored at the facility.

2477 (11) "Vehicle" means personal property required to be registered with the Motor
2478 Vehicle Division pursuant to Title 41, Chapter 1a, Part 2, Registration, Title 41, Chapter 22,
2479 Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act.

2480 Section 32. Section 41-6a-1011 is amended to read:

2481 **41-6a-1011. Pedestrian vehicles.**

2482 (1) As used in this section:

2483 (a) (i) "Pedestrian vehicle" means a self-propelled conveyance designed, manufactured,
2484 and intended for the exclusive use of a person with a physical disability.

2485 (ii) A "pedestrian vehicle" may not:

2486 (A) exceed 48 inches in width;

2487 (B) have an engine or motor with more than 300 cubic centimeters displacement or
2488 with more than 12 brake horsepower; and

2489 (C) be capable of developing a speed in excess of 30 miles per hour.

2490 (b) "Physical disability" means any bodily impairment which precludes a person from
2491 walking or otherwise moving about as a pedestrian.

2492 (2) A pedestrian vehicle operated by a person with a physical disability is exempt from
2493 vehicle registration, inspection, and operator license requirements.

2494 (3) (a) A person with a physical disability may operate a pedestrian vehicle with a
2495 motor of not more than .5 brake horsepower capable of developing a speed of not more than
2496 eight miles per hour:

- 2497 (i) on the sidewalk; and
- 2498 (ii) in all places where pedestrians are allowed.

2499 (b) A permit, license, registration, authority, application, or restriction may not be
2500 required or imposed on a person with a physical disability who operates a pedestrian vehicle
2501 under this Subsection (3).

2502 (c) The provisions of this Subsection (3) supercede the provision of Subsection
2503 (2)[(b)].

2504 Section 33. Section **41-6a-1620** is amended to read:

2505 **41-6a-1620. Departmental approval of lighting devices or safety equipment.**

2506 (1) (a) The department shall approve or disapprove any lighting device or other safety
2507 equipment, component or assembly of a type for which approval is specifically required under
2508 this part.

2509 (b) The department shall consider the part for approval within a reasonable time after
2510 approval has been requested.

2511 (2) (a) The department shall establish a procedure for the submission, review, approval,
2512 disapproval, issuance of an approval certificate, and the expiration or renewal of approval for
2513 any part under Subsection (1).

2514 (b) (i) The procedure may provide for submission of the part to the American
2515 Association of Motor Vehicle Administrators as the agent of the department.

2516 (ii) Approval issued by the association under Subsection [(1)] (2)(b)(i) shall have the
2517 same force and effect as if it has been issued by the department.

2518 (c) The department shall maintain and publish lists of all parts, devices, components, or
2519 assemblies which have been approved by the department.

2520 (d) A part approved under this section is valid unless revoked under Section [41-6a-1621](#)
2521 or unless the department requires it to be renewed under rules made under Section [41-6a-1601](#).

2522 Section 34. Section **41-6a-1642** is amended to read:

2523 **41-6a-1642. Emissions inspection -- County program.**

2524 (1) The legislative body of each county required under federal law to utilize a motor
2525 vehicle emissions inspection and maintenance program or in which an emissions inspection
2526 and maintenance program is necessary to attain or maintain any national ambient air quality
2527 standard shall require:

2528 (a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle
2529 is exempt from emissions inspection and maintenance program requirements be presented:

2530 (i) as a condition of registration or renewal of registration; and

2531 (ii) at other times as the county legislative body may require to enforce inspection
2532 requirements for individual motor vehicles, except that the county legislative body may not
2533 routinely require a certificate of emission inspection, or waiver of the certificate, more often
2534 than required under Subsection (6); and

2535 (b) compliance with this section for a motor vehicle registered or principally operated
2536 in the county and owned by or being used by a department, division, instrumentality, agency, or
2537 employee of:

2538 (i) the federal government;

2539 (ii) the state and any of its agencies; or

2540 (iii) a political subdivision of the state, including school districts.

2541 (2) (a) The legislative body of a county identified in Subsection (1), in consultation
2542 with the Air Quality Board created under Section **19-1-106**, shall make regulations or
2543 ordinances regarding:

2544 (i) emissions standards;

2545 (ii) test procedures;

2546 (iii) inspections stations;

2547 (iv) repair requirements and dollar limits for correction of deficiencies; and

2548 (v) certificates of emissions inspections.

2549 (b) The regulations or ordinances shall:

2550 (i) be made to attain or maintain ambient air quality standards in the county, consistent
2551 with the state implementation plan and federal requirements;

2552 (ii) may allow for a phase-in of the program by geographical area; and

2553 (iii) be compliant with the analyzer design and certification requirements contained in
2554 the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

2555 (c) The county legislative body and the Air Quality Board shall give preference to an
2556 inspection and maintenance program that is:

2557 (i) decentralized, to the extent the decentralized program will attain and maintain
2558 ambient air quality standards and meet federal requirements;

2559 (ii) the most cost effective means to achieve and maintain the maximum benefit with
2560 regard to ambient air quality standards and to meet federal air quality requirements as related to
2561 vehicle emissions; and

2562 (iii) providing a reasonable phase-out period for replacement of air pollution emission
2563 testing equipment made obsolete by the program.

2564 (d) The provisions of Subsection (2)(c)(iii) apply only to the extent the phase-out:

2565 (i) may be accomplished in accordance with applicable federal requirements; and

2566 (ii) does not otherwise interfere with the attainment and maintenance of ambient air
2567 quality standards.

2568 (3) The following vehicles are exempt from the provisions of this section:

2569 (a) an implement of husbandry;

2570 (b) a motor vehicle that:

2571 (i) meets the definition of a farm truck under Section [41-1a-102](#); and

2572 (ii) has a gross vehicle weight rating of 12,001 pounds or more;

2573 (c) a vintage vehicle as defined in Section [41-21-1](#);

2574 (d) a custom vehicle as defined in Section [41-6a-1507](#); and

2575 (e) to the extent allowed under the current federally approved state implementation
2576 plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor
2577 vehicle that is less than two years old on January 1 based on the age of the vehicle as

2578 determined by the model year identified by the manufacturer.

2579 (4) (a) The legislative body of a county identified in Subsection (1) shall exempt a
2580 pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight of 12,000 pounds or
2581 less from the emission inspection requirements of this section, if the registered owner of the
2582 pickup truck provides a signed statement to the legislative body stating the truck is used:

2583 (i) by the owner or operator of a farm located on property that qualifies as land in
2584 agricultural use under Sections 59-2-502 and 59-2-503; and

2585 (ii) exclusively for the following purposes in operating the farm:

2586 (A) for the transportation of farm products, including livestock and its products,
2587 poultry and its products, floricultural and horticultural products; and

2588 (B) in the transportation of farm supplies, including tile, fence, and every other thing or
2589 commodity used in agricultural, floricultural, horticultural, livestock, and poultry production
2590 and maintenance.

2591 (b) The county shall provide to the registered owner who signs and submits a signed
2592 statement under this section a certificate of exemption from emission inspection requirements
2593 for purposes of registering the exempt vehicle.

2594 (5) (a) Subject to Subsection (5)(c), the legislative body of each county required under
2595 federal law to utilize a motor vehicle emissions inspection and maintenance program or in
2596 which an emissions inspection and maintenance program is necessary to attain or maintain any
2597 national ambient air quality standard may require each college or university located in a county
2598 subject to this section to require its students and employees who park a motor vehicle not
2599 registered in a county subject to this section to provide proof of compliance with an emissions
2600 inspection accepted by the county legislative body if the motor vehicle is parked on the college
2601 or university campus or property.

2602 (b) College or university parking areas that are metered or for which payment is
2603 required per use are not subject to the requirements of this Subsection (5).

2604 (c) The legislative body of a county shall make the reasons for implementing the
2605 provisions of this Subsection (5) part of the record at the time that the county legislative body

2606 takes its official action to implement the provisions of this Subsection (5).

2607 (6) (a) An emissions inspection station shall issue a certificate of emissions inspection
2608 for each motor vehicle that meets the inspection and maintenance program requirements
2609 established in rules made under Subsection (2).

2610 (b) The frequency of the emissions inspection shall be determined based on the age of
2611 the vehicle as determined by model year and shall be required annually subject to the
2612 provisions of Subsection (6)(c).

2613 (c) (i) To the extent allowed under the current federally approved state implementation
2614 plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative
2615 body of a county identified in Subsection (1) shall only require the emissions inspection every
2616 two years for each vehicle.

2617 (ii) The provisions of Subsection (6)(c)(i) apply only to a vehicle that is less than six
2618 years old on January 1.

2619 (iii) For a county required to implement a new vehicle emissions inspection and
2620 maintenance program on or after December 1, 2012, under Subsection (1), but for which no
2621 current federally approved state implementation plan exists, a vehicle shall be tested at a
2622 frequency determined by the county legislative body, in consultation with the Air Quality
2623 Board created under Section 19-1-106, that is necessary to comply with federal law or attain or
2624 maintain any national ambient air quality standard.

2625 (iv) If a county legislative body establishes or changes the frequency of a vehicle
2626 emissions inspection and maintenance program under Subsection [~~(5)~~] (6)(c)(iii), the
2627 establishment or change shall take effect on January 1 if the Tax Commission receives notice
2628 meeting the requirements of Subsection [~~(5)~~] (6)(c)(v) from the county prior to October 1.

2629 (v) The notice described in Subsection [~~(5)~~] (6)(c)(iv) shall:

2630 (A) state that the county will establish or change the frequency of the vehicle emissions
2631 inspection and maintenance program under this section;

2632 (B) include a copy of the ordinance establishing or changing the frequency; and

2633 (C) if the county establishes or changes the frequency under this section, state how

2634 frequently the emissions testing will be required.

2635 (d) If an emissions inspection is only required every two years for a vehicle under
2636 Subsection (6)(c), the inspection shall be required for the vehicle in:

2637 (i) odd-numbered years for vehicles with odd-numbered model years; or

2638 (ii) in even-numbered years for vehicles with even-numbered model years.

2639 (7) The emissions inspection shall be required within the same time limit applicable to
2640 a safety inspection under Section [41-1a-205](#).

2641 (8) (a) A county identified in Subsection (1) shall collect information about and
2642 monitor the program.

2643 (b) A county identified in Subsection (1) shall supply this information to an appropriate
2644 legislative committee, as designated by the Legislative Management Committee, at times
2645 determined by the designated committee to identify program needs, including funding needs.

2646 (9) If approved by the county legislative body, a county that had an established
2647 emissions inspection fee as of January 1, 2002, may increase the established fee that an
2648 emissions inspection station may charge by \$2.50 for each year that is exempted from
2649 emissions inspections under Subsection (6)(c) up to a \$7.50 increase.

2650 (10) (a) A county identified in Subsection (1) may impose a local emissions
2651 compliance fee on each motor vehicle registration within the county in accordance with the
2652 procedures and requirements of Section [41-1a-1223](#).

2653 (b) A county that imposes a local emissions compliance fee shall use revenues
2654 generated from the fee for the establishment and enforcement of an emissions inspection and
2655 maintenance program in accordance with the requirements of this section.

2656 Section 35. Section **47-3-102** is amended to read:

2657 **47-3-102. Definitions.**

2658 As used in this chapter:

2659 (1) "Air gun" means a .177 or .20 caliber, or equivalent 4.5mm or 5.0mm, pellet rifle or
2660 pellet pistol whose projectile is pneumatically propelled by compressed air or compressed gas
2661 such as carbon dioxide.

2662 (2) "Certified official" means a Range Safety Officer, Firearms Instructor, or Shooting
2663 Coach certified by the National Rifle Association or equivalent national shooting organization.

2664 (3) "Group" means any organized club, organization, corporation or association which
2665 at the time of use of the shooting range has a certified official in charge while shooting is
2666 taking place and while the range is open.

2667 (4) "Military range" means a shooting range located on a state military installation.

2668 (5) "Nonmilitary range" means a shooting range that is not a military range.

2669 (6) "Political subdivision" has the same meaning as defined in Section [~~17B-2-101~~]
2670 17B-1-102 and includes a school district.

2671 (7) "Public funds" means funds provided by the federal government, the state, or a
2672 political subdivision of the state.

2673 (8) "Shooting range" or "range" means an area designed and continuously operated
2674 under nationally recognized standards and operating practices for the use of rifles, shotguns,
2675 pistols, silhouettes, skeet, trap, black powder, archery, or any other similar shooting activities.

2676 Section 36. Section **48-1-32** is amended to read:

2677 **48-1-32. Power of partner to bind partnership to third persons after dissolution.**

2678 (1) After dissolution a partner can bind the partnership, except as provided in
2679 [~~paragraph~~] Subsection (3):

2680 (a) by any act appropriate for winding up partnership affairs or completing transactions
2681 unfinished at dissolution[-]; or

2682 (b) by any transaction which would bind the partnership, if dissolution had not taken
2683 place, provided the other party to the transaction:

2684 (i) had extended credit to the partnership prior to dissolution and had no knowledge or
2685 notice of the dissolution; or

2686 (ii) though he had not so extended credit, had nevertheless known of the partnership
2687 prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution
2688 had not been advertised in a newspaper of general circulation in the place[~~(f)~~], or in each place, if
2689 more than one[~~(j)~~], at which the partnership business was regularly carried on.

2690 (2) The liability of a partner under ~~[paragraph]~~ Subsection (1)(b) shall be satisfied out
2691 of partnership assets alone when such partner had been prior to dissolution:

2692 (a) unknown as a partner to the person with whom the contract is made; and

2693 (b) so far unknown and inactive in partnership affairs that the business reputation of
2694 the partnership could not be said to have been in any degree due to his connection with it.

2695 (3) The partnership is in no case bound by any act of a partner after dissolution:

2696 (a) where the partnership is dissolved because it is unlawful to carry on the business,
2697 unless the act is appropriate for winding up partnership affairs; ~~[or]~~

2698 (b) where the partner has become bankrupt; or

2699 (c) where the partner has no authority to wind up partnership affairs; except by a
2700 transaction with one who:

2701 (i) had extended credit to the partnership prior to dissolution and had no knowledge or
2702 notice of his want of authority; or

2703 (ii) had not extended credit to the partnership prior to dissolution, and, having no
2704 knowledge or notice of his want of authority, the fact of his want of authority has not been
2705 advertised in the manner provided for advertising the fact of dissolution in ~~[paragraph]~~
2706 Subsection (1)(b)(ii).

2707 (4) Nothing in this section shall affect the liability under Section 48-1-13 of any person
2708 who after dissolution represents himself or consents to another's representing him as a partner
2709 in a partnership engaged in carrying on business.

2710 Section 37. Section 48-1-35 is amended to read:

2711 **48-1-35. Rights of partners to application of partnership property.**

2712 (1) When dissolution is caused in any way, except in contravention of the partnership
2713 agreement, each partner, as against his copartners and all persons claiming through them in
2714 respect of their interests in the partnership, unless otherwise agreed, may have the partnership
2715 property applied to discharge its liabilities, and the surplus applied to pay in cash the net
2716 amount owing to the respective partners. But if dissolution is caused by expulsion of a partner,
2717 bona fide under the partnership agreement, and if the expelled partner is discharged from all

2718 partnership liabilities either by payment or agreement under [Section] Subsection 48-1-33(2),
2719 [he] the expelled partner shall receive in cash only the net amount due [him] to the expelled
2720 partner from the partnership.

2721 (2) When dissolution is caused in contravention of the partnership agreement the rights
2722 of the partners shall be as follows:

2723 (a) Each partner who has not caused dissolution wrongfully shall have:

2724 (i) all the rights specified in [paragraph] Subsection (1) [~~of this section~~]; and

2725 (ii) the right as against each partner who has caused the dissolution wrongfully to
2726 damages for breach of the agreement.

2727 (b) The partners who have not caused the dissolution wrongfully, if they all desire to
2728 continue the business in the same name, either by themselves or jointly with others, may do so
2729 during the agreed term for the partnership, and for that purpose may possess the partnership
2730 property; provided, they pay to any partner who has caused the dissolution wrongfully the value
2731 of his interest in the partnership at the dissolution, less any damages recoverable under [clause]
2732 Subsection (2)(a)(ii) [~~of this section~~] or secure the payment by bond approved by the court, and
2733 in like manner indemnify him against all present or future partnership liabilities.

2734 (c) A partner who has caused the dissolution wrongfully shall have:

2735 (i) If the business is not continued under the provisions of [paragraph] Subsection
2736 (2)(b), all the rights of a partner under [paragraph] Subsection (1), subject to [clause]
2737 Subsection (2)(a)(ii) [~~of this section~~].

2738 (ii) If the business is continued under [paragraph] Subsection (2)(b) [~~of this section~~],
2739 the right as against his copartners, and all claiming through them, in respect of their interests in
2740 the partnership, to have the value of his interest in the partnership, less any damages caused to
2741 his copartners by the dissolution, ascertained and paid to him in cash, or the payment secured
2742 by bond approved by the court, and to be released from all existing liabilities of the
2743 partnership; but in ascertaining the value of the partner's interest the value of the good will of
2744 the business shall not be considered.

2745 Section 38. Section **48-1-38** is amended to read:

2746 **48-1-38. Liability of persons continuing the business in certain cases.**

2747 (1) When any new partner is admitted into an existing partnership, or when any partner
2748 retires and assigns (or the representatives of a deceased partner assign) his rights in partnership
2749 property to two or more of the partners, or to one or more of the partners and one or more third
2750 persons, if the business is continued without liquidation of the partnership affairs, creditors of
2751 the first, or dissolved, partnership are also creditors of the partnership so continuing the
2752 business.

2753 (2) When all but one partner retire and assign (or the representatives of a deceased
2754 partner assign) their rights in partnership property to the remaining partner, who continues the
2755 business without liquidation of partnership affairs either alone or with others, creditors of the
2756 dissolved partnership are also creditors of the person or partnership so continuing the business.

2757 (3) When any partner retires or dies and the business of the dissolved partnership is
2758 continued, as set forth in ~~[paragraphs]~~ Subsections (1) and (2) ~~[of this section]~~, with the
2759 consent of the retired partner or the representatives of the deceased partner, but without any
2760 assignment of his right in partnership property, rights of creditors of the dissolved partnership
2761 and of creditors of the person or partnership continuing the business shall be as if such
2762 assignment had been made.

2763 (4) When all the partners or their representatives assign their rights in partnership
2764 property to one or more third persons who promise to pay the debts and who continue the
2765 business of the dissolved partnership, creditors of the dissolved partnership are also creditors of
2766 the person or partnership continuing the business.

2767 (5) When any partner wrongfully causes a dissolution and the remaining partners
2768 continue the business under the provisions of ~~[Section]~~ Subsection 48-1-35(2)(b), either alone
2769 or with others and without liquidation of the partnership affairs, creditors of the dissolved
2770 partnership are also creditors of the person or partnership continuing the business.

2771 (6) When a partner is expelled and the remaining partners continue the business, either
2772 alone or with others, without liquidation of the partnership affairs, creditors of the dissolved
2773 partnership are also creditors of the person or partnership continuing the business.

2774 (7) The liability of a third person becoming a partner in the partnership continuing the
2775 business under this section, to the creditors of the dissolved partnership shall be satisfied out of
2776 partnership property only.

2777 (8) When the business of a partnership after dissolution is continued under any
2778 conditions set forth in this section, the creditors of the dissolved partnership, as against the
2779 separate creditors of the retiring or deceased partner or the representatives of the deceased
2780 partner, have a prior right to any claim of the retired partner or the representatives of the
2781 deceased partner against the person or partnership continuing the business on account of the
2782 retired or deceased partner's interest in the dissolved partnership, or on account of any
2783 consideration promised for such interest, or for his right in partnership property.

2784 (9) Nothing in this section shall be held to modify any right of creditors to set aside any
2785 assignment on the ground of fraud.

2786 (10) The use by the person or partnership continuing the business of the partnership
2787 name, or the name of a deceased partner as part thereof, shall not of itself make the individual
2788 property of the deceased partner liable for any debts contracted by such person or partnership.

2789 Section 39. Section **49-11-801** is amended to read:

2790 **49-11-801. Defined contribution plans authorized -- Subject to federal and state**
2791 **laws -- Rules to implement this provision -- Costs of administration -- Limitations on**
2792 **eligibility -- Protection of tax status.**

2793 (1) (a) The board shall establish and administer defined contribution plans established
2794 under the Internal Revenue Code.

2795 (b) Voluntary deferrals and nonelective contributions shall be permitted according to
2796 the provisions of these plans as established by the board.

2797 (c) Except as provided in Subsections [~~49-22-302~~] [49-22-303](#)(2)(a), [49-22-401](#)(3)(a),
2798 [49-23-302](#)(2)(a), and [49-23-401](#)(3)(a), the defined contribution account balance is vested in the
2799 participant.

2800 (2) (a) Voluntary deferrals and nonelective contributions shall be posted to the
2801 participant's account.

2802 (b) Except as provided in Subsections 49-22-303(3), 49-22-401(4), 49-23-302(3), and
2803 49-23-401(4), participants may direct the investment of their account in the investment options
2804 established by the board and in accordance with federal and state law.

2805 (3) (a) The board may make rules and create plan documents to implement and
2806 administer this section.

2807 (b) The board may adopt rules under which a participant may put money into a defined
2808 contribution plan as permitted by federal law.

2809 (c) The office may reject any payments if the office determines the tax status of the
2810 systems, plans, or programs would be jeopardized by allowing the payment.

2811 (d) Costs of administration shall be paid as established by the board.

2812 (4) Voluntary deferrals and nonelective contributions may be invested separately or in
2813 conjunction with the Utah State Retirement Investment Fund.

2814 (5) The board or office may take actions necessary to protect the tax qualified status of
2815 the systems, plans, and programs under its control, including the movement of individuals from
2816 defined contribution plans to defined benefit systems or the creation of excess benefit plans
2817 authorized by federal law.

2818 (6) The office may, at its sole discretion, correct errors made in the administration of
2819 its defined contribution plans.

2820 Section 40. Section 49-20-411 is amended to read:

2821 **49-20-411. Autism Spectrum Disorder Treatment Program.**

2822 (1) As used in this section:

2823 (a) "Applied behavior analysis" means the design, implementation, and evaluation of
2824 environmental modifications using behavioral stimuli and consequences to produce socially
2825 significant improvement in human behavior, including the use of direct observation,
2826 measurement, and functional analysis of the relationship between environment and behavior
2827 that are:

2828 (i) necessary to develop, maintain, or restore, to the maximum extent practicable, the
2829 functioning of an individual; and

2830 (ii) provided or supervised by a board certified behavior analyst or a licensed
2831 psychologist with equivalent university training and supervised experience.

2832 (b) "Autism spectrum disorder" is as defined by the most recent edition of the
2833 Diagnostic and Statistical Manual on Mental Disorders or a recent edition of a professionally
2834 accepted diagnostic manual.

2835 (c) "Health plan" does not include the health plan offered by the Public Employees'
2836 Benefit and Insurance Program that is the state's designated essential health benefit package for
2837 purposes of the PPACA, as defined in Section [~~31A-1-401~~] [31A-1-301](#).

2838 (d) "Parent" means a parent of a qualified child.

2839 (e) "Program" means the autism spectrum disorder treatment program created in
2840 Subsection (2).

2841 (f) "Qualified child" means a child who is:

2842 (i) at least two years of age but less than seven years of age;

2843 (ii) diagnosed with an autism spectrum disorder by a qualified professional; and

2844 (iii) the eligible dependent of a state employee who is enrolled in a health plan that is
2845 offered under this chapter.

2846 (g) "Treatment" means any treatment generally accepted by the medical community or
2847 the American Academy of Pediatrics as an effective treatment for an individual with an autism
2848 spectrum disorder, including applied behavior analysis.

2849 (2) The Public Employees' Benefit and Insurance Program shall offer a program for the
2850 treatment of autism spectrum disorders in accordance with Subsection (3).

2851 (3) The program shall offer qualified children:

2852 (a) diagnosis of autism spectrum disorder by a physician or qualified mental health
2853 professional, and the development of a treatment plan;

2854 (b) applied behavior analysis provided by a certified behavior analyst or someone with
2855 equivalent training; and

2856 (c) an annual cost-shared maximum benefit of \$30,000 toward the cost of treatment
2857 that the program covers, where, for each qualified child, for the cost of the treatment:

- 2858 (i) the parent pays the first \$250;
- 2859 (ii) after the first \$250, the program pays 80% and the parent pays 20%;
- 2860 (iii) the program pays no more than \$150 per day; and
- 2861 (iv) the program pays no more than \$24,000 total.
- 2862 (4) The purpose of the program is to study the efficacy of providing autism treatment
- 2863 and is not a mandate for coverage of autism treatment within the health plans offered by the
- 2864 Public Employees' Benefit and Insurance Program.
- 2865 (5) The program shall be funded on an ongoing basis through the risk pool established
- 2866 in Subsection [49-20-202\(1\)\(a\)](#).
- 2867 Section 41. Section **51-8-301** is amended to read:
- 2868 **51-8-301. Appropriation for expenditure or accumulation of endowment fund.**
- 2869 (1) (a) Subject to the intent of a donor expressed in a gift instrument and to Subsection
- 2870 [~~4~~] (3), an institution may appropriate for expenditure or accumulate so much of an
- 2871 endowment fund as the institution determines to be prudent for the uses, benefits, purposes,
- 2872 and duration for which the endowment fund is established.
- 2873 (b) Unless stated otherwise in a gift instrument, the assets in an endowment fund are
- 2874 donor-restricted assets until appropriated for expenditure by the institution.
- 2875 (c) In making a determination to appropriate or accumulate, the institution shall act in
- 2876 good faith, with the care that an ordinarily prudent person in a like position would exercise
- 2877 under similar circumstances, and shall consider, if relevant, the following factors:
- 2878 (i) the duration and preservation of the endowment fund;
- 2879 (ii) the purposes of the institution and the endowment fund;
- 2880 (iii) general economic conditions;
- 2881 (iv) the possible effect of inflation or deflation;
- 2882 (v) the expected total return from income and the appreciation of investments;
- 2883 (vi) other resources of the institution; and
- 2884 (vii) the investment policy of the institution.
- 2885 (2) To limit the authority to appropriate for expenditure or accumulate under

2886 Subsection (1), a gift instrument must specifically state the limitation.

2887 (3) Terms in a gift instrument designating a gift as an endowment, or a direction or
2888 authorization in the gift instrument to use only "income," "interest," "dividends," or "rents,
2889 issues, or profits," or "to preserve the principal intact," or similar words:

2890 (a) create an endowment fund of permanent duration unless other language in the gift
2891 instrument limits the duration or purpose of the fund; and

2892 (b) do not otherwise limit the authority to appropriate for expenditure or accumulate
2893 under Subsection (1).

2894 Section 42. Section **53-2a-105** is amended to read:

2895 **53-2a-105. Emergency Management Administration Council created -- Function**
2896 **-- Composition -- Expenses.**

2897 (1) There is created the Emergency Management Administration Council to provide
2898 advice and coordination for state and local government agencies on government emergency
2899 prevention, mitigation, preparedness, response, and recovery actions and activities.

2900 (2) The council shall meet at the call of the chair, but at least semiannually.

2901 (3) The council shall be made up of the:

2902 (a) lieutenant governor, or the lieutenant governor's designee;

2903 (b) attorney general, or the attorney general's designee;

2904 (c) heads of the following state agencies, or their designees:

2905 (i) Department of Public Safety;

2906 (ii) Division of Emergency Management;

2907 (iii) Department of Transportation;

2908 (iv) Department of Health;

2909 (v) Department of Environmental Quality;

2910 (vi) Department of [~~Community and Economic Development~~] Workforce Services; and

2911 (vii) Department of Natural Resources;

2912 (d) adjutant general of the National Guard or the adjutant general's designee;

2913 (e) commissioner of agriculture and food or the commissioner's designee;

2914 (f) two representatives with expertise in emergency management appointed by the Utah
2915 League of Cities and Towns;

2916 (g) two representatives with expertise in emergency management appointed by the
2917 Utah Association of Counties;

2918 (h) up to four additional members with expertise in emergency management, critical
2919 infrastructure, or key resources as these terms are defined under 6 U.S. Code Section 101
2920 appointed from the private sector, by the chair of the council; and

2921 (i) two representatives appointed by the Utah Emergency Management Association.

2922 (4) The commissioner and the lieutenant governor serve as cochairs of the council.

2923 (5) A member may not receive compensation or benefits for the member's service, but
2924 may receive per diem and travel expenses in accordance with:

2925 (a) Section 63A-3-106;

2926 (b) Section 63A-3-107; and

2927 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
2928 63A-3-107.

2929 (6) The council shall coordinate with existing emergency management related entities
2930 including:

2931 (a) the Emergency Management Regional Committees established by the Department
2932 of Public Safety;

2933 (b) the Statewide Mutual Aid Committee established under Section 53-2a-303; and

2934 (c) the Hazardous Chemical Emergency Response Commission designated under
2935 Section 53-2a-703.

2936 (7) The council may establish other committees and task forces as determined
2937 necessary by the council to carry out the duties of the council.

2938 Section 43. Section 53-2a-202 is amended to read:

2939 **53-2a-202. Legislative findings -- Purpose.**

2940 (1) The Legislature finds that existing and increasing threats of the occurrence of
2941 destructive disasters resulting from attack, internal disturbance, natural phenomenon or

2942 technological hazard could greatly affect the health, safety, and welfare of the people of this
2943 state, and it is therefore necessary to grant to the governor of this state and its political
2944 subdivisions special emergency disaster authority.

2945 (2) It is the purpose of this act to assist the governor of this state and its political
2946 subdivisions to effectively provide emergency disaster response and recovery assistance in
2947 order to protect the lives and property of the people. [~~This part is known as the "Disaster~~
2948 ~~Response and Recovery Act."~~]

2949 Section 44. Section **53-2a-204** is amended to read:

2950 **53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful**
2951 **misstatement in application for financial assistance -- Penalty.**

2952 (1) In addition to any other authorities conferred upon the governor, if the governor
2953 issues an executive order declaring a state of emergency, the governor may:

2954 (a) utilize all available resources of state government as reasonably necessary to cope
2955 with a state of emergency;

2956 (b) employ measures and give direction to state and local officers and agencies that are
2957 reasonable and necessary for the purpose of securing compliance with the provisions of this
2958 part and with orders, rules, and regulations made pursuant to this [~~act~~] part;

2959 (c) recommend and advise the evacuation of all or part of the population from any
2960 stricken or threatened area within the state if necessary for the preservation of life;

2961 (d) recommend routes, modes of transportation, and destination in connection with
2962 evacuation;

2963 (e) in connection with evacuation, suspend or limit the sale, dispensing, or
2964 transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful
2965 bearing of arms;

2966 (f) control ingress and egress to and from a disaster area, the movement of persons
2967 within the area, and recommend the occupancy or evacuation of premises in a disaster area;

2968 (g) clear or remove from publicly or privately owned land or water debris or wreckage
2969 that is an immediate threat to public health, public safety, or private property, including

2970 allowing an employee of a state department or agency designated by the governor to enter upon
2971 private land or waters and perform any tasks necessary for the removal or clearance operation if
2972 the political subdivision, corporation, organization, or individual that is affected by the removal
2973 of the debris or wreckage:

2974 (i) presents an unconditional authorization for removal of the debris or wreckage from
2975 private property; and

2976 (ii) agrees to indemnify the state against any claim arising from the removal of the
2977 debris or wreckage;

2978 (h) enter into agreement with any agency of the United States:

2979 (i) for temporary housing units to be occupied by victims of a state of emergency or
2980 persons who assist victims of a state of emergency; and

2981 (ii) to make the housing units described in Subsection (1)(h)(i) available to a political
2982 subdivision of this state;

2983 (i) assist any political subdivision of this state to acquire sites and utilities necessary for
2984 temporary housing units described in Subsection (1)(h)(i) by passing through any funds made
2985 available to the governor by an agency of the United States for this purpose;

2986 (j) subject to Sections 53-2a-209 and 53-2a-214, temporarily suspend or modify by
2987 executive order, during the state of emergency, any public health, safety, zoning, transportation,
2988 or other requirement of a statute or administrative rule within this state if such action is
2989 essential to provide temporary housing described in Subsection (1)(h)(i);

2990 (k) upon determination that a political subdivision of the state will suffer a substantial
2991 loss of tax and other revenues because of a state of emergency and the political subdivision so
2992 affected has demonstrated a need for financial assistance to perform its governmental
2993 functions, in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section
2994 10-8-6:

2995 (i) apply to the federal government for a loan on behalf of the political subdivision if
2996 the amount of the loan that the governor applies for does not exceed 25% of the annual
2997 operating budget of the political subdivision for the fiscal year in which the state of emergency

2998 occurs; and

2999 (ii) receive and disburse the amount of the loan to the political subdivision;

3000 (1) accept funds from the federal government and make grants to any political
3001 subdivision for the purpose of removing debris or wreckage from publicly owned land or
3002 water;

3003 (m) upon determination that financial assistance is essential to meet expenses related to
3004 a state of emergency of individuals or families adversely affected by the state of emergency that
3005 cannot be sufficiently met from other means of assistance, apply for, accept, and expend a grant
3006 by the federal government to fund the financial assistance, subject to the terms and conditions
3007 imposed upon the grant;

3008 (n) recommend to the Legislature other actions the governor considers to be necessary
3009 to address a state of emergency; or

3010 (o) authorize the use of all water sources as necessary for fire suppression.

3011 (2) A person who fraudulently or willfully makes a misstatement of fact in connection
3012 with an application for financial assistance under this section shall, upon conviction of each
3013 offense, be subject to a fine of not more than \$5,000 or imprisonment for not more than one
3014 year, or both.

3015 Section 45. Section **53-2a-1104** is amended to read:

3016 **53-2a-1104. General duties of the Search and Rescue Advisory Board.**

3017 The duties of the Search and Rescue Advisory Board shall include:

3018 (1) conducting a board meeting at least once per quarter;

3019 (2) receiving applications for reimbursement of eligible expenses from county search
3020 and rescue operations by the end of the first quarter of each calendar year;

3021 (3) determining the reimbursement to be provided from the Search and Rescue
3022 Financial Assistance Program to each applicant;

3023 (4) standardizing the format and maintaining key search and rescue statistical data from
3024 each county within the state; and

3025 (5) disbursing funds accrued in the Search and Rescue Financial Assistance Program,

3026 created under Section [~~53-2-107~~] 53-2a-1102, to eligible applicants.

3027 Section 46. Section **53-5a-104** is amended to read:

3028 **53-5a-104. Firearm transfer certification.**

3029 (1) As used in this section:

3030 (a) "Certification" means the participation and assent of the chief law enforcement
3031 officer necessary under federal law for the approval of the application to transfer or make a
3032 firearm.

3033 (b) "Chief law enforcement officer" means any official the Bureau of Alcohol,
3034 Tobacco, Firearms and Explosives, or any successor agency, identifies by regulation or
3035 otherwise as eligible to provide any required certification for the making or transfer of a
3036 firearm.

3037 (c) "Firearm" has the same meaning as provided in the National Firearms Act, [6] 26
3038 U.S.C. Sec. 5845(a).

3039 (2) A chief law enforcement officer may not make a certification under this section that
3040 the chief law enforcement officer knows to be untrue. The chief law enforcement officer may
3041 not refuse to provide certification based on a generalized objection to private persons or entities
3042 making, possessing, or receiving firearms or any certain type of firearm, the possession of
3043 which is not prohibited by law.

3044 (3) Upon receiving a federal firearm transfer form a chief law enforcement officer or
3045 the chief law enforcement officer's designee shall provide certification if the applicant:

3046 (a) is not prohibited by law from receiving or possessing the firearm; or

3047 (b) is not the subject of a proceeding that could result in the applicant being prohibited
3048 by law from receiving or possessing the firearm.

3049 (4) The chief law enforcement officer, the chief law enforcement officer's designee, or
3050 official signing the federal transfer form shall:

3051 (a) return the federal transfer form to the applicant within 15 calendar days; or

3052 (b) if the applicant is denied, provide to the applicant the reasons for denial in writing
3053 within 15 calendar days.

3054 (5) Chief law enforcement officers and their employees who act in good faith when
3055 acting within the scope of their duties are immune from liability arising from any act or
3056 omission in making a certification as required by this section. Any action taken against a chief
3057 law enforcement officer or an employee shall be in accordance with Title 63G, Chapter 7,
3058 Governmental Immunity Act of Utah.

3059 Section 47. Section **53-5c-201** is amended to read:

3060 **53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law**
3061 **enforcement to hold firearm.**

3062 (1) (a) An owner cohabitant may voluntarily commit a firearm to a law enforcement
3063 agency for safekeeping if the owner cohabitant believes that another cohabitant is an immediate
3064 threat to:

- 3065 (i) himself or herself;
- 3066 (ii) the owner cohabitant; or
- 3067 (iii) any other person.

3068 (b) A law enforcement agency may not hold a firearm under this section if the law
3069 enforcement agency obtains the firearm in a manner other than the owner cohabitant
3070 voluntarily presenting, of his or her own free will, the firearm to the law enforcement agency at
3071 the agency's office.

3072 (2) Unless a firearm is an illegal firearm subject to Section [53-5c-202](#), a law
3073 enforcement agency that receives a firearm in accordance with this chapter shall:

- 3074 (a) record:
 - 3075 (i) the owner cohabitant's name, address, and phone number;
 - 3076 (ii) the firearm serial number; and
 - 3077 (iii) the date that the firearm was voluntarily committed;
- 3078 (b) require the owner cohabitant to sign a document attesting that the owner cohabitant
3079 has an ownership interest in the firearm;
- 3080 (c) hold the firearm in safe custody for 60 days after the day on which it is voluntarily
3081 committed; and

- 3082 (d) upon proof of identification, return the firearm to:
- 3083 (i) the owner cohabitant after the expiration of the 60-day period or, if the owner
- 3084 cohabitant requests return of the firearm before the expiration of the 60-day period, at the time
- 3085 of the request; or
- 3086 (ii) to an owner other than the owner cohabitant in accordance with Section 53-5c-202.
- 3087 (3) The law enforcement agency shall hold the firearm for an additional 60 days:
- 3088 (a) if the initial 60-day period expires; and
- 3089 (b) the owner cohabitant requests that the law enforcement agency hold the firearm for
- 3090 an additional 60 days.
- 3091 (4) A law enforcement agency may not request or require that the owner cohabitant
- 3092 provide the name or other information of the cohabitant who poses an immediate threat or any
- 3093 other cohabitant.
- 3094 (5) Notwithstanding an ordinance or policy to the contrary adopted in accordance with
- 3095 Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection
- 3096 (2), Subsection 53-5c-202(4)(b)(iii), or any other record created in the application of this
- 3097 chapter no later than five days after:
- 3098 (a) returning a firearm in accordance with Subsection (2)(d); or
- 3099 (b) appropriating, selling, or destroying the firearm in accordance with Section
- 3100 53-5c-202.
- 3101 (6) Unless otherwise provided, the provisions of Title 77, Chapter ~~[24, Disposal of~~
- 3102 ~~Property Received by Peace Officer]~~ 24a, Lost or Mislaid Personal Property, do not apply to a
- 3103 firearm received by a law enforcement agency in accordance with this chapter.
- 3104 (7) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held
- 3105 in accordance with this chapter.
- 3106 Section 48. Section 53A-1-603 is amended to read:
- 3107 **53A-1-603. Duties of State Board of Education.**
- 3108 (1) The State Board of Education shall:
- 3109 (a) require each school district and charter school to implement the Utah Performance

3110 Assessment System for Students, hereafter referred to as U-PASS;

3111 (b) require the state superintendent of public instruction to submit and recommend
3112 criterion-referenced achievement tests or online computer adaptive tests, college readiness
3113 assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3
3114 to measure reading grade level to the board for approval and adoption and distribution to each
3115 school district and charter school by the state superintendent;

3116 (c) develop an assessment method to uniformly measure statewide performance, school
3117 district performance, and school performance of students in grades 3 through 12 in mastering
3118 basic skills courses; and

3119 (d) provide for the state to participate in the National Assessment of Educational
3120 Progress state-by-state comparison testing program.

3121 (2) Except as provided in Subsection (3) and Subsection 53A-1-611(3), under
3122 U-PASS, the State Board of Education shall annually require each school district and charter
3123 school, as applicable, to administer:

3124 (a) as determined by the State Board of Education, statewide criterion-referenced tests
3125 or online computer adaptive tests in grades 3 through 12 and courses in basic skill areas of the
3126 core curriculum;

3127 (b) an online writing assessment to all students in grades 5 and 8;

3128 (c) college readiness assessments as detailed in Section 53A-1-611; and

3129 (d) a test to all students in grade 3 to measure reading grade level.

3130 (3) Beginning with the 2014-15 school year, the State Board of Education shall
3131 annually require each school district and charter school, as applicable, to administer a computer
3132 adaptive assessment system that is:

3133 (a) adopted by the State Board of Education; and

3134 (b) aligned to Utah's common core.

3135 (4) The board shall adopt rules for the conduct and administration of U-PASS to
3136 include the following:

3137 (a) the computation of student performance based on information that is disaggregated

3138 with respect to race, ethnicity, gender, limited English proficiency, and those students who
3139 qualify for free or reduced price school lunch;

3140 (b) security features to maintain the integrity of the system, which could include
3141 statewide uniform testing dates, multiple test forms, and test administration protocols;

3142 (c) the exemption of student test scores, by exemption category, such as limited
3143 English proficiency, mobility, and students with disabilities, with the percent or number of
3144 student test scores exempted being publically reported at a district level;

3145 (d) compiling of criterion-referenced, online computer adaptive, and online writing test
3146 scores and test score averages at the classroom level to allow for:

3147 (i) an annual review of those scores by parents of students and professional and other
3148 appropriate staff at the classroom level at the earliest point in time;

3149 (ii) the assessment of year-to-year student progress in specific classes, courses, and
3150 subjects; and

3151 (iii) a teacher to review, prior to the beginning of a new school year, test scores from
3152 the previous school year of students who have been assigned to the teacher's class for the new
3153 school year;

3154 (e) allowing a school district or charter school to have its tests administered and scored
3155 electronically to accelerate the review of test scores and their usefulness to parents and
3156 educators under Subsection (4)(d), without violating the integrity of U-PASS; and

3157 (f) providing that scores on the tests and assessments required under Subsection (2)(a)
3158 and Subsection (3) shall be considered in determining a student's academic grade for the
3159 appropriate course and whether a student shall advance to the next grade level.

3160 (5) (a) A school district or charter school, as applicable, is encouraged to administer an
3161 online writing assessment to students in grade 11.

3162 (b) The State Board of Education may award a grant to a school district or charter
3163 school to pay for an online writing assessment and instruction program that may be used to
3164 assess the writing of students in grade 11.

3165 (6) The State Board of Education shall make rules:

3166 (a) establishing procedures for applying for and awarding money for computer adaptive
3167 tests;

3168 (b) specifying how money for computer adaptive tests shall be allocated among school
3169 districts and charter schools that qualify to receive the money; and

3170 (c) requiring reporting of the expenditure of money awarded for computer adaptive
3171 testing and evidence that the money was used to implement computer adaptive testing.

3172 (7) The State Board of Education shall assure that computer adaptive tests are
3173 administered in compliance with the requirements of Chapter 13, Part 3, Utah Family
3174 Educational Rights and Privacy Act.

3175 (8) (a) The State Board of Education shall establish a committee consisting of 15
3176 parents of Utah public education students to review all computer adaptive test questions.

3177 (b) The committee established in Subsection (8)(a) shall include the following parent
3178 members:

3179 (i) five members appointed by the chair of the State Board of Education;

3180 (ii) five members appointed by the speaker of the House of Representatives; and

3181 (iii) five members appointed by the president of the Senate.

3182 (c) The State Board of Education shall provide staff support to the parent committee.

3183 (d) The term of office of each member appointed in Subsection (8)(b) is four years.

3184 (e) The chair of the State Board of Education, the speaker of the House of
3185 Representatives, and the president of the Senate shall adjust the length of terms to stagger the
3186 terms of committee members so that approximately 1/2 of the committee members are
3187 appointed every two years.

3188 (f) No member may receive compensation or benefits for the member's service on the
3189 committee.

3190 (9) (a) School districts and charter schools shall require each licensed employee to
3191 complete two hours of professional development on youth suicide prevention within their
3192 license cycle in accordance with Section [53A-6-104](#).

3193 (b) The State Board of Education shall develop or adopt sample materials to be used by

3194 a school district or charter school for professional development training on youth suicide
3195 prevention.

3196 (c) The training required by this Subsection (9) shall be incorporated into professional
3197 development training required by rule in accordance with Section [53A-6-104](#).

3198 Section 49. Section **53A-1-1104** is amended to read:

3199 **53A-1-1104. Schools included in grading system.**

3200 (1) Except as provided in Subsections (2) through (5), a school that has students who
3201 take statewide assessments shall receive a school grade.

3202 (2) A school may not receive a school grade, if the number of a school's students tested
3203 is less than the minimum sample size necessary, based on accepted professional practice for
3204 statistical reliability or the prevention of the unlawful release of personally identifiable student
3205 data under 20 U.S.C. Sec. 1232h.

3206 (3) (a) An alternative school is exempt from school grading.

3207 (b) The board shall annually:

3208 (i) evaluate an alternative school in accordance with an accountability plan approved
3209 by the board; and

3210 (ii) report the results on a school report card.

3211 (c) The State Board of Education, a local school board, and a charter school governing
3212 board shall provide to a parent or guardian a school report card for an alternative school and
3213 electronically publish the school report card in the same manner and at the same time as other
3214 school report cards are provided and published pursuant to Section [~~53A-11-1112~~]
3215 [53A-1-1112](#).

3216 (4) The State Board of Education shall exempt a school from school grading in the
3217 school's first year of operations if the school's local school board or charter school governing
3218 board requests the exemption.

3219 (5) The State Board of Education shall exempt a high school from school grading or
3220 exempt a combination school from the school grading requirement described in Subsection
3221 [53A-1-1104.5\(2\)](#) in the high school's or combination school's second year of operations if the

3222 school's local school board or charter school governing board requests the exemption.

3223 Section 50. Section **53A-1a-508** is amended to read:

3224 **53A-1a-508. Charter agreement -- Content -- Modification.**

3225 (1) A charter agreement:

3226 (a) is a contract between the charter school applicant and the charter school authorizer;

3227 (b) shall describe the rights and responsibilities of each party; and

3228 (c) shall allow for the operation of the applicant's proposed charter school.

3229 (2) A charter agreement shall include:

3230 (a) the name of:

3231 (i) the charter school; and

3232 (ii) the charter school applicant;

3233 (b) the mission statement and purpose of the charter school;

3234 (c) the charter school's opening date;

3235 (d) the grade levels and number of students the charter school will serve;

3236 (e) a description of the structure of the charter school's governing board, including:

3237 (i) the number of board members;

3238 (ii) how members of the board are appointed; and

3239 (iii) board members' terms of office;

3240 (f) assurances that:

3241 (i) the governing board shall comply with:

3242 (A) the charter school's bylaws;

3243 (B) the charter school's articles of incorporation; and

3244 (C) applicable federal law, state law, and State Board of Education rules;

3245 (ii) the governing board will meet all reporting requirements described in Section

3246 [~~53A-1b-115~~] [53A-1a-507](#); and

3247 (iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit

3248 Enhancement Program, neither the authorizer nor the state, including an agency of the state, is

3249 liable for the debts or financial obligations of the charter school or a person who operates the

3250 charter school;

3251 (g) which administrative rules the State Board of Education will waive for the charter
3252 school;

3253 (h) minimum financial standards for operating the charter school;

3254 (i) minimum standards for student achievement; and

3255 (j) signatures of the charter school authorizer and the charter school's governing board
3256 members.

3257 (3) A charter agreement may not be modified except by mutual agreement between the
3258 charter school authorizer and the governing board of the charter school.

3259 Section 51. Section **53A-1a-601** is amended to read:

3260 **53A-1a-601. Job enhancements for mathematics, science, technology, and special**
3261 **education training.**

3262 (1) As used in this part, "special education teacher" includes occupational therapist.

3263 (2) The Public Education Job Enhancement Program is established to attract, train, and
3264 retain highly qualified:

3265 (a) secondary teachers with expertise in mathematics, physics, chemistry, physical
3266 science, learning technology, or information technology;

3267 (b) special education teachers; and

3268 (c) teachers in grades four through six with mathematics endorsements.

3269 (3) The program shall provide for the following:

3270 (a) application by a school district superintendent or the principal of a school on behalf
3271 of a qualified teacher;

3272 (b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's
3273 degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be
3274 given to selected public school teachers on a competitive basis:

3275 (i) whose applications are approved [~~under Subsection 53A-1a-602(4)~~]; and

3276 (ii) who teach in the state's public education system for four years in the areas
3277 identified in Subsection (2);

3278 (c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two
3279 installments, with an initial payment of up to \$10,000 at the beginning of the term and up to
3280 \$10,000 at the conclusion of the term;

3281 (ii) repayment of a portion of the initial payment by the teacher if the teacher fails to
3282 complete two years of the four-year teaching term in the areas identified in Subsection (2) as
3283 provided by rule of the State Board of Education in accordance with Title 63G, Chapter 3, Utah
3284 Administrative Rulemaking Act, unless waived for good cause by the State Board of
3285 Education; and

3286 (iii) nonpayment of the second installment if the teacher fails to complete the four-year
3287 teaching term; and

3288 (d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the
3289 providing institution to certify adequate performance in obtaining the master's degree,
3290 endorsement, or graduate education in order for the teacher to maintain the scholarship; and

3291 (ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails
3292 to complete the authorized classes or program or to teach in the state system of public
3293 education in the areas identified in Subsection (2) for four years after obtaining the master's
3294 degree, the endorsement, or graduate education.

3295 (4) An individual teaching in the public schools under a letter of authorization may
3296 participate in the cash award program if:

3297 (a) the individual has taught under the letter of authorization for at least one year in the
3298 areas referred to in Subsection (2); and

3299 (b) the application made under Subsection (3)(a) is based in large part upon the
3300 individual receiving a superior evaluation as a classroom teacher.

3301 (5) (a) The program may provide for the expenditure of up to \$1,000,000 of available
3302 money, if at least an equal amount of matching money becomes available, to provide
3303 professional development training to superintendents, administrators, and principals in the
3304 effective use of technology in public schools.

3305 (b) An award granted under this Subsection (5) shall be made in accordance with

3306 criteria developed and adopted by the State Board of Education and in accordance with Title
3307 63G, Chapter 3, Utah Administrative Rulemaking Act.

3308 (c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may
3309 be expended, regardless of the matching money being available.

3310 Section 52. Section **53A-12-102** is amended to read:

3311 **53A-12-102. State policy on student fees, deposits, or other charges.**

3312 (1) For purposes of this part:

3313 (a) "Board" means the State Board of Education.

3314 (b) "Secondary school" means a school that provides instruction to students in grades
3315 7, 8, 9, 10, 11, or 12.

3316 (c) "Secondary school student":

3317 (i) means a student enrolled in a secondary school; and

3318 (ii) includes a student in grade 6 if the student attends a secondary school.

3319 (2) (a) A secondary school may impose fees [~~to~~] on secondary school students.

3320 (b) The board shall adopt rules regarding the imposition of fees in secondary schools in
3321 accordance with the requirements of this part.

3322 (3) A fee, deposit, or other charge may not be made, or any expenditure required of a
3323 student or the student's parent or guardian, as a condition for student participation in an
3324 activity, class, or program provided, sponsored, or supported by or through a public school or
3325 school district, unless authorized by the local school board or charter school governing board
3326 under rules adopted by the board.

3327 (4) (a) A fee, deposit, charge, or expenditure may not be required for elementary school
3328 activities which are part of the regular school day or for supplies used during the regular school
3329 day.

3330 (b) An elementary school or elementary school teacher may compile and provide to a
3331 student's parent or guardian a suggested list of supplies for use during the regular school day so
3332 that a parent or guardian may furnish on a voluntary basis those supplies for student use.

3333 (c) A list provided to a student's parent or guardian pursuant to Subsection (4)(b) shall

3334 include and be preceded by the following language:

3335 "NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR
3336 SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS,
3337 OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

3338 Section 53. Section **53A-15-603** is amended to read:

3339 **53A-15-603. Gang prevention and intervention policies.**

3340 (1) (a) The State Board of Education shall adopt rules that require a local school board
3341 or governing board of a charter school to enact gang prevention and intervention policies for all
3342 schools within the board's jurisdiction.

3343 (b) The rules described in Subsection (1)(a) shall provide that the gang prevention and
3344 intervention policies of a local school board or charter school governing board may include
3345 provisions that reflect the individual school district's or charter school's unique needs or
3346 circumstances.

3347 (2) The rules described in Subsection (1) may include the following provisions:

3348 (a) school faculty and personnel shall report suspected gang activities relating to the
3349 school and its students to a school administrator and law enforcement;

3350 (b) a student who participates in gang activities may be excluded from participation in
3351 extracurricular activities, including interscholastic athletics, as determined by the school
3352 administration after consultation with law enforcement;

3353 (c) gang-related graffiti or damage to school property shall result in parent or guardian
3354 notification and appropriate administrative and law enforcement actions, which may include
3355 obtaining restitution from those responsible for the damage;

3356 (d) if a serious gang-related incident, as determined by the school administrator in
3357 consultation with local law enforcement, occurs on school property, at school related activities,
3358 or on a site that is normally considered to be under school control, notification shall be
3359 provided to parents and guardians of students in the school:

3360 (i) informing them, in general terms, about the incident, but removing all personally
3361 identifiable information about students from the notice;

- 3362 (ii) emphasizing the school's concern for safety; and
- 3363 (iii) outlining the action taken at the school regarding the incident;
- 3364 (e) school faculty and personnel shall be trained by experienced evidence based trainers
- 3365 that may include community gang specialists and law enforcement as part of comprehensive
- 3366 strategies to recognize early warning signs for youth in trouble and help students resist serious
- 3367 involvement in undesirable activity, including joining gangs or mimicking gang behavior;
- 3368 (f) prohibitions on the following behavior:
- 3369 (i) advocating or promoting a gang or any gang-related activities;
- 3370 (ii) marking school property, books, or school work with gang names, slogans, or
- 3371 signs;
- 3372 (iii) conducting gang initiations;
- 3373 (iv) threatening another person with bodily injury or inflicting bodily injury on another
- 3374 in connection with a gang or gang-related activity;
- 3375 (v) aiding or abetting an activity described under Subsections [~~(1)~~] (2)(f)(i) through (iv)
- 3376 by a person's presence or support;
- 3377 (vi) displaying or wearing common gang apparel, common dress, or identifying signs
- 3378 or symbols on one's clothing, person, or personal property that is disruptive to the school
- 3379 environment; and
- 3380 (vii) communicating in any method, including verbal, non-verbal, and electronic
- 3381 means, designed to convey gang membership or affiliation.
- 3382 (3) The rules described in Subsection (1) may require a local school board or governing
- 3383 board of a charter school to publicize the policies enacted by the local school board or
- 3384 governing board of a charter school in accordance with the rules described in Subsection (1) to
- 3385 all students, parents, guardians, and faculty through school websites, handbooks, letters to
- 3386 parents and guardians, or other reasonable means of communication.
- 3387 (4) The State Board of Education may consult with appropriate committees, including
- 3388 committees that provide opportunities for the input of parents, law enforcement, and
- 3389 community agencies, as it develops, enacts, and administers the rules described in Subsection

3390 (1).

3391 Section 54. Section **53A-17a-165** is amended to read:

3392 **53A-17a-165. Enhancement for Accelerated Students Program.**

3393 (1) As used in this section, "eligible low-income student" means a student who:

3394 (a) takes an Advanced Placement test;

3395 (b) has applied for an Advanced Placement test fee reduction; and

3396 (c) qualifies for a free lunch or a lunch provided at reduced cost.

3397 (2) The State Board of Education shall distribute money appropriated for the

3398 Enhancement for Accelerated Students Program to school districts and charter schools

3399 according to a formula adopted by the State Board of Education, after consultation with school

3400 districts and charter schools.

3401 (3) A distribution formula adopted under Subsection (2) may include an allocation of
3402 money for:

3403 (a) Advanced Placement courses;

3404 (b) Advanced Placement test fees of eligible low-income students;

3405 (c) gifted and talented programs, including professional development for teachers of
3406 high ability students; and

3407 (d) International Baccalaureate programs.

3408 (4) The greater of 1.5% or \$100,000 of the appropriation for the Enhancement for
3409 Accelerated Students Program may be allowed for International Baccalaureate programs.

3410 (5) A school district or charter school shall use money distributed under this section to
3411 enhance the academic growth of students whose academic achievement is accelerated.

3412 (6) (a) The State Board of Education shall develop performance criteria to measure the
3413 effectiveness of the Enhancement for Accelerated Students Program and make an annual report
3414 to the Public Education Appropriations Subcommittee on the effectiveness of the program.

3415 (b) In the report required by Subsection (6)(a), the State Board of Education shall
3416 include data showing the use and impact of money allocated for Advanced Placement test fees
3417 of eligible low-income students.

3418 Section 55. Section **53B-24-102** is amended to read:

3419 **53B-24-102. Definitions.**

3420 As used in this chapter:

3421 (1) "Accredited clinical education program" means a clinical education program for a
3422 health care profession that is accredited by the Accreditation Council on Graduate Medical
3423 Education.

3424 (2) "Accredited clinical training program" means a clinical training program that is
3425 accredited by an entity recognized within medical education circles as an accrediting body for
3426 medical education, advanced practice nursing education, physician assistance education, doctor
3427 of pharmacy education, or registered nursing education.

3428 (3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and
3429 Medicaid Services within the United States Department of Health and Human Services.

3430 [~~(3)~~] (4) "Council" means the Medical Education Council created under Section
3431 [53B-24-302](#).

3432 [~~(4) "Health Care Financing Administration" means the Health Care Financing~~
3433 ~~Administration within the United States Department of Health and Human Services.]~~

3434 (5) "Health care professionals in training" means medical students and residents,
3435 advance practice nursing students, physician assistant students, doctor of pharmacy students,
3436 and registered nursing students.

3437 (6) "Program" means the Medical Education Program created under Section
3438 [53B-24-202](#).

3439 Section 56. Section **53B-24-202** is amended to read:

3440 **53B-24-202. Medical Education Program.**

3441 (1) There is created a Medical Education Program to be administered by the Medical
3442 Education Council in cooperation with the Division of Finance.

3443 (2) The program shall be funded from money received for graduate medical education
3444 from:

3445 (a) the federal [~~Health Care Financing Administration~~] Centers for Medicare and

3446 Medicaid Services or other federal agency;

3447 (b) state appropriations; and

3448 (c) donation or private contributions.

3449 (3) All funding for this program shall be nonlapsing.

3450 (4) Program money may only be expended if:

3451 (a) approved by the council; and

3452 (b) used for graduate medical education in accordance with Subsection [53B-24-303\(7\)](#).

3453 Section 57. Section **53B-24-303** is amended to read:

3454 **53B-24-303. Duties of council.**

3455 The council shall:

3456 (1) submit an application in accordance with federal law for a demonstration project to
3457 the ~~[Health Care Financing Administration]~~ Centers for Medicare and Medicaid Services
3458 before December 31, 1997, for the purpose of receiving and disbursing federal funds for direct
3459 and indirect graduate medical education expenses;

3460 (2) seek private and public contributions for the program;

3461 (3) study and recommend options for financing graduate medical education to the State
3462 Board of Regents and the Legislature;

3463 (4) advise the State Board of Regents and the Legislature on the status and needs of
3464 health care professionals in training;

3465 (5) determine the method for reimbursing institutions that sponsor health care
3466 professionals in training;

3467 (6) determine the number and type of positions for health care professionals in training
3468 for which program money may be used; and

3469 (7) distribute program money for graduate medical education in a manner that:

3470 (a) prepares postgraduate medical residents, as defined by the accreditation council on
3471 graduate medical education, for inpatient, outpatient, hospital, community, and geographically
3472 diverse settings;

3473 (b) encourages the coordination of interdisciplinary clinical training among health care

3474 professionals in training;

3475 (c) promotes stable funding for the clinical training of health care professionals in
3476 training; and

3477 (d) only funds accredited clinical training programs.

3478 Section 58. Section **53B-24-402** is amended to read:

3479 **53B-24-402. Rural residency training program.**

3480 (1) For purposes of this section:

3481 (a) "Physician" means:

3482 (i) a person licensed to practice medicine under Title 58, Chapter 67, Utah Medical
3483 Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

3484 (ii) a person licensed to practice dentistry under Title 58, Chapter 69, Dentist and
3485 Dental Hygienist Practice Act.

3486 (b) "Rural residency training program" means an accredited clinical training program
3487 as defined in Section [53B-24-102](#) which places a physician into a rural county for a part or all
3488 of the physician's clinical training.

3489 (2) (a) Subject to appropriations from the Legislature, the council shall establish a pilot
3490 program to place physicians into rural residency training programs.

3491 (b) The pilot program shall begin July 1, 2005 and sunset July 1, 2015, in accordance
3492 with Section [~~63I-1-263~~] [63I-1-253](#).

3493 Section 59. Section **53D-1-301** is amended to read:

3494 **53D-1-301. Board of trustees -- Creation -- Membership.**

3495 (1) There is created a School and Institutional Trust Fund Board of Trustees.

3496 (2) The board consists of:

3497 (a) the state treasurer; and

3498 (b) four additional members who are appointed by the state treasurer on a nonpartisan
3499 basis from a list of at least two qualified candidates per position, nominated by the nominating
3500 committee, as provided in Section [53D-1-503](#).

3501 (3) The state treasurer shall appoint members under Subsection (2)(b) who possess:

3502 (a) outstanding professional qualifications pertinent to the prudent investment of trust
3503 fund money; and

3504 (b) expertise in institutional investment management.

3505 (4) (a) The term of a board member under Subsection (2)(b) is six years.

3506 (b) Notwithstanding Subsection (4)(a), the nominating committee shall stagger terms
3507 of initial board members so that the term of not more than one member expires in any year.

3508 (c) A board member may not serve consecutive terms, except that:

3509 (i) a board member whose term is less than six years because of the staggering of terms
3510 under Subsection (4)(b) may serve a full consecutive term after the completion of the initial
3511 term; and

3512 (ii) a member appointed to fill a vacancy may serve a full consecutive term after filling
3513 a previous unexpired term.

3514 (d) A board member shall serve until a successor is appointed, confirmed, and
3515 qualified.

3516 (5) Before assuming duties as a board member, a member shall take an oath of office
3517 that includes the following:

3518 "I solemnly swear to carry out my duties as a member of the School and Institutional
3519 Trust Fund Board of Trustees and to act with undivided loyalty to the beneficiaries of the trust
3520 fund that the board oversees, to the best of my abilities and consistent with the law."

3521 (6) The state treasurer may remove a board member for cause, subject to the
3522 affirmative vote of at least two other board members, besides the state treasurer.

3523 (7) The state treasurer shall fill a vacancy in the same manner as the initial appointment
3524 under Subsection (2)(b)[(†)].

3525 (8) A board member may not receive any compensation or benefits for the member's
3526 service, but the member may receive per diem and travel expenses in accordance with:

3527 (a) Section [63A-3-106](#);

3528 (b) Section [63A-3-107](#); and

3529 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

3530 63A-3-107.

3531 Section 60. Section **53D-1-402** is amended to read:

3532 **53D-1-402. Director duties and responsibilities.**

3533 (1) The director has broad authority to manage the office to fulfill its purposes,
3534 consistent with the enabling act, the Utah Constitution, state law, and board policies.

3535 (2) The director shall:

3536 (a) before assuming the duties of director, take an oath that includes the following:

3537 "I solemnly swear to carry out my duties as director of the School and Institutional
3538 Trust Fund Office with undivided loyalty to the beneficiaries of the trust fund managed by the
3539 office, to the best of my abilities and consistent with the law.";

3540 (b) carry out the policies of the board;

3541 (c) act with undivided loyalty to those entitled to the benefit of income from the trust
3542 fund, consistent with the director's fiduciary duties and responsibilities;

3543 (d) follow the prudent investor rule, prudently seeking to obtain the optimum return
3544 from the investment of trust fund money and assets, balancing short-term and long-term
3545 interests under the principle of intergenerational equity;

3546 (e) exercise full discretionary authority to manage, maintain, transfer, or sell assets of
3547 the trust fund in the manner that the director determines to be most favorable to beneficiaries;

3548 (f) maintain the integrity of the trust fund and prevent, through prudent management,
3549 the misapplication of trust fund money;

3550 (g) adopt rules, as provided in Subsection **53D-1-103**~~(3)~~(4), that are necessary for the
3551 proper exercise of the director's duties under this chapter and policies established by the board;

3552 (h) faithfully manage the office under policies established by the board;

3553 (i) annually submit to the board:

3554 (i) an office budget; and

3555 (ii) a financial plan for operations of the office;

3556 (j) after board approval of the office budget, submit the budget to the governor and the
3557 Legislature;

- 3558 (k) direct and control budget expenditures;
 - 3559 (l) establish job descriptions and, within budgetary constraints, employ staff necessary
 - 3560 to accomplish the purposes of the office;
 - 3561 (m) in accordance with generally accepted principles of fund accounting, establish a
 - 3562 system to identify and account for the trust fund assets;
 - 3563 (n) notify the director of the school children's trust section of major items that the
 - 3564 director knows may be useful to the director of the school children's trust section in protecting
 - 3565 the rights of beneficiaries;
 - 3566 (o) maintain appropriate records of trust fund activities to enable auditors to conduct
 - 3567 periodic audits;
 - 3568 (p) respond in writing within a reasonable time to a request by the director of the
 - 3569 school children's trust section for information on policies and practices affecting the
 - 3570 management of the trust fund; and
 - 3571 (q) respond to a question that the board submits under Subsection [53D-1-303\(4\)\(c\)\(b\)](#)
 - 3572 within a reasonable time after receiving the question.
 - 3573 (3) The office may:
 - 3574 (a) sue or be sued; and
 - 3575 (b) contract with other public agencies for personnel management services.
- 3576 Section 61. Section **57-8a-209** is amended to read:
- 3577 **57-8a-209. Rental restrictions.**
- 3578 (1) As used in this section, "rentals" or "rental lot" means:
 - 3579 (a) a lot owned by an individual not described in Subsection (1)(b) that is occupied by
 - 3580 someone while no lot owner occupies the lot as the lot owner's primary residence; and
 - 3581 (b) a lot owned by an entity or trust, regardless of who occupies the lot.
 - 3582 (2) (a) Subject to Subsections (2)(b), (6), and (7), an association may:
 - 3583 (i) create restrictions on the number and term of rentals in an association; or
 - 3584 (ii) prohibit rentals in the association.
 - 3585 (b) An association that creates a rental restriction or prohibition in accordance with

3586 Subsection [~~(1)(a)(i)~~] (2)(a) shall create the rental restriction or prohibition in a recorded
3587 declaration of covenants, conditions, and restrictions, or by amending the recorded declaration
3588 of covenants, conditions, and restrictions.

3589 (3) If an association prohibits or imposes restrictions on the number and term of
3590 rentals, the restrictions shall include:

3591 (a) a provision that requires the association to exempt from the rental restrictions the
3592 following lot owner and the lot owner's lot:

- 3593 (i) a lot owner in the military for the period of the lot owner's deployment;
- 3594 (ii) a lot occupied by a lot owner's parent, child, or sibling;
- 3595 (iii) a lot owner whose employer has relocated the lot owner for no less than two years;

3596 or

3597 (iv) a lot owned by a trust or other entity created for estate planning purposes if the
3598 trust or other estate planning entity was created for:

- 3599 (A) the estate of a current resident of the lot; or
- 3600 (B) the parent, child, or sibling of the current resident of the lot;

3601 (b) a provision that allows a lot owner who has a rental in the association before the
3602 time the rental restriction described in Subsection (2)(a) is recorded with the county recorder of
3603 the county in which the association is located to continue renting until:

- 3604 (i) the lot owner occupies the lot; or
- 3605 (ii) an officer, owner, member, trustee, beneficiary, director, or person holding a
3606 similar position of ownership or control of an entity or trust that holds an ownership interest in
3607 the lot, occupies the lot; and

3608 (c) a requirement that the association create, by rule or resolution, procedures to:

- 3609 (i) determine and track the number of rentals and lots in the association subject to the
3610 provisions described in Subsections (3)(a) and (b); and
- 3611 (ii) ensure consistent administration and enforcement of the rental restrictions.

3612 (4) For purposes of Subsection (3)(b), a transfer occurs when one or more of the
3613 following occur:

- 3614 (a) the conveyance, sale, or other transfer of a lot by deed;
- 3615 (b) the granting of a life estate in the lot; or
- 3616 (c) if the lot is owned by a limited liability company, corporation, partnership, or other
- 3617 business entity, the sale or transfer of more than 75% of the business entity's share, stock,
- 3618 membership interests, or partnership interests in a 12-month period.

3619 (5) This section does not limit or affect residency age requirements for an association
3620 that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec.
3621 3607.

3622 (6) The declaration of covenants, conditions, and restrictions or amendments to the
3623 declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot
3624 from the initial declarant may prohibit or restrict rentals without providing for the exceptions,
3625 provisions, and procedures required under Subsection (3)(a).

3626 (7) Subsections (2) through (6) do not apply to:

- 3627 (a) an association that contains a time period unit as defined in Section 57-8-3;
- 3628 (b) any other form of timeshare interest as defined in Section 57-19-2; or
- 3629 (c) an association in which the initial declaration of covenants, conditions, and
- 3630 restrictions is recorded before May 12, 2009.

3631 (8) Notwithstanding this section, an association may, upon unanimous approval by all
3632 lot owners, restrict or prohibit rentals without an exception described in Subsection (3).

3633 (9) Except as provided in Subsection (10), an association may not require a lot owner
3634 who owns a rental lot to:

- 3635 (a) obtain the association's approval of a prospective renter; or
- 3636 (b) give the association:
 - 3637 (i) a copy of a rental application;
 - 3638 (ii) a copy of a renter's or prospective renter's credit information or credit report;
 - 3639 (iii) a copy of a renter's or prospective renter's background check; or
 - 3640 (iv) documentation to verify the renter's age.

3641 (10) (a) A lot owner who owns a rental lot shall give an association the documents

3642 described in Subsection (9)(b) if the lot owner is required to provide the documents by court
3643 order or as part of discovery under the Utah Rules of Civil Procedure.

3644 (b) If an association's declaration of covenants, conditions, and restrictions lawfully
3645 prohibits or restricts occupancy of the lots by a certain class of individuals, the association may
3646 require a lot owner who owns a rental lot to give the association the information described in
3647 Subsection (9)(b), if:

3648 (i) the information helps the association determine whether the renter's occupancy of
3649 the lot complies with the association's declaration of covenants, conditions, and restrictions;
3650 and

3651 (ii) the association uses the information to determine whether the renter's occupancy of
3652 the lot complies with the association's declaration of covenants, conditions, and restrictions.

3653 Section 62. Section **57-17-3** is amended to read:

3654 **57-17-3. Deductions from deposit -- Written itemization -- Time for return.**

3655 (1) Upon termination of a tenancy, the owner or the owner's agent may apply property
3656 or money held as a deposit toward the payment of rent, damages to the premises beyond
3657 reasonable wear and tear, other costs and fees provided for in the contract, or cleaning of the
3658 unit.

3659 (2) No later than 30 days after the day on which a renter vacates and returns possession
3660 of a rental property to the owner or the owner's agent, the owner or the owner's agent shall
3661 deliver to the renter at the renter's last known address:

3662 (a) the balance of any deposit;

3663 (b) the balance of any prepaid rent; and

3664 (c) if the owner or the owner's agent made any deductions from the deposit or prepaid
3665 rent, a written notice that itemizes and explains the reason for each deduction.

3666 (3) If an owner or the owner's agent fails to comply with the requirements described in
3667 Subsection (2), the renter may serve the owner or the owner's agent, in accordance with
3668 Subsection (4), a notice that:

3669 (a) states:

- 3670 (i) the names of the parties to the rental agreement;
- 3671 (ii) the day on which the renter vacated the rental property;
- 3672 (iii) that the owner or the owner's agent has failed to comply with the requirements
- 3673 described in Subsection (2); and
- 3674 (iv) the address where the owner or the owner's agent may send the items described in
- 3675 Subsection (2); and
- 3676 (b) is substantially in the following form:

TENANT'S NOTICE TO PROVIDE DEPOSIT DISPOSITION

3678 TO: (insert owner or owner's agent's name)

3679 RE: (insert address of rental property)

3680 NOTICE IS HEREBY GIVEN THAT WITHIN FIVE (5) CALENDAR DAYS

3681 pursuant to Utah Code Sections 57-17-3 et seq., the owner or the owner's agent must provide

3682 the tenant, at the address below, a refund of the balance of any security deposit, the balance of

3683 any prepaid rent, and a notice of any deductions from the security deposit or prepaid rent as

3684 allowed by law.

3685 NOTICE IS FURTHER GIVEN that failure to comply with this notice will require the

3686 owner to refund the entire security deposit, the full amount of any prepaid rent, and a penalty of

3687 \$100. If the entire security deposit, the full amount of any prepaid rent, and the penalty of \$100

3688 is not tendered to the tenant, and the tenant is required to initiate litigation to enforce the

3689 provisions of the statute, the owner may be liable for the tenant's court costs and attorney fees.

3690 Tenant's Name(s): _____

3691 Mailing Address _____ City _____ State _____ Zip _____

3692 This is a legal document. Please read and comply with the document's terms.

3693 Dated this _____ day of _____, 20____.

3694 Return of Service

3695 On this _____ day of _____, 20____, I swear and attest that I served this notice

3696 in compliance with Utah Code Section 57-17-3 by:

3697 _____ Delivering a copy to the owner or the owner's agent personally at the address

3698 provided in the lease agreement;
3699 _____ Leaving a copy with a person of suitable age and discretion at the address
3700 provided in the lease agreement because the owner or the owner's agent was absent from the
3701 address provided in the lease agreement;

3702 _____ Affixing a copy in a conspicuous place at the address provided in the lease
3703 agreement because a person of suitable age or discretion could not be found at the address
3704 provided in the lease agreement; or

3705 _____ Sending a copy through registered or certified mail to the owner or the owner's
3706 agent at the address provided in the lease agreement.

3707 The owner's address to which the service was effected is:

3708 Address _____ City _____ State _____ Zip _____

3709 _____ (server's signature)

3710 **Self-Authentication Declaration**

3711 Pursuant to Utah Code Section [~~46-5-101~~] [78B-5-705](#), I declare under criminal penalty of the
3712 State of Utah that the foregoing is true and correct.

3713 Executed this _____ day of _____, 20 ____.

3714 _____ (server's signature)

3715 (4) A notice described in Subsection (3) shall be served:

3716 (a) (i) by delivering a copy to the owner or the owner's agent personally at the address
3717 provided in the lease agreement;

3718 (ii) if the owner or the owner's agent is absent from the address provided in the lease
3719 agreement, by leaving a copy with a person of suitable age and discretion at the address
3720 provided in the lease agreement; or

3721 (iii) if a person of suitable age or discretion cannot be found at the address provided in
3722 the lease agreement, by affixing a copy in a conspicuous place at the address provided in the
3723 lease agreement; or

3724 (b) by sending a copy through registered or certified mail to the owner or the owner's
3725 agent at the address provided in the lease agreement.

3726 (5) Within five business days after the day on which the notice described in Subsection
3727 (3) is served, the owner or the owner's agent shall comply with the requirements described in
3728 Subsection (2).

3729 Section 63. Section **57-17-5** is amended to read:

3730 **57-17-5. Failure to return deposit or prepaid rent or to give required notice --**
3731 **Recovery of deposit, penalty, costs, and attorney fees.**

3732 (1) If an owner or the owner's agent fails to comply with the requirements described in
3733 Subsection [~~57-17-4~~] 57-17-3(5), the renter may:

3734 (a) recover from the owner:

3735 (i) if the owner or the owner's agent failed to timely return the balance of the renter's
3736 deposit, the full deposit;

3737 (ii) if the owner or the owner's agent failed to timely return the balance of the renter's
3738 prepaid rent, the full amount of the prepaid rent; and

3739 (iii) a civil penalty of \$100; and

3740 (b) file an action in district court to enforce compliance with the provisions of this
3741 section.

3742 (2) In an action under Subsection (1)(b), the court shall award costs and attorney fees
3743 to the prevailing party if the court determines that the opposing party acted in bad faith.

3744 (3) A renter is not entitled to relief under this section if the renter fails to serve a notice
3745 in accordance with Subsection 57-17-3(3).

3746 (4) This section does not preclude an owner or a renter from recovering other damages
3747 to which the owner or the renter is entitled.

3748 Section 64. Section **58-11a-302** is amended to read:

3749 **58-11a-302. Qualifications for licensure.**

3750 (1) Each applicant for licensure as a barber shall:

3751 (a) submit an application in a form prescribed by the division;

3752 (b) pay a fee determined by the department under Section 63J-1-504;

3753 (c) be of good moral character;

- 3754 (d) provide satisfactory documentation of:
- 3755 (i) graduation from a licensed or recognized barber school, or a licensed or recognized
- 3756 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of
- 3757 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;
- 3758 (ii) (A) graduation from a recognized barber school located in a state other than Utah
- 3759 whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of
- 3760 credit hours; and
- 3761 (B) practice as a licensed barber in a state other than Utah for not less than the number
- 3762 of hours required to equal 1,000 total hours when added to the hours of instruction described in
- 3763 Subsection (1)(d)(ii)(A); or
- 3764 (iii) completion of an approved barber apprenticeship; and
- 3765 (e) meet the examination requirement established by rule.
- 3766 (2) Each applicant for licensure as a barber instructor shall:
- 3767 (a) submit an application in a form prescribed by the division;
- 3768 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 3769 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 3770 barber;
- 3771 (d) be of good moral character;
- 3772 (e) provide satisfactory documentation of completion of:
- 3773 (i) an instructor training program conducted by a licensed or recognized school as
- 3774 defined by rule consisting of a minimum of 500 hours or the equivalent number of credit hours;
- 3775 or
- 3776 (ii) a minimum of 2,000 hours of experience as a barber; and
- 3777 (f) meet the examination requirement established by rule.
- 3778 (3) Each applicant for licensure as a barber school shall:
- 3779 (a) submit an application in a form prescribed by the division;
- 3780 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 3781 (c) provide satisfactory documentation:

- 3782 (i) of appropriate registration with the Division of Corporations and Commercial Code;
3783 (ii) of business licensure from the city, town, or county in which the school is located;
3784 (iii) that the applicant's physical facilities comply with the requirements established by
3785 rule; and
- 3786 (iv) that the applicant meets:
- 3787 (A) the standards for barber schools, including staff and accreditation requirements,
3788 established by rule; and
- 3789 (B) the requirements for recognition as an institution of postsecondary study as
3790 described in Subsection (19).
- 3791 (4) Each applicant for licensure as a cosmetologist/barber shall:
- 3792 (a) submit an application in a form prescribed by the division;
3793 (b) pay a fee determined by the department under Section [63J-1-504](#);
3794 (c) be of good moral character;
3795 (d) provide satisfactory documentation of:
- 3796 (i) (A) graduation from a licensed or recognized cosmetology/barber school whose
3797 curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of
3798 credit hours, with full flexibility within those hours, if the applicant was not a currently
3799 enrolled student of a cosmetology/barber school on January 1, 2013; or
- 3800 (B) graduation from a licensed or recognized cosmetology/barber school whose
3801 curriculum consists of a minimum of 2,000 hours of instruction, or the equivalent number of
3802 credit hours, with full flexibility within those hours, if the applicant's hours of instruction
3803 commenced before January 1, 2013, and the applicant was a currently enrolled student of a
3804 cosmetology/barber school on January 1, 2013;
- 3805 (ii) (A) graduation from a recognized cosmetology/barber school located in a state
3806 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
3807 equivalent number of credit hours, with full flexibility within those hours; and
- 3808 (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less
3809 than the number of hours required to equal 1,600 total hours when added to the hours of

3810 instruction described in Subsection (4)(d)(ii)(A); or
3811 (iii) completion of an approved cosmetology/barber apprenticeship; and
3812 (e) meet the examination requirement established by rule.
3813 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:
3814 (a) submit an application in a form prescribed by the division;
3815 (b) pay a fee determined by the department under Section 63J-1-504;
3816 (c) provide satisfactory documentation that the applicant is currently licensed as a
3817 cosmetologist/barber;
3818 (d) be of good moral character;
3819 (e) provide satisfactory documentation of completion of:
3820 (i) an instructor training program conducted by a licensed or recognized school as
3821 defined by rule consisting of a minimum of 1,000 hours or the equivalent number of credit
3822 hours; or
3823 (ii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and
3824 (f) meet the examination requirement established by rule.
3825 (6) Each applicant for licensure as a cosmetologist/barber school shall:
3826 (a) submit an application in a form prescribed by the division;
3827 (b) pay a fee determined by the department under Section 63J-1-504; and
3828 (c) provide satisfactory documentation:
3829 (i) of appropriate registration with the Division of Corporations and Commercial Code;
3830 (ii) of business licensure from the city, town, or county in which the school is located;
3831 (iii) that the applicant's physical facilities comply with the requirements established by
3832 rule; and
3833 (iv) that the applicant meets:
3834 (A) the standards for cosmetology schools, including staff and accreditation
3835 requirements, established by rule; and
3836 (B) the requirements for recognition as an institution of postsecondary study as
3837 described in Subsection (19).

- 3838 (7) Each applicant for licensure as an electrologist shall:
- 3839 (a) submit an application in a form prescribed by the division;
- 3840 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 3841 (c) be of good moral character;
- 3842 (d) provide satisfactory documentation of having graduated from a licensed or
- 3843 recognized electrology school after completing a curriculum of 600 hours of instruction or the
- 3844 equivalent number of credit hours; and
- 3845 (e) meet the examination requirement established by rule.
- 3846 (8) Each applicant for licensure as an electrologist instructor shall:
- 3847 (a) submit an application in a form prescribed by the division;
- 3848 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 3849 (c) provide satisfactory documentation that the applicant is currently licensed as an
- 3850 electrologist;
- 3851 (d) be of good moral character;
- 3852 (e) provide satisfactory documentation of completion of:
- 3853 (i) an instructor training program conducted by a licensed or recognized school as
- 3854 defined by rule consisting of a minimum of 175 hours or the equivalent number of credit hours;
- 3855 or
- 3856 (ii) a minimum of 1,000 hours of experience as an electrologist; and
- 3857 (f) meet the examination requirement established by rule.
- 3858 (9) Each applicant for licensure as an electrologist school shall:
- 3859 (a) submit an application in a form prescribed by the division;
- 3860 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 3861 (c) provide satisfactory documentation:
- 3862 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 3863 (ii) of business licensure from the city, town, or county in which the school is located;
- 3864 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 3865 (iv) that the applicant meets:

- 3866 (A) the standards for electrologist schools, including staff, curriculum, and
3867 accreditation requirements, established by rule; and
- 3868 (B) the requirements for recognition as an institution of postsecondary study as
3869 described in Subsection (19).
- 3870 (10) Each applicant for licensure as an esthetician shall:
- 3871 (a) submit an application in a form prescribed by the division;
- 3872 (b) pay a fee determined by the department under Section 63J-1-504;
- 3873 (c) be of good moral character;
- 3874 (d) provide satisfactory documentation of one of the following:
- 3875 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized
3876 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic
3877 instruction with a minimum of 600 hours or the equivalent number of credit hours;
- 3878 (ii) completion of an approved esthetician apprenticeship; or
- 3879 (iii) (A) graduation from a recognized cosmetology/barber school located in a state
3880 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
3881 equivalent number of credit hours, with full flexibility within those hours; and
- 3882 (B) practice as a licensed cosmetologist/barber for not less than the number of hours
3883 required to equal 1,600 total hours when added to the hours of instruction described in
3884 Subsection (10)(d)(iii)(A); and
- 3885 (e) meet the examination requirement established by division rule.
- 3886 (11) Each applicant for licensure as a master esthetician shall:
- 3887 (a) submit an application in a form prescribed by the division;
- 3888 (b) pay a fee determined by the department under Section 63J-1-504;
- 3889 (c) be of good moral character;
- 3890 (d) provide satisfactory documentation of:
- 3891 (i) completion of at least 1,200 hours of training, or the equivalent number of credit
3892 hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the
3893 1,200 hours may have been completed:

- 3894 (A) at a licensed or recognized cosmetology/barbering school, if the applicant
3895 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or
3896 the equivalent number of credit hours, with full flexibility within those hours; or
- 3897 (B) at a licensed or recognized cosmetology/barber school located in a state other than
3898 Utah, if the applicant graduated from the school and its curriculum contained full flexibility
3899 within its hours of instruction; or
- 3900 (ii) completion of an approved master esthetician apprenticeship;
- 3901 (e) if the applicant will practice lymphatic massage, provide satisfactory documentation
3902 to show completion of 200 hours of training, or the equivalent number of credit hours, in
3903 lymphatic massage as defined by division rule; and
- 3904 (f) meet the examination requirement established by division rule.
- 3905 (12) Each applicant for licensure as an esthetician instructor shall:
- 3906 (a) submit an application in a form prescribed by the division;
- 3907 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 3908 (c) provide satisfactory documentation that the applicant is currently licensed as a
3909 master esthetician;
- 3910 (d) be of good moral character;
- 3911 (e) provide satisfactory documentation of completion of:
- 3912 (i) an instructor training program conducted by a licensed or recognized school as
3913 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit
3914 hours; or
- 3915 (ii) a minimum of 1,000 hours of experience in esthetics; and
- 3916 (f) meet the examination requirement established by rule.
- 3917 (13) Each applicant for licensure as an esthetics school shall:
- 3918 (a) submit an application in a form prescribed by the division;
- 3919 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 3920 (c) provide satisfactory documentation:
- 3921 (i) of appropriate registration with the Division of Corporations and Commercial Code;

3922 (ii) of business licensure from the city, town, or county in which the school is located;

3923 (iii) that the applicant's physical facilities comply with the requirements established by
3924 rule; and

3925 (iv) that the applicant meets:

3926 (A) the standards for esthetics schools, including staff, curriculum, and accreditation
3927 requirements, established by division rule made in collaboration with the board; and

3928 (B) the requirements for recognition as an institution of postsecondary study as
3929 described in Subsection (19).

3930 (14) Each applicant for licensure as a nail technician shall:

3931 (a) submit an application in a form prescribed by the division;

3932 (b) pay a fee determined by the department under Section [63J-1-504](#);

3933 (c) be of good moral character;

3934 (d) provide satisfactory documentation of:

3935 (i) graduation from a licensed or recognized nail technology school, or a licensed or
3936 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of
3937 instruction, or the equivalent number of credit hours;

3938 (ii) (A) graduation from a recognized nail technology school located in a state other
3939 than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent
3940 number of credit hours; and

3941 (B) practice as a licensed nail technician in a state other than Utah for not less than the
3942 number of hours required to equal 300 total hours when added to the hours of instruction
3943 described in Subsection (14)(d)(ii)(A); or

3944 (iii) completion of an approved nail technician apprenticeship; and

3945 (e) meet the examination requirement established by division rule.

3946 (15) Each applicant for licensure as a nail technician instructor shall:

3947 (a) submit an application in a form prescribed by the division;

3948 (b) pay a fee determined by the department under Section [63J-1-504](#);

3949 (c) provide satisfactory documentation that the applicant is currently licensed as a nail

3950 technician;

3951 (d) be of good moral character;

3952 (e) provide satisfactory documentation of completion of:

3953 (i) an instructor training program conducted by a licensed or recognized school as
3954 defined by rule consisting of a minimum of 150 hours or the equivalent number of credit hours;
3955 or

3956 (ii) a minimum of 600 hours of experience in nail technology; and

3957 (f) meet the examination requirement established by rule.

3958 (16) Each applicant for licensure as a nail technology school shall:

3959 (a) submit an application in a form prescribed by the division;

3960 (b) pay a fee determined by the department under Section [63J-1-504](#); and

3961 (c) provide satisfactory documentation:

3962 (i) of appropriate registration with the Division of Corporations and Commercial Code;

3963 (ii) of business licensure from the city, town, or county in which the school is located;

3964 (iii) that the applicant's facilities comply with the requirements established by rule; and

3965 (iv) that the applicant meets:

3966 (A) the standards for nail technology schools, including staff, curriculum, and
3967 accreditation requirements, established by rule; and

3968 (B) the requirements for recognition as an institution of postsecondary study as
3969 described in Subsection (19).

3970 (17) Each applicant for licensure under this chapter whose education in the field for
3971 which a license is sought was completed at a foreign school may satisfy the educational
3972 requirement for licensure by demonstrating, to the satisfaction of the division, the educational
3973 equivalency of the foreign school education with a licensed school under this chapter.

3974 (18) (a) A licensed or recognized school under this section may accept credit hours
3975 towards graduation for any profession listed in this section.

3976 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
3977 consistent with this section, the division may make rules governing the acceptance of credit

3978 hours under Subsection (18)(a).

3979 (19) A school licensed or applying for licensure under this chapter shall maintain
3980 recognition as an institution of postsecondary study by meeting the following conditions:

3981 (a) the school shall admit as a regular student only an individual who has earned a
3982 recognized high school diploma or the equivalent of a recognized high school diploma, or who
3983 is beyond the age of compulsory high school attendance as prescribed by Title 53A, Chapter
3984 11; and

3985 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for
3986 licensure by name, under this chapter to offer one or more training programs beyond the
3987 secondary level.

3988 Section 65. Section **58-17b-308** is amended to read:

3989 **58-17b-308. Term of license -- Expiration -- Renewal.**

3990 (1) Except as provided in Subsection (2), each license issued under this chapter shall be
3991 issued in accordance with a two-year renewal cycle established by rule. A renewal period may
3992 be extended or shortened by as much as one year to maintain established renewal cycles or to
3993 change an established renewal cycle. Each license automatically expires on the expiration date
3994 shown on the license unless renewed by the licensee in accordance with Section **58-1-308**.

3995 (2) The duration of a pharmacy intern license may be no longer than:

3996 (a) one year for a license issued under Subsection **58-17b-304(7)(b)** [~~or (c)~~]; or

3997 (b) five years for a license issued under Subsection **58-17b-304(7)(a)**.

3998 (3) A pharmacy intern license issued under this chapter may not be renewed, but may
3999 be extended by the division in collaboration with the board.

4000 Section 66. Section **58-31d-103** is amended to read:

4001 **58-31d-103. Rulemaking authority -- Enabling provisions.**

4002 (1) The division may adopt rules necessary to implement Section **58-31d-102**.

4003 (2) As used in Article VIII (1) of the Advanced Practice Registered Nurse Compact,
4004 "head of the licensing board" means the executive administrator of the Utah Board of Nursing.

4005 (3) For purposes of the Advanced Practice Registered Nurse Compact, "APRN" as

4006 defined in Article II (1) of the compact includes an individual who is:

4007 (a) licensed to practice under Subsection 58-31b-301(2) as an advanced practice
4008 registered nurse; or

4009 (b) licensed to practice under Section 58-44a-301 as a certified nurse midwife.

4010 (4) An APRN practicing in this state under a multistate licensure privilege may only be
4011 granted prescriptive authority if that individual can document completion of graduate level
4012 course work in the following areas:

4013 (a) advanced health assessment;

4014 (b) pharmacotherapeutics; and

4015 (c) diagnosis and treatment.

4016 (5) (a) An APRN practicing in this state under a multistate privilege who seeks to
4017 obtain prescriptive authority must:

4018 (i) meet all the requirements of Subsection (4) and this Subsection (5); and

4019 (ii) be placed on a registry with the division.

4020 (b) To be placed on a registry under Subsection (5)(a)(ii), an APRN must:

4021 (i) submit a form prescribed by the division;

4022 (ii) pay a fee; and

4023 (iii) if prescribing a controlled substance:

4024 (A) obtain a controlled substance license as required under Section 58-37-6; and

4025 (B) if prescribing a Schedule II or III controlled substance, have a consultation and
4026 referral plan with a physician licensed in Utah as required under Subsection

4027 58-31b-102(13)(c)(iii) or 58-44a-102~~[(8)(b)(iii)(C)]~~(9)(c)(iii)(C).

4028 Section 67. Section 58-37-2 is amended to read:

4029 **58-37-2. Definitions.**

4030 (1) As used in this chapter:

4031 (a) "Administer" means the direct application of a controlled substance, whether by
4032 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
4033 by:

4034 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;
4035 or

4036 (ii) the patient or research subject at the direction and in the presence of the
4037 practitioner.

4038 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
4039 manufacturer, distributor, or practitioner but does not include a motor carrier, public
4040 warehouseman, or employee of any of them.

4041 (c) "Consumption" means ingesting or having any measurable amount of a controlled
4042 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
4043 controlled substance.

4044 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
4045 partnership, corporation, business trust, association, or other legal entity, and any union or
4046 groups of individuals associated in fact although not a legal entity, and includes illicit as well
4047 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
4048 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
4049 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
4050 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
4051 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
4052 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
4053 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
4054 unlawful conduct and be related either to each other or to the enterprise.

4055 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
4056 immediate precursor under Section [58-37-3](#).

4057 (f) (i) "Controlled substance" means a drug or substance:

4058 (A) included in Schedules I, II, III, IV, or V of Section [58-37-4](#);

4059 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,
4060 Title II, P.L. 91-513;

4061 (C) that is a controlled substance analog; or

4062 (D) listed in Section 58-37-4.2.

4063 (ii) "Controlled substance" does not include:

4064 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,
4065 Alcoholic Beverage Control Act;

4066 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
4067 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,
4068 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
4069 transferred, or furnished as an over-the-counter medication without prescription; or

4070 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
4071 including concentrates or extracts, which:

4072 (I) are not otherwise regulated by law; and

4073 (II) may contain naturally occurring amounts of chemical or substances listed in this
4074 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking
4075 Act.

4076 (g) (i) "Controlled substance analog" means:

4077 (A) a substance the chemical structure of which is substantially similar to the chemical
4078 structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance
4079 listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act,
4080 Title II, P.L. 91-513;

4081 (B) a substance which has a stimulant, depressant, or hallucinogenic effect on the
4082 central nervous system substantially similar to the stimulant, depressant, or hallucinogenic
4083 effect on the central nervous system of controlled substances listed in Schedules I and II of
4084 Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and
4085 II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

4086 (C) A substance which, with respect to a particular individual, is represented or
4087 intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system
4088 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
4089 nervous system of controlled substances listed in Schedules I and II of Section 58-37-4,

4090 substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal
4091 Controlled Substances Act, Title II, P.L. 91-513.

4092 (ii) "Controlled substance analog" does not include:

4093 (A) a controlled substance currently scheduled in Schedules I through V of Section
4094 [58-37-4](#);

4095 (B) a substance for which there is an approved new drug application;

4096 (C) a substance with respect to which an exemption is in effect for investigational use
4097 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
4098 to the extent the conduct with respect to the substance is permitted by the exemption;

4099 (D) any substance to the extent not intended for human consumption before an
4100 exemption takes effect with respect to the substance;

4101 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
4102 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
4103 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
4104 transferred, or furnished as an over-the-counter medication without prescription; or

4105 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
4106 including concentrates or extracts, which are not otherwise regulated by law, which may
4107 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
4108 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4109 (h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench,
4110 or plea, whether guilty or no contest, for any offense proscribed by [~~Title 58, Chapters 37, 37a,~~
4111 ~~37b, 37c, or 37d~~];

4112 (A) Chapter 37, Utah Controlled Substances Act;

4113 (B) Chapter 37a, Utah Drug Paraphernalia Act;

4114 (C) Chapter 37b, Imitation Controlled Substances Act;

4115 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

4116 (E) Chapter 37d, Clandestine Drug Lab Act; or

4117 (ii) for any offense under the laws of the United States and any other state which, if

4118 committed in this state, would be an offense under [~~Title 58, Chapters 37, 37a, 37b, 37c, or~~
4119 ~~37d~~];

4120 (A) Chapter 37, Utah Controlled Substances Act;

4121 (B) Chapter 37a, Utah Drug Paraphernalia Act;

4122 (C) Chapter 37b, Imitation Controlled Substances Act;

4123 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

4124 (E) Chapter 37d, Clandestine Drug Lab Act.

4125 (i) "Counterfeit substance" means:

4126 (i) any controlled substance or container or labeling of any controlled substance that:

4127 (A) without authorization bears the trademark, trade name, or other identifying mark,

4128 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser

4129 other than the person or persons who in fact manufactured, distributed, or dispensed the

4130 substance which falsely purports to be a controlled substance distributed by any other

4131 manufacturer, distributor, or dispenser; and

4132 (B) a reasonable person would believe to be a controlled substance distributed by an

4133 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as

4134 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled

4135 substance; or

4136 (ii) any substance other than under Subsection (1)(i)(i) that:

4137 (A) is falsely represented to be any legally or illegally manufactured controlled

4138 substance; and

4139 (B) a reasonable person would believe to be a legal or illegal controlled substance.

4140 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a

4141 controlled substance or a listed chemical, whether or not an agency relationship exists.

4142 (k) "Department" means the Department of Commerce.

4143 (l) "Depressant or stimulant substance" means:

4144 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric

4145 acid;

- 4146 (ii) a drug which contains any quantity of:
- 4147 (A) amphetamine or any of its optical isomers;
- 4148 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
- 4149 (C) any substance which the Secretary of Health and Human Services or the Attorney
- 4150 General of the United States after investigation has found and by regulation designated
- 4151 habit-forming because of its stimulant effect on the central nervous system;
- 4152 (iii) lysergic acid diethylamide; or
- 4153 (iv) any drug which contains any quantity of a substance which the Secretary of Health
- 4154 and Human Services or the Attorney General of the United States after investigation has found
- 4155 to have, and by regulation designated as having, a potential for abuse because of its depressant
- 4156 or stimulant effect on the central nervous system or its hallucinogenic effect.
- 4157 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
- 4158 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes
- 4159 distributing to, leaving with, giving away, or disposing of that substance as well as the
- 4160 packaging, labeling, or compounding necessary to prepare the substance for delivery.
- 4161 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
- 4162 (o) "Distribute" means to deliver other than by administering or dispensing a controlled
- 4163 substance or a listed chemical.
- 4164 (p) "Distributor" means a person who distributes controlled substances.
- 4165 (q) "Division" means the Division of Occupational and Professional Licensing created
- 4166 in Section [58-1-103](#).
- 4167 (r) (i) "Drug" means:
- 4168 (A) a substance recognized in the official United States Pharmacopoeia, Official
- 4169 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
- 4170 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
- 4171 prevention of disease in humans or animals;
- 4172 (B) a substance that is required by any applicable federal or state law or rule to be
- 4173 dispensed by prescription only or is restricted to administration by practitioners only;

4174 (C) a substance other than food intended to affect the structure or any function of the
4175 body of humans or other animals; and

4176 (D) substances intended for use as a component of any substance specified in
4177 Subsections (1)(r)(i)(A), (B), and (C).

4178 (ii) "Drug" does not include dietary supplements.

4179 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
4180 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
4181 dependent upon the use of controlled substances as to have lost the power of self-control with
4182 reference to the individual's dependency.

4183 (t) "Food" means:

4184 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
4185 specified in this chapter, and normally ingested by human beings; and

4186 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
4187 pathological, or other condition including but not limited to the conditions of disease,
4188 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
4189 overweight; uses for supplying a particular dietary need which exist by reason of age including
4190 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
4191 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
4192 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
4193 purposes.

4194 (u) "Immediate precursor" means a substance which the Attorney General of the United
4195 States has found to be, and by regulation designated as being, the principal compound used or
4196 produced primarily for use in the manufacture of a controlled substance, or which is an
4197 immediate chemical intermediary used or likely to be used in the manufacture of a controlled
4198 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
4199 controlled substance.

4200 (v) "Indian" means a member of an Indian tribe.

4201 (w) "Indian religion" means any religion:

4202 (i) the origin and interpretation of which is from within a traditional Indian culture or
4203 community; and

4204 (ii) which is practiced by Indians.

4205 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
4206 community of Indians, including any Alaska Native village, which is legally recognized as
4207 eligible for and is consistent with the special programs, services, and entitlements provided by
4208 the United States to Indians because of their status as Indians.

4209 (y) "Manufacture" means the production, preparation, propagation, compounding, or
4210 processing of a controlled substance, either directly or indirectly by extraction from substances
4211 of natural origin, or independently by means of chemical synthesis or by a combination of
4212 extraction and chemical synthesis.

4213 (z) "Manufacturer" includes any person who packages, repackages, or labels any
4214 container of any controlled substance, except pharmacists who dispense or compound
4215 prescription orders for delivery to the ultimate consumer.

4216 (aa) "Marijuana" means all species of the genus cannabis and all parts of the genus,
4217 whether growing or not; the seeds of it; the resin extracted from any part of the plant; and every
4218 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or
4219 resin. The term does not include the mature stalks of the plant, fiber produced from the stalks,
4220 oil or cake made from the seeds of the plant, any other compound, manufacture, salt,
4221 derivative, mixture, or preparation of the mature stalks, except the resin extracted from them,
4222 fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. Any
4223 synthetic equivalents of the substances contained in the plant cannabis sativa or any other
4224 species of the genus cannabis which are chemically indistinguishable and pharmacologically
4225 active are also included.

4226 (bb) "Money" means officially issued coin and currency of the United States or any
4227 foreign country.

4228 (cc) "Narcotic drug" means any of the following, whether produced directly or
4229 indirectly by extraction from substances of vegetable origin, or independently by means of

4230 chemical synthesis, or by a combination of extraction and chemical synthesis:

4231 (i) opium, coca leaves, and opiates;

4232 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
4233 opiates;

4234 (iii) opium poppy and poppy straw; or

4235 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the
4236 substance, which is chemically identical with any of the substances referred to in Subsection
4237 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or
4238 extracts of coca leaves which do not contain cocaine or ecgonine.

4239 (dd) "Negotiable instrument" means documents, containing an unconditional promise
4240 to pay a sum of money, which are legally transferable to another party by endorsement or
4241 delivery.

4242 (ee) "Opiate" means any drug or other substance having an addiction-forming or
4243 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
4244 having addiction-forming or addiction-sustaining liability.

4245 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
4246 seeds of the plant.

4247 (gg) "Person" means any corporation, association, partnership, trust, other institution or
4248 entity or one or more individuals.

4249 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
4250 mowing.

4251 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
4252 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
4253 or consumption, as distinguished from distribution, of controlled substances and includes
4254 individual, joint, or group possession or use of controlled substances. For a person to be a
4255 possessor or user of a controlled substance, it is not required that the person be shown to have
4256 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that
4257 the person jointly participated with one or more persons in the use, possession, or control of

4258 any substances with knowledge that the activity was occurring, or the controlled substance is
4259 found in a place or under circumstances indicating that the person had the ability and the intent
4260 to exercise dominion and control over it.

4261 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
4262 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
4263 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use
4264 in teaching or chemical analysis a controlled substance in the course of professional practice or
4265 research in this state.

4266 (kk) "Prescribe" means to issue a prescription:

4267 (i) orally or in writing; or

4268 (ii) by telephone, facsimile transmission, computer, or other electronic means of
4269 communication as defined by division rule.

4270 (ll) "Prescription" means an order issued:

4271 (i) by a licensed practitioner, in the course of that practitioner's professional practice or
4272 by collaborative pharmacy practice agreement; and

4273 (ii) for a controlled substance or other prescription drug or device for use by a patient
4274 or an animal.

4275 (mm) "Production" means the manufacture, planting, cultivation, growing, or
4276 harvesting of a controlled substance.

4277 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
4278 property.

4279 (oo) "State" means the state of Utah.

4280 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
4281 for the person's own use, for the use of a member of the person's household, or for
4282 administration to an animal owned by the person or a member of the person's household.

4283 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
4284 Utah Criminal Code, shall apply.

4285 Section 68. Section **58-37-4** is amended to read:

4286 **58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings**
4287 **required -- Specific substances included in schedules.**

4288 (1) There are established five schedules of controlled substances known as Schedules I,
4289 II, III, IV, and V which consist of substances listed in this section.

4290 (2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by
4291 the official name, common or usual name, chemical name, or brand name designated:

4292 (a) Schedule I:

4293 (i) Unless specifically excepted or unless listed in another schedule, any of the
4294 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
4295 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
4296 chemical designation:

4297 (A) Acetyl-alpha-methylfentanyl

4298 (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

4299 (B) Acetylmethadol;

4300 (C) Allylprodine;

4301 (D) Alphacetylmethadol, except levo-alphacetylmethadol also known as
4302 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

4303 (E) Alphameprodine;

4304 (F) Alphamethadol;

4305 (G) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]
4306 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

4307 (H) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
4308 piperidinyl]-N-phenylpropanamide);

4309 (I) Benzylpiperazine;

4310 (J) Benzethidine;

4311 (K) Betacetylmethadol;

4312 (L) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
4313 piperidinyl]-N-phenylpropanamide);

- 4314 (M) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-
4315 phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- 4316 (N) Betameprodine;
- 4317 (O) Betamethadol;
- 4318 (P) Betaprodine;
- 4319 (Q) Clonitazene;
- 4320 (R) Dextromoramide;
- 4321 (S) Diampromide;
- 4322 (T) Diethylthiambutene;
- 4323 (U) Difenoxyin;
- 4324 (V) Dimenoxadol;
- 4325 (W) Dimepheptanol;
- 4326 (X) Dimethylthiambutene;
- 4327 (Y) Dioxaphetyl butyrate;
- 4328 (Z) Dipipanone;
- 4329 (AA) Ethylmethylthiambutene;
- 4330 (BB) Etonitazene;
- 4331 (CC) Etoxadine;
- 4332 (DD) Furethidine;
- 4333 (EE) Hydroxypethidine;
- 4334 (FF) Ketobemidone;
- 4335 (GG) Levomoramide;
- 4336 (HH) Levophenacymorphan;
- 4337 (II) Morpheridine;
- 4338 (JJ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 4339 (KK) Noracymethadol;
- 4340 (LL) Norlevorphanol;
- 4341 (MM) Normethadone;

- 4342 (NN) Norpipanone;
- 4343 (OO) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]
4344 propanamide;
- 4345 (PP) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 4346 (QQ) Phenadoxone;
- 4347 (RR) Phenampromide;
- 4348 (SS) Phenomorphan;
- 4349 (TT) Phenoperidine;
- 4350 (UU) Piritramide;
- 4351 (VV) Proheptazine;
- 4352 (WW) Properidine;
- 4353 (XX) Propiram;
- 4354 (YY) Racemoramide;
- 4355 (ZZ) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;
- 4356 (AAA) Tilidine;
- 4357 (BBB) Trimeperidine;
- 4358 (CCC) 3-methylfentanyl, including the optical and geometric isomers
4359 (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide); and
- 4360 (DDD) 3-methylthiofentanyl
4361 (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
- 4362 (ii) Unless specifically excepted or unless listed in another schedule, any of the
4363 following opium derivatives, their salts, isomers, and salts of isomers when the existence of the
4364 salts, isomers, and salts of isomers is possible within the specific chemical designation:
- 4365 (A) Acetorphine;
- 4366 (B) Acetyldihydrocodeine;
- 4367 (C) Benzylmorphine;
- 4368 (D) Codeine methylbromide;
- 4369 (E) Codeine-N-Oxide;

- 4370 (F) Cyprenorphine;
- 4371 (G) Desomorphine;
- 4372 (H) Dihydromorphine;
- 4373 (I) Drotebanol;
- 4374 (J) Etorphine (except hydrochloride salt);
- 4375 (K) Heroin;
- 4376 (L) Hydromorphenol;
- 4377 (M) Methyldesorphine;
- 4378 (N) Methylhydromorphine;
- 4379 (O) Morphine methylbromide;
- 4380 (P) Morphine methylsulfonate;
- 4381 (Q) Morphine-N-Oxide;
- 4382 (R) Myrophine;
- 4383 (S) Nicocodeine;
- 4384 (T) Nicomorphine;
- 4385 (U) Normorphine;
- 4386 (V) Pholcodine; and
- 4387 (W) Thebacon.
- 4388 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 4389 compound, mixture, or preparation which contains any quantity of the following hallucinogenic
- 4390 substances, or which contains any of their salts, isomers, and salts of isomers when the
- 4391 existence of the salts, isomers, and salts of isomers is possible within the specific chemical
- 4392 designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position,
- 4393 and geometric isomers:
- 4394 (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;
- 4395 α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α -ET; and AET;
- 4396 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:
- 4397 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;

- 4398 (C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names:
4399 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;
- 4400 (D) 2,5-dimethoxyamphetamine, some trade or other names:
4401 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;
- 4402 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;
- 4403 (F) 4-methoxyamphetamine, some trade or other names:
4404 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;
- 4405 (G) 5-methoxy-3,4-methylenedioxyamphetamine;
- 4406 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:
4407 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";
- 4408 (I) 3,4-methylenedioxy amphetamine;
- 4409 (J) 3,4-methylenedioxymethamphetamine (MDMA);
- 4410 (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-
4411 alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
- 4412 (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as
4413 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;
- 4414 (M) 3,4,5-trimethoxy amphetamine;
- 4415 (N) Bufotenine, some trade and other names:
4416 3-(β -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,
4417 N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- 4418 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;
- 4419 (P) Dimethyltryptamine, some trade or other names: DMT;
- 4420 (Q) Ibogaine, some trade and other names:
4421 7-Ethyl-6,6 β ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino
4422 [5,4-b] indole; Tabernanthe iboga;
- 4423 (R) Lysergic acid diethylamide;
- 4424 (S) Marijuana;
- 4425 (T) Mescaline;

- 4426 (U) Parahexyl, some trade or other names:
4427 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
- 4428 (V) Peyote, meaning all parts of the plant presently classified botanically as
4429 *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from
4430 any part of such plant, and every compound, manufacture, salts, derivative, mixture, or
4431 preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));
- 4432 (W) N-ethyl-3-piperidyl benzilate;
- 4433 (X) N-methyl-3-piperidyl benzilate;
- 4434 (Y) Psilocybin;
- 4435 (Z) Psilocyn;
- 4436 (AA) Tetrahydrocannabinols, naturally contained in a plant of the genus *Cannabis*
4437 (*cannabis* plant), as well as synthetic equivalents of the substances contained in the *cannabis*
4438 plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives,
4439 and their isomers with similar chemical structure and pharmacological activity to those
4440 substances contained in the plant, such as the following: Δ^1 cis or trans tetrahydrocannabinol,
4441 and their optical isomers Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers $\Delta^3,4$
4442 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these
4443 substances is not internationally standardized, compounds of these structures, regardless of
4444 numerical designation of atomic positions covered;
- 4445 (BB) Ethylamine analog of phencyclidine, some trade or other names:
4446 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,
4447 N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
- 4448 (CC) Pyrrolidine analog of phencyclidine, some trade or other names:
4449 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
- 4450 (DD) Thiophene analog of phencyclidine, some trade or other names:
4451 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TCP, TCP; and
4452 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.
- 4453 (iv) Unless specifically excepted or unless listed in another schedule, any material

4454 compound, mixture, or preparation which contains any quantity of the following substances
4455 having a depressant effect on the central nervous system, including its salts, isomers, and salts
4456 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
4457 specific chemical designation:

4458 (A) Mecloqualone; and

4459 (B) Methaqualone.

4460 (v) Any material, compound, mixture, or preparation containing any quantity of the
4461 following substances having a stimulant effect on the central nervous system, including their
4462 salts, isomers, and salts of isomers:

4463 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or
4464 4,5-dihydro-5-phenyl-2-oxazolamine;

4465 (B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone,
4466 alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

4467 (C) Fenethylamine;

4468 (D) Methcathinone, some other names: 2-(methylamino)-propionophenone;
4469 alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one;

4470 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;

4471 methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of
4472 optical isomers;

4473 (E) (\pm)cis-4-methylaminorex ((\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

4474 (F) N-ethylamphetamine; and

4475 (G) N,N-dimethylamphetamine, also known as

4476 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

4477 (vi) Any material, compound, mixture, or preparation which contains any quantity of
4478 the following substances, including their optical isomers, salts, and salts of isomers, subject to
4479 temporary emergency scheduling:

4480 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

4481 (B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thethylfentanyl).

4482 (vii) Unless specifically excepted or unless listed in another schedule, any material,
4483 compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate
4484 (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

4485 (b) Schedule II:

4486 (i) Unless specifically excepted or unless listed in another schedule, any of the
4487 following substances whether produced directly or indirectly by extraction from substances of
4488 vegetable origin, or independently by means of chemical synthesis, or by a combination of
4489 extraction and chemical synthesis:

4490 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
4491 opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone,
4492 and their respective salts, but including:

4493 (I) Raw opium;

4494 (II) Opium extracts;

4495 (III) Opium fluid;

4496 (IV) Powdered opium;

4497 (V) Granulated opium;

4498 (VI) Tincture of opium;

4499 (VII) Codeine;

4500 (VIII) Ethylmorphine;

4501 (IX) Etorphine hydrochloride;

4502 (X) Hydrocodone;

4503 (XI) Hydromorphone;

4504 (XII) Metopon;

4505 (XIII) Morphine;

4506 (XIV) Oxycodone;

4507 (XV) Oxymorphone; and

4508 (XVI) Thebaine;

4509 (B) Any salt, compound, derivative, or preparation which is chemically equivalent or

4510 identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these
4511 substances may not include the isoquinoline alkaloids of opium;

4512 (C) Opium poppy and poppy straw;

4513 (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and
4514 any salt, compound, derivative, or preparation which is chemically equivalent or identical with
4515 any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives,
4516 and salts of isomers and derivatives, whether derived from the coca plant or synthetically
4517 produced, except the substances may not include decocainized coca leaves or extraction of coca
4518 leaves, which extractions do not contain cocaine or ecgonine; and

4519 (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either
4520 liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

4521 (ii) Unless specifically excepted or unless listed in another schedule, any of the
4522 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
4523 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
4524 chemical designation, except dextrorphan and levopropoxyphene:

4525 (A) Alfentanil;

4526 (B) Alphaprodine;

4527 (C) Anileridine;

4528 (D) Bezitramide;

4529 (E) Bulk dextropropoxyphene (nondosage forms);

4530 (F) Carfentanil;

4531 (G) Dihydrocodeine;

4532 (H) Diphenoxylate;

4533 (I) Fentanyl;

4534 (J) Isomethadone;

4535 (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol,
4536 levomethadyl acetate, or LAAM;

4537 (L) Levomethorphan;

- 4538 (M) Levorphanol;
- 4539 (N) Metazocine;
- 4540 (O) Methadone;
- 4541 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 4542 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic
- 4543 acid;
- 4544 (R) Pethidine (meperidine);
- 4545 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- 4546 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- 4547 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 4548 (V) Phenazocine;
- 4549 (W) Piminodine;
- 4550 (X) Racemethorphan;
- 4551 (Y) Racemorphan;
- 4552 (Z) Remifentanil; and
- 4553 (AA) Sufentanil.
- 4554 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 4555 compound, mixture, or preparation which contains any quantity of the following substances
- 4556 having a stimulant effect on the central nervous system:
 - 4557 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
 - 4558 (B) Methamphetamine, its salts, isomers, and salts of its isomers;
 - 4559 (C) Phenmetrazine and its salts; and
 - 4560 (D) Methylphenidate.
- 4561 (iv) Unless specifically excepted or unless listed in another schedule, any material,
- 4562 compound, mixture, or preparation which contains any quantity of the following substances
- 4563 having a depressant effect on the central nervous system, including its salts, isomers, and salts
- 4564 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
- 4565 specific chemical designation:

- 4566 (A) Amobarbital;
- 4567 (B) Glutethimide;
- 4568 (C) Pentobarbital;
- 4569 (D) Phencyclidine;
- 4570 (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and
- 4571 1-piperidinocyclohexanecarbonitrile (PCC); and
- 4572 (F) Secobarbital.
- 4573 (v) (A) Unless specifically excepted or unless listed in another schedule, any material,
- 4574 compound, mixture, or preparation which contains any quantity of Phenylacetone.
- 4575 (B) Some of these substances may be known by trade or other names:
- 4576 phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.
- 4577 (vi) Nabilone, another name for nabilone:
- 4578 (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,
- 4579 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.
- 4580 (c) Schedule III:
- 4581 (i) Unless specifically excepted or unless listed in another schedule, any material,
- 4582 compound, mixture, or preparation which contains any quantity of the following substances
- 4583 having a stimulant effect on the central nervous system, including its salts, isomers whether
- 4584 optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers,
- 4585 and salts of isomers is possible within the specific chemical designation:
- 4586 (A) Those compounds, mixtures, or preparations in dosage unit form containing any
- 4587 stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were
- 4588 listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the
- 4589 Code of Federal Regulations, and any other drug of the quantitative composition shown in that
- 4590 list for those drugs or which is the same except that it contains a lesser quantity of controlled
- 4591 substances;
- 4592 (B) Benzphetamine;
- 4593 (C) Chlorphentermine;

- 4594 (D) Clortermine; and
4595 (E) Phendimetrazine.
4596 (ii) Unless specifically excepted or unless listed in another schedule, any material,
4597 compound, mixture, or preparation which contains any quantity of the following substances
4598 having a depressant effect on the central nervous system:
4599 (A) Any compound, mixture, or preparation containing amobarbital, secobarbital,
4600 pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients
4601 which are not listed in any schedule;
4602 (B) Any suppository dosage form containing amobarbital, secobarbital, or
4603 pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug
4604 Administration for marketing only as a suppository;
4605 (C) Any substance which contains any quantity of a derivative of barbituric acid or any
4606 salt of any of them;
4607 (D) Chlorhexadol;
4608 (E) Buprenorphine;
4609 (F) Any drug product containing gamma hydroxybutyric acid, including its salts,
4610 isomers, and salts of isomers, for which an application is approved under the federal Food,
4611 Drug, and Cosmetic Act, Section 505;
4612 (G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine:
4613 \pm -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
4614 (H) Lysergic acid;
4615 (I) Lysergic acid amide;
4616 (J) Methyprylon;
4617 (K) Sulfondiethylmethane;
4618 (L) Sulfonethylmethane;
4619 (M) Sulfonmethane; and
4620 (N) Tiletamine and zolazepam or any of their salts, some trade or other names for a
4621 tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine:

4622 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam:

4623 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one,
4624 flupyrzapon.

4625 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a
4626 U.S. Food and Drug Administration approved drug product, some other names for dronabinol:
4627 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or
4628 (-)-delta-9-(trans)-tetrahydrocannabinol.

4629 (iv) Nalorphine.

4630 (v) Unless specifically excepted or unless listed in another schedule, any material,
4631 compound, mixture, or preparation containing limited quantities of any of the following
4632 narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

4633 (A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90
4634 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of
4635 opium;

4636 (B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90
4637 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized
4638 therapeutic amounts;

4639 (C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more
4640 than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline
4641 alkaloid of opium;

4642 (D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more
4643 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
4644 recognized therapeutic amounts;

4645 (E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90
4646 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized
4647 therapeutic amounts;

4648 (F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more
4649 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in

4650 recognized therapeutic amounts;

4651 (G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not
4652 more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
4653 recognized therapeutic amounts; and

4654 (H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with
4655 one or more active, non-narcotic ingredients in recognized therapeutic amounts.

4656 (vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids
4657 including any of the following or any isomer, ester, salt, or derivative of the following that
4658 promotes muscle growth:

4659 (A) Boldenone;

4660 (B) Chlorotestosterone (4-chlortestosterone);

4661 (C) Clostebol;

4662 (D) Dehydrochlormethyltestosterone;

4663 (E) Dihydrotestosterone (4-dihydrotestosterone);

4664 (F) Drostanolone;

4665 (G) Ethylestrenol;

4666 (H) Fluoxymesterone;

4667 (I) Formebolone (formebolone);

4668 (J) Mesterolone;

4669 (K) Methandienone;

4670 (L) Methandranone;

4671 (M) Methandriol;

4672 (N) Methandrostenolone;

4673 (O) Methenolone;

4674 (P) Methyltestosterone;

4675 (Q) Mibolerone;

4676 (R) Nandrolone;

4677 (S) Norethandrolone;

- 4678 (T) Oxandrolone;
- 4679 (U) Oxymesterone;
- 4680 (V) Oxymetholone;
- 4681 (W) Stanolone;
- 4682 (X) Stanozolol;
- 4683 (Y) Testolactone;
- 4684 (Z) Testosterone; and
- 4685 (AA) Trenbolone.
- 4686 (vii) Anabolic steroids expressly intended for administration through implants to cattle
- 4687 or other nonhuman species, and approved by the Secretary of Health and Human Services for
- 4688 use, may not be classified as a controlled substance.
- 4689 (d) Schedule IV:
- 4690 (i) Unless specifically excepted or unless listed in another schedule, any material,
- 4691 compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not
- 4692 less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.
- 4693 (ii) Unless specifically excepted or unless listed in another schedule, any material,
- 4694 compound, mixture, or preparation which contains any quantity of the following substances,
- 4695 including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and
- 4696 salts of isomers is possible within the specific chemical designation:
- 4697 (A) Alprazolam;
- 4698 (B) Barbital;
- 4699 (C) Bromazepam;
- 4700 (D) Butorphanol;
- 4701 (E) Camazepam;
- 4702 (F) Carisoprodol;
- 4703 (G) Chloral betaine;
- 4704 (H) Chloral hydrate;
- 4705 (I) Chlordiazepoxide;

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- 4706 (J) Clobazam;
- 4707 (K) Clonazepam;
- 4708 (L) Clorazepate;
- 4709 (M) Clotiazepam;
- 4710 (N) Cloxazolam;
- 4711 (O) Delorazepam;
- 4712 (P) Diazepam;
- 4713 (Q) Dichloralphenazone;
- 4714 (R) Estazolam;
- 4715 (S) Ethchlorvynol;
- 4716 (T) Ethinamate;
- 4717 (U) Ethyl loflazepate;
- 4718 (V) Fludiazepam;
- 4719 (W) Flunitrazepam;
- 4720 (X) Flurazepam;
- 4721 (Y) Halazepam;
- 4722 (Z) Haloxazolam;
- 4723 (AA) Ketazolam;
- 4724 (BB) Loprazolam;
- 4725 (CC) Lorazepam;
- 4726 (DD) Lormetazepam;
- 4727 (EE) Mebutamate;
- 4728 (FF) Medazepam;
- 4729 (GG) Meprobamate;
- 4730 (HH) Methohexital;
- 4731 (II) Methylphenobarbital (mephobarbital);
- 4732 (JJ) Midazolam;
- 4733 (KK) Nimetazepam;

- 4734 (LL) Nitrazepam;
- 4735 (MM) Nordiazepam;
- 4736 (NN) Oxazepam;
- 4737 (OO) Oxazolam;
- 4738 (PP) Paraldehyde;
- 4739 (QQ) Pentazocine;
- 4740 (RR) Petrichloral;
- 4741 (SS) Phenobarbital;
- 4742 (TT) Pinazepam;
- 4743 (UU) Prazepam;
- 4744 (VV) Quazepam;
- 4745 (WW) Temazepam;
- 4746 (XX) Tetrazepam;
- 4747 (YY) Triazolam;
- 4748 (ZZ) Zaleplon; and
- 4749 (AAA) Zolpidem.
- 4750 (iii) Any material, compound, mixture, or preparation of fenfluramine which contains
- 4751 any quantity of the following substances, including its salts, isomers whether optical, position,
- 4752 or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of
- 4753 isomers is possible.
- 4754 (iv) Unless specifically excepted or unless listed in another schedule, any material,
- 4755 compound, mixture, or preparation which contains any quantity of the following substances
- 4756 having a stimulant effect on the central nervous system, including its salts, isomers whether
- 4757 optical, position, or geometric isomers, and salts of the isomers when the existence of the salts,
- 4758 isomers, and salts of isomers is possible within the specific chemical designation:
- 4759 (A) Cathine ((+)-norpseudoephedrine);
- 4760 (B) Diethylpropion;
- 4761 (C) Fencamfamine;

- 4762 (D) Fenproporex;
- 4763 (E) Mazindol;
- 4764 (F) Mefenorex;
- 4765 (G) Modafinil;
- 4766 (H) Pemoline, including organometallic complexes and chelates thereof;
- 4767 (I) Phentermine;
- 4768 (J) Pipradrol;
- 4769 (K) Sibutramine; and
- 4770 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).
- 4771 (v) Unless specifically excepted or unless listed in another schedule, any material,
- 4772 compound, mixture, or preparation which contains any quantity of dextropropoxyphene
- 4773 (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.
- 4774 (e) Schedule V: Any compound, mixture, or preparation containing any of the
- 4775 following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous
- 4776 base or alkaloid, which includes one or more non-narcotic active medicinal ingredients in
- 4777 sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal
- 4778 qualities other than those possessed by the narcotic drug alone:
- 4779 (i) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
- 4780 (ii) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100
- 4781 grams;
- 4782 (iii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100
- 4783 grams;
- 4784 (iv) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of
- 4785 atropine sulfate per dosage unit;
- 4786 (v) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;
- 4787 (vi) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of
- 4788 atropine sulfate per dosage unit;
- 4789 (vii) unless specifically exempted or excluded or unless listed in another schedule, any

4790 material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant
4791 effect on the central nervous system, including its salts, isomers, and salts of isomers; and
4792 (viii) all forms of Tramadol.

4793 Section 69. Section **58-37a-6** is amended to read:

4794 **58-37a-6. Seizure -- Forfeiture -- Property rights.**

4795 Drug paraphernalia is subject to seizure and forfeiture in accordance with the
4796 procedures and substantive protections of Title 24, [~~Chapter 1, Utah Uniform Forfeiture~~
4797 ~~Procedures~~] Forfeiture and Disposition of Property Act.

4798 Section 70. Section **58-37c-3** is amended to read:

4799 **58-37c-3. Definitions.**

4800 In addition to the definitions in Section **58-1-102**, as used in this chapter:

4801 (1) "Controlled substance precursor" includes a chemical reagent and means any of the
4802 following:

- 4803 (a) Phenyl-2-propanone;
- 4804 (b) Methylamine;
- 4805 (c) Ethylamine;
- 4806 (d) D-lysergic acid;
- 4807 (e) Ergotamine and its salts;
- 4808 (f) Diethyl malonate;
- 4809 (g) Malonic acid;
- 4810 (h) Ethyl malonate;
- 4811 (i) Barbituric acid;
- 4812 (j) Piperidine and its salts;
- 4813 (k) N-acetylanthranilic acid and its salts;
- 4814 (l) Pyrrolidine;
- 4815 (m) Phenylacetic acid and its salts;
- 4816 (n) Anthranilic acid and its salts;
- 4817 (o) Morpholine;

- 4818 (p) Ephedrine;
- 4819 (q) Pseudoephedrine;
- 4820 (r) Norpseudoephedrine;
- 4821 (s) Phenylpropanolamine;
- 4822 (t) Benzyl cyanide;
- 4823 (u) Ergonovine and its salts;
- 4824 (v) 3,4-Methylenedioxyphenyl-2-propanone;
- 4825 (w) propionic anhydride;
- 4826 (x) Insosafrole;
- 4827 (y) Safrole;
- 4828 (z) Piperonal;
- 4829 (aa) N-Methylephedrine;
- 4830 (bb) N-ethylephedrine;
- 4831 (cc) N-methylpseudoephedrine;
- 4832 (dd) N-ethylpseudoephedrine;
- 4833 (ee) Hydriotic acid;
- 4834 (ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide,
- 4835 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but
- 4836 not including gamma aminobutric acid (GABA);
- 4837 (gg) 1,4 butanediol;
- 4838 (hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections [~~2~~]
- 4839 (1)(a) through (gg);
- 4840 (ii) Crystal iodine;
- 4841 (jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;
- 4842 (kk) Red phosphorous, except as provided in Section [58-37c-19.7](#);
- 4843 (ll) anhydrous ammonia, except as provided in Section [58-37c-19.9](#);
- 4844 (mm) any controlled substance precursor listed under the provisions of the Federal
- 4845 Controlled Substances Act which is designated by the director under the emergency listing

4846 provisions set forth in Section 58-37c-14; and

4847 (nn) any chemical which is designated by the director under the emergency listing
4848 provisions set forth in Section 58-37c-14.

4849 (2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive, or
4850 attempted transfer of a controlled substance precursor.

4851 (3) "Matrix" means something, as a substance, in which something else originates,
4852 develops, or is contained.

4853 (4) "Person" means any individual, group of individuals, proprietorship, partnership,
4854 joint venture, corporation, or organization of any type or kind.

4855 (5) "Practitioner" means a physician, dentist, podiatric physician, veterinarian,
4856 pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical manufacturer, or other
4857 person licensed, registered, or otherwise permitted to distribute, dispense, conduct research
4858 with respect to, administer, or use in teaching or chemical analysis a controlled substance in the
4859 course of professional practice or research in this state.

4860 (6) (a) "Regulated distributor" means a person within the state who provides, sells,
4861 furnishes, transfers, or otherwise supplies a listed controlled substance precursor chemical in a
4862 regulated transaction.

4863 (b) "Regulated distributor" does not include any person excluded from regulation under
4864 this chapter.

4865 (7) (a) "Regulated purchaser" means any person within the state who receives a listed
4866 controlled substance precursor chemical in a regulated transaction.

4867 (b) "Regulated purchaser" does not include any person excluded from regulation under
4868 this chapter.

4869 (8) "Regulated transaction" means any actual, constructive or attempted:

4870 (a) transfer, distribution, delivery, or furnishing by a person within the state to another
4871 person within or outside of the state of a threshold amount of a listed precursor chemical; or

4872 (b) purchase or acquisition by any means by a person within the state from another
4873 person within or outside the state of a threshold amount of a listed precursor chemical.

4874 (9) "Retail distributor" means a grocery store, general merchandise store, drug store, or
4875 other entity or person whose activities as a distributor are limited almost exclusively to sales
4876 for personal use:

- 4877 (a) in both number of sales and volume of sales; and
- 4878 (b) either directly to walk-in customers or in face-to-face transactions by direct sales.

4879 (10) "Threshold amount of a listed precursor chemical" means any amount of a
4880 controlled substance precursor or a specified amount of a controlled substance precursor in a
4881 matrix; however, the division may exempt from the provisions of this chapter a specific
4882 controlled substance precursor in a specific amount and in certain types of transactions which
4883 provisions for exemption shall be defined by the division by rule adopted pursuant to Title
4884 63G, Chapter 3, Utah Administrative Rulemaking Act.

4885 (11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and
4886 intentionally:

- 4887 (a) engaging in a regulated transaction without first being appropriately licensed or
4888 exempted from licensure under this chapter;

- 4889 (b) acting as a regulated distributor and selling, transferring, or in any other way
4890 conveying a controlled substance precursor to a person within the state who is not appropriately
4891 licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or
4892 otherwise conveying a controlled substance precursor to a person outside of the state and
4893 failing to report the transaction as required;

- 4894 (c) acting as a regulated purchaser and purchasing or in any other way obtaining a
4895 controlled substance precursor from a person within the state who is not a licensed regulated
4896 distributor, or purchasing or otherwise obtaining a controlled substance precursor from a
4897 person outside of the state and failing to report the transaction as required;

- 4898 (d) engaging in a regulated transaction and failing to submit reports and keep required
4899 records of inventories required under the provisions of this chapter or rules adopted pursuant to
4900 this chapter;

- 4901 (e) making any false statement in any application for license, in any record to be kept,

4902 or on any report submitted as required under this chapter;

4903 (f) with the intent of causing the evasion of the recordkeeping or reporting
4904 requirements of this chapter and rules related to this chapter, receiving or distributing any listed
4905 controlled substance precursor chemical in any manner designed so that the making of records
4906 or filing of reports required under this chapter is not required;

4907 (g) failing to take immediate steps to comply with licensure, reporting, or
4908 recordkeeping requirements of this chapter because of lack of knowledge of those
4909 requirements, upon becoming informed of the requirements;

4910 (h) presenting false or fraudulent identification where or when receiving or purchasing
4911 a listed controlled substance precursor chemical;

4912 (i) creating a chemical mixture for the purpose of evading any licensure, reporting or
4913 recordkeeping requirement of this chapter or rules related to this chapter, or receiving a
4914 chemical mixture created for that purpose;

4915 (j) if the person is at least 18 years of age, employing, hiring, using, persuading,
4916 inducing, enticing, or coercing another person under 18 years of age to violate any provision of
4917 this chapter, or assisting in avoiding detection or apprehension for any violation of this chapter
4918 by any federal, state, or local law enforcement official; and

4919 (k) obtaining or attempting to obtain or to possess any controlled substance precursor
4920 or any combination of controlled substance precursors knowing or having a reasonable cause to
4921 believe that the controlled substance precursor is intended to be used in the unlawful
4922 manufacture of any controlled substance.

4923 (12) "Unprofessional conduct" as defined in Section [58-1-102](#) and as may be further
4924 defined by rule includes the following:

4925 (a) violation of any provision of this chapter, the Controlled Substance Act of this state
4926 or any other state, or the Federal Controlled Substance Act; and

4927 (b) refusing to allow agents or representatives of the division or authorized law
4928 enforcement personnel to inspect inventories or controlled substance precursors or records or
4929 reports relating to purchases and sales or distribution of controlled substance precursors as such

4930 records and reports are required under this chapter.

4931 Section 71. Section **58-37c-15** is amended to read:

4932 **58-37c-15. Civil forfeiture.**

4933 The following shall be subject to forfeiture in accordance with the procedures and
4934 substantive protections of Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures~~] Forfeiture
4935 and Disposition of Property Act:

4936 (1) all listed controlled substance precursor chemicals regulated under the provisions of
4937 this chapter which have been distributed, possessed, or are intended to be distributed or
4938 otherwise transferred in violation of any felony provision of this chapter; and

4939 (2) all property used by any person to facilitate, aid, or otherwise cause the unlawful
4940 distribution, transfer, possession, or intent to distribute, transfer, or possess a listed controlled
4941 substance precursor chemical in violation of any felony provision of this chapter.

4942 Section 72. Section **58-37d-7** is amended to read:

4943 **58-37d-7. Seizure and forfeiture.**

4944 Chemicals, equipment, supplies, vehicles, aircraft, vessels, and personal and real
4945 property used in furtherance of a clandestine laboratory operation are subject to seizure and
4946 forfeiture under the procedures and substantive protections of Title 24, [~~Chapter 1, Utah~~
4947 ~~Uniform Forfeiture Procedures~~] Forfeiture and Disposition of Property Act.

4948 Section 73. Section **58-55-302** is amended to read:

4949 **58-55-302. Qualifications for licensure.**

4950 (1) Each applicant for a license under this chapter shall:

4951 (a) submit an application prescribed by the division;

4952 (b) pay a fee as determined by the department under Section [63J-1-504](#);

4953 (c) (i) meet the examination requirements established by rule by the commission with
4954 the concurrence of the director, except for the classifications of apprentice plumber and
4955 apprentice electrician for whom no examination is required; or

4956 (ii) if required in Section [58-55-304](#), the individual qualifier must pass the required
4957 examination if the applicant is a business entity;

- 4958 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
- 4959 (e) if an applicant for a contractor's license:
- 4960 (i) produce satisfactory evidence of financial responsibility, except for a construction
- 4961 trades instructor for whom evidence of financial responsibility is not required;
- 4962 (ii) produce satisfactory evidence of:
- 4963 (A) two years full-time paid employment experience in the construction industry,
- 4964 which experience, unless more specifically described in this section, may be related to any
- 4965 contracting classification; and
- 4966 (B) knowledge of the principles of the conduct of business as a contractor, reasonably
- 4967 necessary for the protection of the public health, safety, and welfare;
- 4968 (iii) except as otherwise provided by rule by the commission with the concurrence of
- 4969 the director, complete a 20-hour course established by rule by the commission with the
- 4970 concurrence of the director, which course may include:
- 4971 (A) construction business practices;
- 4972 (B) bookkeeping fundamentals;
- 4973 (C) mechanics lien fundamentals; and
- 4974 (D) other aspects of business and construction principles considered important by the
- 4975 commission with the concurrence of the director;
- 4976 (iv) (A) be a licensed master electrician if an applicant for an electrical contractor's
- 4977 license or a licensed master residential electrician if an applicant for a residential electrical
- 4978 contractor's license;
- 4979 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
- 4980 a licensed master residential plumber if an applicant for a residential plumbing contractor's
- 4981 license; or
- 4982 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
- 4983 experience as an elevator mechanic if an applicant for an elevator contractor's license; and
- 4984 (v) when the applicant is an unincorporated entity, provide a list of the one or more
- 4985 individuals who hold an ownership interest in the applicant as of the day on which the

4986 application is filed that includes for each individual:

4987 (A) the individual's name, address, birth date, and Social Security number; and

4988 (B) whether the individual will engage in a construction trade; and

4989 (f) if an applicant for a construction trades instructor license, satisfy any additional
4990 requirements established by rule.

4991 (2) After approval of an applicant for a contractor's license by the applicable board and
4992 the division, the applicant shall file the following with the division before the division issues
4993 the license:

4994 (a) proof of workers' compensation insurance which covers employees of the applicant
4995 in accordance with applicable Utah law;

4996 (b) proof of public liability insurance in coverage amounts and form established by rule
4997 except for a construction trades instructor for whom public liability insurance is not required;
4998 and

4999 (c) proof of registration as required by applicable law with the:

5000 (i) Utah Department of Commerce;

5001 (ii) Division of Corporations and Commercial Code;

5002 (iii) Unemployment Insurance Division in the Department of Workforce Services, for
5003 purposes of Title 35A, Chapter 4, Employment Security Act;

5004 (iv) State Tax Commission; and

5005 (v) Internal Revenue Service.

5006 (3) In addition to the general requirements for each applicant in Subsection (1),
5007 applicants shall comply with the following requirements to be licensed in the following
5008 classifications:

5009 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

5010 (A) has been a licensed journeyman plumber for at least two years and had two years of
5011 supervisory experience as a licensed journeyman plumber in accordance with division rule;

5012 (B) has received at least an associate of applied science degree or similar degree
5013 following the completion of a course of study approved by the division and had one year of

5014 supervisory experience as a licensed journeyman plumber in accordance with division rule; or
5015 (C) meets the qualifications determined by the division in collaboration with the board
5016 to be equivalent to Subsection (3)(a)(i)(A) or (B).

5017 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
5018 least four years of practical experience as a licensed apprentice under the supervision of a
5019 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
5020 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
5021 master plumber license under this chapter, and satisfies the requirements of this Subsection
5022 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

5023 (iii) An individual holding a valid plumbing contractor's license or residential
5024 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
5025 2008:

5026 (A) considered to hold a current master plumber license under this chapter if licensed
5027 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
5028 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
5029 58-55-303; and

5030 (B) considered to hold a current residential master plumber license under this chapter if
5031 licensed as a residential plumbing contractor and a residential journeyman plumber, and
5032 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
5033 that license under Section 58-55-303.

5034 (b) A master residential plumber applicant shall produce satisfactory evidence that the
5035 applicant:

5036 (i) has been a licensed residential journeyman plumber for at least two years and had
5037 two years of supervisory experience as a licensed residential journeyman plumber in
5038 accordance with division rule; or

5039 (ii) meets the qualifications determined by the division in collaboration with the board
5040 to be equivalent to Subsection (3)(b)(i).

5041 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

5042 (i) successful completion of the equivalent of at least four years of full-time training
5043 and instruction as a licensed apprentice plumber under supervision of a licensed master
5044 plumber or journeyman plumber and in accordance with a planned program of training
5045 approved by the division;

5046 (ii) at least eight years of full-time experience approved by the division in collaboration
5047 with the Plumbers Licensing Board; or

5048 (iii) satisfactory evidence of meeting the qualifications determined by the board to be
5049 equivalent to Subsection (3)(c)(i) or (c)(ii).

5050 (d) A residential journeyman plumber shall produce satisfactory evidence of:

5051 (i) completion of the equivalent of at least three years of full-time training and
5052 instruction as a licensed apprentice plumber under the supervision of a licensed residential
5053 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
5054 accordance with a planned program of training approved by the division;

5055 (ii) completion of at least six years of full-time experience in a maintenance or repair
5056 trade involving substantial plumbing work; or

5057 (iii) meeting the qualifications determined by the board to be equivalent to Subsection
5058 (3)(d)(i) or (d)(ii).

5059 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
5060 in accordance with the following:

5061 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
5062 under the immediate supervision of a licensed master plumber, licensed residential master
5063 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

5064 (ii) a licensed apprentice plumber in the fourth through tenth year of training may work
5065 without supervision for a period not to exceed eight hours in any 24-hour period, but if the
5066 apprentice does not become a licensed journeyman plumber or licensed residential journeyman
5067 plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer
5068 applies.

5069 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

5070 (i) is a graduate electrical engineer of an accredited college or university approved by
5071 the division and has one year of practical electrical experience as a licensed apprentice
5072 electrician;

5073 (ii) is a graduate of an electrical trade school, having received an associate of applied
5074 sciences degree following successful completion of a course of study approved by the division,
5075 and has two years of practical experience as a licensed journeyman electrician;

5076 (iii) has four years of practical experience as a journeyman electrician; or

5077 (iv) meets the qualifications determined by the board to be equivalent to Subsection
5078 (3)(f)(i), (ii), or (iii).

5079 (g) A master residential electrician applicant shall produce satisfactory evidence that
5080 the applicant:

5081 (i) has at least two years of practical experience as a residential journeyman electrician;
5082 or

5083 (ii) meets the qualifications determined by the board to be equivalent to this practical
5084 experience.

5085 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
5086 applicant:

5087 (i) has successfully completed at least four years of full-time training and instruction as
5088 a licensed apprentice electrician under the supervision of a master electrician or journeyman
5089 electrician and in accordance with a planned training program approved by the division;

5090 (ii) has at least eight years of full-time experience approved by the division in
5091 collaboration with the Electricians Licensing Board; or

5092 (iii) meets the qualifications determined by the board to be equivalent to Subsection
5093 (3)(h)(i) or (ii).

5094 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
5095 that the applicant:

5096 (i) has successfully completed two years of training in an electrical training program
5097 approved by the division;

5098 (ii) has four years of practical experience in wiring, installing, and repairing electrical
5099 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
5100 journeyman, residential master, or residential journeyman electrician; or

5101 (iii) meets the qualifications determined by the division and applicable board to be
5102 equivalent to Subsection (3)(i)(i) or (ii).

5103 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
5104 be in accordance with the following:

5105 (i) A licensed apprentice electrician shall be under the immediate supervision of a
5106 licensed master, journeyman, residential master, or residential journeyman electrician. An
5107 apprentice in the fourth year of training may work without supervision for a period not to
5108 exceed eight hours in any 24-hour period.

5109 (ii) A licensed master, journeyman, residential master, or residential journeyman
5110 electrician may have under immediate supervision on a residential project up to three licensed
5111 apprentice electricians.

5112 (iii) A licensed master or journeyman electrician may have under immediate
5113 supervision on nonresidential projects only one licensed apprentice electrician.

5114 (k) An alarm company applicant shall:

5115 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
5116 the applicant who:

5117 (A) demonstrates 6,000 hours of experience in the alarm company business;

5118 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
5119 company business or in a construction business; and

5120 (C) passes an examination component established by rule by the commission with the
5121 concurrence of the director;

5122 (ii) if a corporation, provide:

5123 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
5124 of all corporate officers, directors, and those responsible management personnel employed
5125 within the state or having direct responsibility for managing operations of the applicant within

5126 the state; and

5127 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
5128 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
5129 shall not be required if the stock is publicly listed and traded;

5130 (iii) if a limited liability company, provide:

5131 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
5132 of all company officers, and those responsible management personnel employed within the
5133 state or having direct responsibility for managing operations of the applicant within the state;
5134 and

5135 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
5136 of all individuals owning 5% or more of the equity of the company;

5137 (iv) if a partnership, provide the names, addresses, dates of birth, Social Security
5138 numbers, and fingerprint cards of all general partners, and those responsible management
5139 personnel employed within the state or having direct responsibility for managing operations of
5140 the applicant within the state;

5141 (v) if a proprietorship, provide the names, addresses, dates of birth, Social Security
5142 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
5143 employed within the state or having direct responsibility for managing operations of the
5144 applicant within the state;

5145 (vi) if a trust, provide the names, addresses, dates of birth, Social Security numbers,
5146 and fingerprint cards of the trustee, and those responsible management personnel employed
5147 within the state or having direct responsibility for managing operations of the applicant within
5148 the state;

5149 (vii) be of good moral character in that officers, directors, shareholders described in
5150 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel
5151 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other
5152 crime that when considered with the duties and responsibilities of an alarm company is
5153 considered by the board to indicate that the best interests of the public are served by granting

5154 the applicant a license;

5155 (viii) document that none of the applicant's officers, directors, shareholders described
5156 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management
5157 personnel have been declared by any court of competent jurisdiction incompetent by reason of
5158 mental defect or disease and not been restored;

5159 (ix) document that none of the applicant's officers, directors, shareholders described in
5160 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are
5161 currently suffering from habitual drunkenness or from drug addiction or dependence;

5162 (x) file and maintain with the division evidence of:

5163 (A) comprehensive general liability insurance in form and in amounts to be established
5164 by rule by the commission with the concurrence of the director;

5165 (B) workers' compensation insurance that covers employees of the applicant in
5166 accordance with applicable Utah law; and

5167 (C) registration as is required by applicable law with the:

5168 (I) Division of Corporations and Commercial Code;

5169 (II) Unemployment Insurance Division in the Department of Workforce Services, for
5170 purposes of Title 35A, Chapter 4, Employment Security Act;

5171 (III) State Tax Commission; and

5172 (IV) Internal Revenue Service; and

5173 (xi) meet with the division and board.

5174 (l) Each applicant for licensure as an alarm company agent shall:

5175 (i) submit an application in a form prescribed by the division accompanied by
5176 fingerprint cards;

5177 (ii) pay a fee determined by the department under Section [63J-1-504](#);

5178 (iii) be of good moral character in that the applicant has not been convicted of a felony,
5179 a misdemeanor involving moral turpitude, or any other crime that when considered with the
5180 duties and responsibilities of an alarm company agent is considered by the board to indicate
5181 that the best interests of the public are served by granting the applicant a license;

5182 (iv) not have been declared by any court of competent jurisdiction incompetent by
5183 reason of mental defect or disease and not been restored;

5184 (v) not be currently suffering from habitual drunkenness or from drug addiction or
5185 dependence; and

5186 (vi) meet with the division and board if requested by the division or the board.

5187 (m) (i) Each applicant for licensure as an elevator mechanic shall:

5188 (A) provide documentation of experience and education credits of not less than three
5189 years work experience in the elevator industry, in construction, maintenance, or service and
5190 repair; and

5191 (B) satisfactorily complete a written examination administered by the division
5192 established by rule under Section [58-1-203](#); or

5193 (C) provide certificates of completion of an apprenticeship program for elevator
5194 mechanics, having standards substantially equal to those of this chapter and registered with the
5195 United States Department of Labor Bureau Apprenticeship and Training or a state
5196 apprenticeship council.

5197 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
5198 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
5199 repairing, or maintaining an elevator, the contractor may:

5200 (I) notify the division of the unavailability of licensed personnel; and

5201 (II) request the division issue a temporary elevator mechanic license to an individual
5202 certified by the contractor as having an acceptable combination of documented experience and
5203 education to perform the work described in this Subsection (3)(m)(ii)(A).

5204 (B) (I) The division may issue a temporary elevator mechanic license to an individual
5205 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
5206 the appropriate fee as determined by the department under Section [63J-1-504](#).

5207 (II) The division shall specify the time period for which the license is valid and may
5208 renew the license for an additional time period upon its determination that a shortage of
5209 licensed elevator mechanics continues to exist.

5210 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5211 division may make rules establishing when Federal Bureau of Investigation records shall be
5212 checked for applicants as an alarm company or alarm company agent.

5213 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and
5214 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
5215 Department of Public Safety with the division's request to:

5216 (a) conduct a search of records of the Department of Public Safety for criminal history
5217 information relating to each applicant for licensure as an alarm company or alarm company
5218 agent and each applicant's officers, directors, shareholders described in Subsection
5219 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

5220 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
5221 requiring a check of records of the Federal Bureau of Investigation for criminal history
5222 information under this section.

5223 (6) The Department of Public Safety shall send to the division:

5224 (a) a written record of criminal history, or certification of no criminal history record, as
5225 contained in the records of the Department of Public Safety in a timely manner after receipt of
5226 a fingerprint card from the division and a request for review of Department of Public Safety
5227 records; and

5228 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
5229 a timely manner after receipt of information from the Federal Bureau of Investigation.

5230 (7) (a) The division shall charge each applicant for licensure as an alarm company or
5231 alarm company agent a fee, in accordance with Section [63J-1-504](#), equal to the cost of
5232 performing the records reviews under this section.

5233 (b) The division shall pay the Department of Public Safety the costs of all records
5234 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
5235 costs of records reviews under this section.

5236 (8) Information obtained by the division from the reviews of criminal history records of
5237 the Department of Public Safety and the Federal Bureau of Investigation shall be used or

5238 disseminated by the division only for the purpose of determining if an applicant for licensure as
5239 an alarm company or alarm company agent is qualified for licensure.

5240 (9) (a) An application for licensure under this chapter shall be denied if:

5241 (i) the applicant has had a previous license, which was issued under this chapter,
5242 suspended or revoked within one year prior to the date of the applicant's application;

5243 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

5244 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
5245 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
5246 status, performing similar functions, or directly or indirectly controlling the applicant has
5247 served in any similar capacity with any person or entity which has had a previous license,
5248 which was issued under this chapter, suspended or revoked within one year prior to the date of
5249 the applicant's application;

5250 (iii) (A) the applicant is an individual or sole proprietorship; and

5251 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5252 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
5253 this chapter, suspended or revoked within one year prior to the date of the applicant's
5254 application; or

5255 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
5256 an unincorporated entity at the time the entity's license under this chapter was revoked; and

5257 (B) the application for licensure is filed within 60 months after the revocation of the
5258 unincorporated entity's license.

5259 (b) An application for licensure under this chapter shall be reviewed by the appropriate
5260 licensing board prior to approval if:

5261 (i) the applicant has had a previous license, which was issued under this chapter,
5262 suspended or revoked more than one year prior to the date of the applicant's application;

5263 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

5264 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
5265 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar

5266 status, performing similar functions, or directly or indirectly controlling the applicant has
5267 served in any similar capacity with any person or entity which has had a previous license,
5268 which was issued under this chapter, suspended or revoked more than one year prior to the date
5269 of the applicant's application; or

5270 (iii) (A) the applicant is an individual or sole proprietorship; and

5271 (B) any owner or agent acting as a qualifier has served in any capacity listed in
5272 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
5273 this chapter, suspended or revoked more than one year prior to the date of the applicant's
5274 application.

5275 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
5276 report with the division every 30 days after the day on which the license is issued if the licensee
5277 has more than five owners who are individuals who:

5278 (A) own an interest in the contractor that is an unincorporated entity;

5279 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
5280 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
5281 unincorporated entity; and

5282 (C) engage, or will engage, in a construction trade in the state as owners of the
5283 contractor described in Subsection (10)(a)(i)(A).

5284 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
5285 licensee shall provide the ownership status report with an application for renewal of licensure.

5286 (b) An ownership status report required under this Subsection (10) shall:

5287 (i) specify each addition or deletion of an owner:

5288 (A) for the first ownership status report, after the day on which the unincorporated
5289 entity is licensed under this chapter; and

5290 (B) for a subsequent ownership status report, after the day on which the previous
5291 ownership status report is filed;

5292 (ii) be in a format prescribed by the division that includes for each owner, regardless of
5293 the owner's percentage ownership in the unincorporated entity, the information described in

5294 Subsection(1)(e)[~~(iv)~~](v);
5295 (iii) list the name of:
5296 (A) each officer or manager of the unincorporated entity; and
5297 (B) each other individual involved in the operation, supervision, or management of the
5298 unincorporated entity; and
5299 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
5300 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).
5301 (c) The division may, at any time, audit an ownership status report under this
5302 Subsection (10):
5303 (i) to determine if financial responsibility has been demonstrated or maintained as
5304 required under Section 58-55-306; and
5305 (ii) to determine compliance with Subsection 58-55-501(24), (25), or (27) or
5306 Subsection 58-55-502(8) or (9).
5307 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
5308 chapter by providing an individual who owns an interest in the unincorporated entity to engage
5309 in a construction trade in Utah shall file with the division:
5310 (i) before the individual who owns an interest in the unincorporated entity engages in a
5311 construction trade in Utah, a current list of the one or more individuals who hold an ownership
5312 interest in the unincorporated entity that includes for each individual:
5313 (A) the individual's name, address, birth date, and Social Security number; and
5314 (B) whether the individual will engage in a construction trade; and
5315 (ii) every 30 days after the day on which the unincorporated entity provides the list
5316 described in Subsection (11)(a)(i), an ownership status report containing the information that
5317 would be required under Subsection (10) if the unincorporated entity were a licensed
5318 contractor.
5319 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
5320 status report described in Subsection (11)(a)(ii) [~~or (iii)~~], an unincorporated entity shall pay a
5321 fee set by the division in accordance with Section 63J-1-504.

5322 (12) This chapter may not be interpreted to create or support an express or implied
5323 independent contractor relationship between an unincorporated entity described in Subsection
5324 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
5325 withholding.

5326 (13) A Social Security number provided under Subsection (1)(e)~~(iv)~~(v) is a private
5327 record under Subsection 63G-2-302(1)(i).

5328 Section 74. Section **58-60-103** is amended to read:

5329 **58-60-103. Licensure required.**

5330 (1) An individual shall be licensed under this chapter; Chapter 67, Utah Medical
5331 Practice Act; Chapter 68, Utah Osteopathic Medical Practice Act; Chapter 31b, Nurse Practice
5332 Act; Chapter 61, Psychologist Licensing Act; or exempted from licensure under this chapter in
5333 order to:

5334 (a) engage in, or represent that the individual will engage in, the practice of mental
5335 health therapy, clinical social work, certified social work, marriage and family therapy, or
5336 clinical mental health counseling; or

5337 (b) practice as, or represent that the individual is, a mental health therapist, clinical
5338 social worker, certified social worker, marriage and family therapist, clinical mental health
5339 counselor, psychiatrist, psychologist, registered psychiatric mental health nurse specialist,
5340 certified psychology resident, associate marriage and family therapist, or associate clinical
5341 mental health counselor.

5342 (2) An individual shall be licensed under this chapter or exempted from licensure under
5343 this chapter in order to:

5344 (a) engage in, or represent that the individual is engaged in, practice as a social service
5345 worker; or

5346 (b) represent that the individual is, or use the title of, a social service worker.

5347 (3) An individual shall be licensed under this chapter or exempted from licensure under
5348 this chapter in order to:

5349 (a) engage in, or represent that the individual is engaged in, practice as a substance use

5350 disorder counselor; or

5351 (b) represent that the individual is, or use the title of, a substance use disorder
5352 counselor.

5353 (4) Notwithstanding the provisions of Subsection 58-1-307(1)(c), an individual shall be
5354 certified under this chapter, or otherwise exempted from licensure under this chapter, in order
5355 to engage in an internship or residency program of supervised clinical training necessary to
5356 meet the requirements for licensure as:

5357 (a) a marriage and family therapist under Part 3, Marriage and Family Therapist
5358 Licensing Act; or

5359 (b) a clinical mental health counselor under Part 4, ~~Professional~~ Clinical Mental
5360 Health Counselor Licensing Act.

5361 Section 75. Section 58-67-302.7 is amended to read:

5362 **58-67-302.7. Licensing of physician-educators.**

5363 (1) As used in this section:

5364 (a) "Foreign country" means a country other than the United States, its territories, or
5365 Canada.

5366 (b) "Foreign medical school" means a medical school that is outside the United States,
5367 its territories, and Canada.

5368 (2) Notwithstanding any provision of law to the contrary, an individual may receive a
5369 type I foreign teaching license if the individual:

5370 (a) submits an application in a form prescribed by the division, which may include:

5371 (i) submission by the applicant of information maintained in a practitioner data bank,
5372 as designated by division rule, with respect to the applicant;

5373 (ii) a record of professional liability claims made against the applicant and settlements
5374 paid by or on behalf of the applicant; and

5375 (iii) the applicant's curriculum vitae;

5376 (b) is a graduate of a foreign medical school that is accepted for certification by the
5377 Educational Commission for Foreign Medical Graduates;

5378 (c) is licensed in good standing in a foreign country, the United States, its territories, or
5379 Canada;

5380 (d) does not have an investigation or action pending against the physician's healthcare
5381 license, does not have a healthcare license that was suspended or revoked, and has not
5382 surrendered a healthcare license in lieu of disciplinary action, unless:

5383 (i) the license was subsequently reinstated in good standing; or

5384 (ii) the division in collaboration with the board determines to its satisfaction, after full
5385 disclosure by the applicant and full consideration by the division in collaboration with the
5386 board, that:

5387 (A) the conduct has been corrected, monitored, and resolved; or

5388 (B) a mitigating circumstance exists that prevents resolution, and the division in
5389 collaboration with the board is satisfied that but for the mitigating circumstance, the license
5390 would be reinstated;

5391 (e) submits documentation of legal status to work in the United States;

5392 (f) meets at least three of the following qualifications:

5393 (i) (A) published original results of clinical research, within 10 years before the day on
5394 which the application is submitted, in a medical journal listed in the Index Medicus or an
5395 equivalent scholarly publication; and

5396 (B) submits the publication to the Board in English or in a foreign language with a
5397 verifiable, certified English translation;

5398 (ii) held an appointment at a medical school approved by the LCME or at any medical
5399 school listed in the World Health Organization directory at the level of associate or full
5400 professor, or its equivalent, for at least five years;

5401 (iii) (A) developed a treatment modality, surgical technique, or other verified original
5402 contribution to the field of medicine within 10 years before the day on which the application is
5403 submitted; and

5404 (B) has the treatment modality, surgical technique, or other verified original
5405 contribution attested to by the dean of an LCME accredited school of medicine in Utah;

- 5406 (iv) actively practiced medicine cumulatively for 10 years; or
- 5407 (v) is board certified in good standing of a board of the American Board of Medical
- 5408 Specialities or equivalent specialty board;
- 5409 (g) is of good moral character;
- 5410 (h) is able to read, write, speak, understand, and be understood in the English language
- 5411 and demonstrates proficiency to the satisfaction of the division in collaboration with the board,
- 5412 if requested;
- 5413 (i) is invited by an LCME accredited medical school in Utah to serve as a full-time
- 5414 member of the medical school's academic faculty, as evidenced by written certification from:
- 5415 (i) the dean of the medical school, stating that the applicant has been appointed to a
- 5416 full-time faculty position, that because the applicant has unique expertise in a specific field of
- 5417 medicine the medical school considers the applicant to be a valuable member of the faculty,
- 5418 and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the
- 5419 state; and
- 5420 (ii) the head of the department to which the applicant is to be appointed, stating that the
- 5421 applicant will be under the direction of the head of the department and will be permitted to
- 5422 practice medicine only as a necessary part of the applicant's duties, providing detailed evidence
- 5423 of the applicant's qualifications and competence, including the nature and location of the
- 5424 applicant's proposed responsibilities, reasons for any limitations of the applicant's practice
- 5425 responsibilities, and the degree of supervision, if any, under which the applicant will function;
- 5426 (j) pays a licensing fee set by the division under Section [63J-1-504](#); and
- 5427 (k) has practiced medicine for at least 10 years as an attending physician.
- 5428 (3) Notwithstanding any provision of law to the contrary, an individual may receive a
- 5429 type II foreign teaching license if the individual:
- 5430 (a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through (j);
- 5431 (b) has delivered clinical care to patients cumulatively for five years after graduation
- 5432 from medical school; and
- 5433 (c) (i) will be completing a clinical fellowship while employed at the medical school

5434 described in Subsection (2)(i); or

5435 (ii) has already completed a medical residency accredited by the Royal College of
5436 Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a
5437 comparable accreditation organization as determined by the division in collaboration with the
5438 board.

5439 (4) After an initial term of one year, a type I license may be renewed for periods of two
5440 years if the licensee continues to satisfy the requirements described in Subsection (2) and
5441 completes the division's continuing education renewal requirements established under Section
5442 [58-67-303](#).

5443 (5) A type II license may be renewed on an annual basis, up to four times, if the
5444 licensee continues to satisfy the requirements described in Subsection (3) and completes the
5445 division's continuing education renewal requirements established under Section [58-67-303](#).

5446 (6) A license issued under this section:

5447 (a) authorizes the licensee to practice medicine:

5448 (i) within the scope of the licensee's employment at the medical school described in
5449 Subsection (2)(i) and the licensee's academic position; and

5450 (ii) at a hospital or clinic affiliated with the medical school described in Subsection
5451 (2)(i) for the purpose of teaching, clinical care, or pursuing research;

5452 (b) shall list the limitations described in Subsection (6)(a); and

5453 (c) shall expire on the earlier of:

5454 (i) one year after the day on which the type I or type II license is initially issued, unless
5455 the license is renewed;

5456 (ii) for a type I license, two years after the day on which the license is renewed;

5457 (iii) for a type II license, one year after the day on which the license is renewed; or

5458 (iv) the day on which employment at the medical school described in Subsection (2)(i)
5459 ends.

5460 (7) A person who holds a type I license for five consecutive years may apply for
5461 licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies

5462 the requirements described in Subsection (8). If the person fails to obtain licensure as a
5463 physician and surgeon in this state, the person may apply for a renewal of the type I license
5464 under Subsection (2).

5465 (8) An individual who holds a type I or type II license for five consecutive years is
5466 eligible for licensure as a physician and surgeon in this state if the individual:

5467 (a) worked an average of at least 40 hours per month at the level of an attending
5468 physician during the time the individual held the type I or type II license;

5469 (b) holds the rank of associate professor or higher at the medical school described in
5470 Subsection (2)(i);

5471 (c) obtains certification from the Educational Commission for Foreign Medical
5472 Graduates or any successor organization approved by the division in collaboration with the
5473 board;

5474 (d) spent a cumulative 20 hours per year while holding a type I or type II license:

5475 (i) teaching or lecturing to medical students or house staff;

5476 (ii) participating in educational department meetings or conferences that are not
5477 certified to meet the continuing medical education license renewal requirement; or

5478 (iii) attending continuing medical education classes in addition to the requirements for
5479 continuing education described in Subsections (4) and (5);

5480 (e) obtains a passing score on the final step of the licensing examination sequence
5481 required by division rule made in collaboration with the board; and

5482 (f) satisfies the requirements described in Subsections [58-67-302\(1\)\(a\)](#) through (c) [~~and~~
5483 ~~(h) through (k)~~], (h), and (i).

5484 (9) If a person who holds a type II license fails to obtain licensure as a physician and
5485 surgeon in this state after applying under the procedures described in Subsection (8), the person
5486 may not:

5487 (a) reapply for or renew a type II license; or

5488 (b) apply for a type I license.

5489 (10) The division or the board may require an applicant for licensure under this section

5490 to meet with the board and representatives of the division for the purpose of evaluating the
5491 applicant's qualifications for licensure.

5492 (11) The division in collaboration with the board may withdraw a license under this
5493 section at any time for material misrepresentation or unlawful or unprofessional conduct.

5494 Section 76. Section **59-2-1017** is amended to read:

5495 **59-2-1017. Property tax appeal assistance.**

5496 (1) As used in this section:

5497 (a) "Licensed appraiser" means an appraiser licensed in accordance with Title 61,
5498 Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

5499 (b) "Opinion of value" means an estimate of fair market value that:

5500 (i) is made by a licensed appraiser; and

5501 (ii) complies with the Uniform Standards of Professional Appraisal Practice
5502 promulgated by the Appraisal Standards Board as described in 12 U.S.C. Sec. 3339.

5503 (c) "Present evidence" means to present information:

5504 (i) to a county board of equalization or the commission; and

5505 (ii) related to a property tax appeal made in accordance with this part.

5506 (d) "Price estimate" means an estimate:

5507 (i) of the price that property would sell for; and

5508 (ii) that is not an opinion of value.

5509 (e) "Provide property tax information" means to provide information related to a
5510 property tax appeal made in accordance with this part to another person.

5511 (2) Subject to the other provisions of this section, a person may:

5512 (a) present evidence in a property tax appeal on behalf of another person after
5513 obtaining permission from that other person; or

5514 (b) provide property tax information to another person.

5515 (3) For purposes of Subsection (2):

5516 (a) only a person who is a licensed appraiser may present or provide an opinion of
5517 value; and

5518 (b) only a person who is not a licensed appraiser may present or provide a price
5519 estimate.

5520 (4) (a) A licensed appraiser who presents evidence or provides property tax
5521 information in accordance with Subsection (2) is subject to Sections 61-2g-304, 61-2g-403,
5522 61-2g-406, and [~~62-2g-407~~] 61-2g-407.

5523 (b) A person who is not a licensed appraiser, who presents evidence or provides
5524 property tax information in accordance with Subsection (2):

5525 (i) is subject to Section 61-2g-407; and

5526 (ii) if the person charges a contingent fee, is subject to Section 61-2g-406.

5527 (5) A county board of equalization or the commission may evaluate the reliability or
5528 accuracy of evidence presented or property tax information provided in accordance with
5529 Subsection (2).

5530 Section 77. Section 59-2-1326 is amended to read:

5531 **59-2-1326. Illegal tax -- Injunction to restrain collection.**

5532 (1) No injunction may be granted by any court to restrain the collection of any tax or
5533 any part of the tax, nor to restrain the sale of any property for the nonpayment of the tax, unless
5534 the tax, or some part of the tax sought to be enjoined:

5535 [~~(+)~~] (a) is not authorized by law[~~];~~ or

5536 [~~(2)~~] (b) is on property which is exempt from taxation.

5537 (2) If the payment of a part of a tax is sought to be enjoined, the other part shall be paid
5538 or tendered before any action may be commenced.

5539 Section 78. Section 59-12-353 is amended to read:

5540 **59-12-353. Additional municipal transient room tax to repay bonded or other**
5541 **indebtedness.**

5542 (1) Subject to the limitations of Subsection (2), the governing body of a municipality
5543 may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed
5544 .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i)
5545 if the governing body of the municipality:

5546 (a) before January 1, 1996, levied and collected a license fee or tax under Section
5547 10-1-203; and

5548 (b) before January 1, 1997, took official action to obligate the municipality in reliance
5549 on the license fees or taxes under Subsection (1)(a)[(†)] to the payment of debt service on bonds
5550 or other indebtedness, including lease payments under a lease purchase agreement.

5551 (2) The governing body of a municipality may impose the tax under this section until
5552 the sooner of:

5553 (a) the day on which the following have been paid in full:

5554 (i) the debt service on bonds or other indebtedness, including lease payments under a
5555 lease purchase agreement described in Subsection (1)(b); and

5556 (ii) refunding obligations that the municipality incurred as a result of the debt service
5557 on bonds or other indebtedness, including lease payments under a lease purchase agreement
5558 described in Subsection (1)(b); or

5559 (b) 25 years from the day on which the municipality levied the tax under this section.

5560 Section 79. Section **61-2c-502** is amended to read:

5561 **61-2c-502. Additional license fee.**

5562 (1) An individual who applies for or renews a license shall pay, in addition to any other
5563 fee required under this chapter, a reasonable annual fee:

5564 (a) determined by the division with the concurrence of the commission; and

5565 (b) not to exceed \$18.

5566 (2) (a) An entity that applies for or renews an entity license shall pay, in addition to any
5567 other fee required under this chapter, a reasonable annual fee:

5568 (i) determined by the division with the concurrence of the commission; and

5569 (ii) not to exceed \$25.

5570 (b) This Subsection (2) applies:

5571 (i) notwithstanding that an entity is operating under an assumed name registered with
5572 the division as required by Subsection 61-2c-201[(†)](5); and

5573 (ii) to each branch office of an entity that is licensed under this chapter.

5574 (3) Notwithstanding Section 13-1-2, the following shall be paid into the fund to be
5575 used as provided in this part:

5576 (a) a fee provided in this section;

5577 (b) a fee for certifying:

5578 (i) a school as a certified education provider;

5579 (ii) a prelicensing or continuing education course; or

5580 (iii) a prelicensing or continuing education provider as an instructor; and

5581 (c) a civil penalty imposed under this chapter.

5582 (4) If the balance in the fund that is available to satisfy a judgment against a licensee
5583 decreases to less than \$100,000, the division may make an additional assessment to a licensee
5584 to maintain the balance available at \$100,000 to satisfy judgments.

5585 Section 80. Section 62A-2-121 is amended to read:

5586 **62A-2-121. Access to abuse and neglect information.**

5587 (1) For purposes of this section:

5588 (a) "Direct service worker" is as defined in Section 62A-5-101.

5589 (b) "Personal care attendant" is as defined in Section 62A-3-101.

5590 (2) With respect to a licensee, a certified local inspector applicant, a direct service
5591 worker, or a personal care attendant, the department may access only the Licensing Information
5592 System of the Division of Child and Family Services created by Section 62A-4a-1006 and
5593 juvenile court records under Subsection 78A-6-323(6), for the purpose of:

5594 (a) (i) determining whether a person associated with a licensee, with direct access to
5595 children:

5596 (A) is listed in the Licensing Information System; or

5597 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
5598 neglect under Subsections 78A-6-323(1) and (2); and

5599 (ii) informing a licensee that a person associated with the licensee:

5600 (A) is listed in the Licensing Information System; or

5601 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or

- 5602 neglect under Subsections 78A-6-323(1) and (2);
- 5603 (b) (i) determining whether a certified local inspector applicant:
- 5604 (A) is listed in the Licensing Information System; or
- 5605 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
- 5606 neglect under Subsections 78A-6-323(1) and (2); and
- 5607 (ii) informing a local government that a certified local inspector applicant:
- 5608 (A) is listed in the Licensing Information System; or
- 5609 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
- 5610 neglect under Subsections 78A-6-323(1) and (2);
- 5611 (c) (i) determining whether a direct service worker:
- 5612 (A) is listed in the Licensing Information System; or
- 5613 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
- 5614 neglect under Subsections 78A-6-323(1) and (2); and
- 5615 (ii) informing a direct service worker or the direct service worker's employer that the
- 5616 direct service worker:
- 5617 (A) is listed in the Licensing Information System; or
- 5618 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
- 5619 neglect under Subsections 78A-6-323(1) and (2); or
- 5620 (d) (i) determining whether a personal care attendant:
- 5621 (A) is listed in the Licensing Information System; or
- 5622 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
- 5623 neglect under Subsections 78A-6-323(1) and (2); and
- 5624 (ii) informing a person described in Subsections 62A-3-101[(8)](9)(a)(i) through (iv)
- 5625 that a personal care attendant:
- 5626 (A) is listed in the Licensing Information System; or
- 5627 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
- 5628 neglect under Subsections 78A-6-323(1) and (2).
- 5629 (3) Notwithstanding Subsection (2), the department may access the Division of Child

5630 and Family Service's Management Information System under Section 62A-4a-1003:

5631 (a) for the purpose of licensing and monitoring foster parents; and

5632 (b) for the purposes described in Subsection 62A-4a-1003(1)(d).

5633 (4) After receiving identifying information for a person under Subsection

5634 62A-2-120(1), the department shall process the information for the purposes described in

5635 Subsection (2).

5636 (5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative

5637 Rulemaking Act, consistent with this chapter, defining the circumstances under which a person

5638 may have direct access or provide services to children when:

5639 (a) the person is listed in the Licensing Information System of the Division of Child

5640 and Family Services created by Section 62A-4a-1006; or

5641 (b) juvenile court records show that a court made a substantiated finding under Section

5642 78A-6-323, that the person committed a severe type of child abuse or neglect.

5643 Section 81. Section 62A-4a-102 is amended to read:

5644 **62A-4a-102. Policy responsibilities of division.**

5645 (1) The Division of Child and Family Services, created in Section 62A-4a-103, is

5646 responsible for establishing policies for the division, by rule, under Title 63G, Chapter 3, Utah

5647 Administrative Rulemaking Act, in accordance with the requirements of this chapter and Title

5648 78A, Chapter 6, Juvenile Court Act [~~of 1996~~], regarding abuse, neglect, and dependency

5649 proceedings, and domestic violence services. The division is responsible to see that the

5650 legislative purposes for the division are carried out.

5651 (2) The division shall:

5652 (a) approve fee schedules for programs within the division;

5653 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

5654 establish, by rule, policies to ensure that private citizens, consumers, foster parents, private

5655 contract providers, allied state and local agencies, and others are provided with an opportunity

5656 to comment and provide input regarding any new policy or proposed revision of an existing

5657 policy; and

5658 (c) provide a mechanism for:
5659 (i) systematic and regular review of existing policies, including an annual review of all
5660 division policies to ensure that policies comply with the Utah Code; and
5661 (ii) consideration of policy changes proposed by the persons and agencies described in
5662 Subsection (2)(b).

5663 (3) (a) The division shall establish rules for the determination of eligibility for services
5664 offered by the division in accordance with this chapter.

5665 (b) The division may, by rule, establish eligibility standards for consumers.

5666 (4) The division shall adopt and maintain rules regarding placement for adoption or
5667 foster care that are consistent with, and no more restrictive than, applicable statutory
5668 provisions.

5669 Section 82. Section **63A-3-502** is amended to read:

5670 **63A-3-502. Office of State Debt Collection created -- Duties.**

5671 (1) The state and each state agency shall comply with the requirements of this chapter
5672 and any rules established by the Office of State Debt Collection.

5673 (2) There is created the Office of State Debt Collection in the Division of Finance.

5674 (3) The office shall:

5675 (a) have overall responsibility for collecting and managing state receivables;

5676 (b) assist the Division of Finance to develop consistent policies governing the
5677 collection and management of state receivables;

5678 (c) oversee and monitor state receivables to ensure that state agencies are:

5679 (i) implementing all appropriate collection methods;

5680 (ii) following established receivables guidelines; and

5681 (iii) accounting for and reporting receivables in the appropriate manner;

5682 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
5683 accounting, reporting, and collecting money owed to the state;

5684 (e) provide information, training, and technical assistance to each state agency on
5685 various collection-related topics;

- 5686 (f) write an inclusive receivables management and collection manual for use by each
5687 state agency;
- 5688 (g) prepare quarterly and annual reports of the state's receivables;
- 5689 (h) create or coordinate a state accounts receivable database;
- 5690 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
5691 effective accounts receivable program;
- 5692 (j) identify any state agency that is not making satisfactory progress toward
5693 implementing collection techniques and improving accounts receivable collections;
- 5694 (k) coordinate information, systems, and procedures between each state agency to
5695 maximize the collection of past-due accounts receivable;
- 5696 (l) establish an automated cash receipt process between each state agency;
- 5697 (m) assist the Division of Finance to establish procedures for writing off accounts
5698 receivable for accounting and collection purposes;
- 5699 (n) establish standard time limits after which an agency will delegate responsibility to
5700 collect state receivables to the office or its designee;
- 5701 (o) be a real party in interest for an account receivable referred to the office by any
5702 state agency or for any restitution to victims referred to the office by a court; and
- 5703 (p) allocate money collected for judgments registered under Section 77-18-6 in
5704 accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110.
- 5705 (4) The office may:
- 5706 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
5707 by state agencies;
- 5708 (b) collect accounts receivables for higher education entities, if the higher education
5709 entity agrees;
- 5710 (c) prepare a request for proposal for consulting services to:
- 5711 (i) analyze the state's receivable management and collection efforts; and
- 5712 (ii) identify improvements needed to further enhance the state's effectiveness in
5713 collecting its receivables;

- 5714 (d) contract with private or state agencies to collect past-due accounts;
- 5715 (e) perform other appropriate and cost-effective coordinating work directly related to
- 5716 collection of state receivables;
- 5717 (f) obtain access to records and databases of any state agency that are necessary to the
- 5718 duties of the office by following the procedures and requirements of Section [63G-2-206](#),
- 5719 including the financial disclosure form described in Section [~~78-38a-204~~] [77-38a-204](#);
- 5720 (g) collect interest and fees related to the collection of receivables under this chapter,
- 5721 and establish, by following the procedures and requirements of Section [63J-1-504](#):
- 5722 (i) a fee to cover the administrative costs of collection, on accounts administered by the
- 5723 office;
- 5724 (ii) a late penalty fee that may not be more than 10% of the account receivable on
- 5725 accounts administered by the office;
- 5726 (iii) an interest charge that is:
- 5727 (A) the postjudgment interest rate established by Section [15-1-4](#) in judgments
- 5728 established by the courts; or
- 5729 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
- 5730 receivable for which no court judgment has been entered; and
- 5731 (iv) fees to collect accounts receivable for higher education;
- 5732 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
- 5733 the collection of receivables under this chapter;
- 5734 (i) make rules that allow accounts receivable to be collected over a reasonable period
- 5735 of time and under certain conditions with credit cards;
- 5736 (j) file a satisfaction of judgment in the court by following the procedures and
- 5737 requirements of the Utah Rules of Civil Procedure;
- 5738 (k) ensure that judgments for which the office is the judgment creditor are renewed, as
- 5739 necessary;
- 5740 (l) notwithstanding Section [63G-2-206](#), share records obtained under Subsection (4)(f)
- 5741 with private sector vendors under contract with the state to assist state agencies in collecting

5742 debts owed to the state agencies without changing the classification of any private, controlled,
5743 or protected record into a public record; and

5744 (m) enter into written agreements with other governmental agencies to obtain
5745 information for the purpose of collecting state accounts receivable and restitution for victims.

5746 (5) The office shall ensure that:

5747 (a) a record obtained by the office or a private sector vendor as referred to in

5748 Subsection (4)(l):

5749 (i) is used only for the limited purpose of collecting accounts receivable; and

5750 (ii) is subject to federal, state, and local agency records restrictions; and

5751 (b) any person employed by, or formerly employed by, the office or a private sector
5752 vendor as referred to in Subsection (4)(l) is subject to:

5753 (i) the same duty of confidentiality with respect to the record imposed by law on
5754 officers and employees of the state agency from which the record was obtained; and

5755 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a
5756 private, controlled, or protected record.

5757 (6) (a) The office shall collect accounts receivable ordered by a court as a result of
5758 prosecution for a criminal offense that have been transferred to the office under Subsection
5759 [76-3-201.1\(5\)\(h\)](#) or (8).

5760 (b) The office may not assess the interest charge established by the office under
5761 Subsection (4) on an account receivable subject to the postjudgment interest rate established by
5762 Section [15-1-4](#).

5763 (7) The office shall require a state agency to:

5764 (a) transfer collection responsibilities to the office or its designee according to time
5765 limits established by the office;

5766 (b) make annual progress towards implementing collection techniques and improved
5767 accounts receivable collections;

5768 (c) use the state's accounts receivable system or develop systems that are adequate to
5769 properly account for and report their receivables;

- 5770 (d) develop and implement internal policies and procedures that comply with the
5771 collections policies and guidelines established by the office;
- 5772 (e) provide internal accounts receivable training to staff involved in the management
5773 and collection of receivables as a supplement to statewide training;
- 5774 (f) bill for and make initial collection efforts of its receivables up to the time the
5775 accounts must be transferred; and
- 5776 (g) submit quarterly receivable reports to the office that identify the age, collection
5777 status, and funding source of each receivable.
- 5778 (8) The office shall use the information provided by the agencies and any additional
5779 information from the office's records to compile a one-page summary report of each agency.
- 5780 (9) The summary shall include:
- 5781 (a) the type of revenue that is owed to the agency;
- 5782 (b) any attempted collection activity; and
- 5783 (c) any costs incurred in the collection process.
- 5784 (10) The office shall annually provide copies of each agency's summary to the governor
5785 and to the Legislature.
- 5786 Section 83. Section **63G-2-202** is amended to read:
- 5787 **63G-2-202. Access to private, controlled, and protected documents.**
- 5788 (1) Upon request, and except as provided in Subsection (11)(a), a governmental entity
5789 shall disclose a private record to:
- 5790 (a) the subject of the record;
- 5791 (b) the parent or legal guardian of an unemancipated minor who is the subject of the
5792 record;
- 5793 (c) the legal guardian of a legally incapacitated individual who is the subject of the
5794 record;
- 5795 (d) any other individual who:
- 5796 (i) has a power of attorney from the subject of the record;
- 5797 (ii) submits a notarized release from the subject of the record or the individual's legal

5798 representative dated no more than 90 days before the date the request is made; or
5799 (iii) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a
5800 health care provider, as defined in Section 26-33a-102, if releasing the record or information in
5801 the record is consistent with normal professional practice and medical ethics; or
5802 (e) any person to whom the record must be provided pursuant to:
5803 (i) court order as provided in Subsection (7); or
5804 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
5805 Powers.
5806 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:
5807 (i) a physician, psychologist, certified social worker, insurance provider or producer, or
5808 a government public health agency upon submission of:
5809 (A) a release from the subject of the record that is dated no more than 90 days prior to
5810 the date the request is made; and
5811 (B) a signed acknowledgment of the terms of disclosure of controlled information as
5812 provided by Subsection (2)(b); and
5813 (ii) any person to whom the record must be disclosed pursuant to:
5814 (A) a court order as provided in Subsection (7); or
5815 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
5816 Powers.
5817 (b) A person who receives a record from a governmental entity in accordance with
5818 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,
5819 including the subject of the record.
5820 (3) If there is more than one subject of a private or controlled record, the portion of the
5821 record that pertains to another subject shall be segregated from the portion that the requester is
5822 entitled to inspect.
5823 (4) Upon request, and except as provided in Subsection (10) or (11)(b), a governmental
5824 entity shall disclose a protected record to:
5825 (a) the person who submitted the record;

- 5826 (b) any other individual who:
- 5827 (i) has a power of attorney from all persons, governmental entities, or political
- 5828 subdivisions whose interests were sought to be protected by the protected classification; or
- 5829 (ii) submits a notarized release from all persons, governmental entities, or political
- 5830 subdivisions whose interests were sought to be protected by the protected classification or from
- 5831 their legal representatives dated no more than 90 days prior to the date the request is made;
- 5832 (c) any person to whom the record must be provided pursuant to:
- 5833 (i) a court order as provided in Subsection (7); or
- 5834 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
- 5835 Powers; or
- 5836 (d) the owner of a mobile home park, subject to the conditions of Subsection
- 5837 [41-1a-116\(5\)](#).
- 5838 (5) A governmental entity may disclose a private, controlled, or protected record to
- 5839 another governmental entity, political subdivision, another state, the United States, or a foreign
- 5840 government only as provided by Section [63G-2-206](#).
- 5841 (6) Before releasing a private, controlled, or protected record, the governmental entity
- 5842 shall obtain evidence of the requester's identity.
- 5843 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
- 5844 signed by a judge from a court of competent jurisdiction, provided that:
- 5845 (a) the record deals with a matter in controversy over which the court has jurisdiction;
- 5846 (b) the court has considered the merits of the request for access to the record;
- 5847 (c) the court has considered and, where appropriate, limited the requester's use and
- 5848 further disclosure of the record in order to protect:
- 5849 (i) privacy interests in the case of private or controlled records;
- 5850 (ii) business confidentiality interests in the case of records protected under Subsection
- 5851 [63G-2-305\(1\), \(2\), \(40\)\(a\)\(ii\), or \(40\)\(a\)\(vi\)](#); and
- 5852 (iii) privacy interests or the public interest in the case of other protected records;
- 5853 (d) to the extent the record is properly classified private, controlled, or protected, the

5854 interests favoring access, considering limitations thereon, are greater than or equal to the
5855 interests favoring restriction of access; and

5856 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
5857 [63G-2-201](#)(3)(b), the court has authority independent of this chapter to order disclosure.

5858 (8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or
5859 authorize disclosure of private or controlled records for research purposes if the governmental
5860 entity:

5861 (i) determines that the research purpose cannot reasonably be accomplished without
5862 use or disclosure of the information to the researcher in individually identifiable form;

5863 (ii) determines that:

5864 (A) the proposed research is bona fide; and

5865 (B) the value of the research is greater than or equal to the infringement upon personal
5866 privacy;

5867 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of
5868 the records; and

5869 (B) requires the removal or destruction of the individual identifiers associated with the
5870 records as soon as the purpose of the research project has been accomplished;

5871 (iv) prohibits the researcher from:

5872 (A) disclosing the record in individually identifiable form, except as provided in
5873 Subsection (8)(b); or

5874 (B) using the record for purposes other than the research approved by the governmental
5875 entity; and

5876 (v) secures from the researcher a written statement of the researcher's understanding of
5877 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
5878 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
5879 under Section [63G-2-801](#).

5880 (b) A researcher may disclose a record in individually identifiable form if the record is
5881 disclosed for the purpose of auditing or evaluating the research program and no subsequent use

5882 or disclosure of the record in individually identifiable form will be made by the auditor or
5883 evaluator except as provided by this section.

5884 (c) A governmental entity may require indemnification as a condition of permitting
5885 research under this Subsection (8).

5886 (d) A governmental entity may not disclose or authorize disclosure of a private record
5887 for research purposes as described in this Subsection (8) if the private record is a record
5888 described in Subsection 63G-2-302(1)(u).

5889 (9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity
5890 may disclose to persons other than those specified in this section records that are:

5891 (i) private under Section 63G-2-302; or

5892 (ii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for
5893 business confidentiality has been made under Section 63G-2-309.

5894 (b) Under Subsection 63G-2-403(11)(b), the records committee may require the
5895 disclosure to persons other than those specified in this section of records that are:

5896 (i) private under Section 63G-2-302;

5897 (ii) controlled under Section 63G-2-304; or

5898 (iii) protected under Section 63G-2-305 subject to Section 63G-2-309 if a claim for
5899 business confidentiality has been made under Section 63G-2-309.

5900 (c) Under Subsection 63G-2-404(8), the court may require the disclosure of records
5901 that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected
5902 under Section 63G-2-305 to persons other than those specified in this section.

5903 (10) A record contained in the Management Information System, created in Section
5904 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be
5905 disclosed to any person except the person who is alleged in the report to be a perpetrator of
5906 abuse, neglect, or dependency.

5907 (11) (a) A private record described in Subsection 63G-2-302(2)~~(g)~~(f) may only be
5908 disclosed as provided in Subsection (1)(e).

5909 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed

5910 as provided in Subsection (4)(c) or Section 62A-3-312.

5911 (12) (a) A private, protected, or controlled record described in Section 62A-16-301
5912 shall be disclosed as required under:

5913 (i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

5914 (ii) Subsections 62A-16-302(1) and (6).

5915 (b) A record disclosed under Subsection (12)(a) shall retain its character as private,
5916 protected, or controlled.

5917 Section 84. Section 63G-2-703 is amended to read:

5918 **63G-2-703. Applicability to the Legislature.**

5919 (1) The Legislature and its staff offices shall designate and classify records in
5920 accordance with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or
5921 protected.

5922 (2) (a) The Legislature and its staff offices are not subject to Section 63G-2-203 or to
5923 Part 4, Appeals, Part 5, State Records Committee, or Part 6, Collection of Information and
5924 Accuracy of Records.

5925 (b) The Legislature is subject to only the following sections in [~~Part 9, Archives and~~
5926 ~~Records Service~~] Title 63A, Chapter 12, Public Records Management Act: Sections
5927 63A-12-102[;] and 63A-12-106[, and ~~63G-2-310~~].

5928 (3) The Legislature, through the Legislative Management Committee:

5929 (a) shall establish policies to handle requests for classification, designation, fees,
5930 access, denials, segregation, appeals, management, retention, and amendment of records; and

5931 (b) may establish an appellate board to hear appeals from denials of access.

5932 (4) Policies shall include reasonable times for responding to access requests consistent
5933 with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

5934 (5) Upon request, the state archivist shall:

5935 (a) assist with and advise concerning the establishment of a records management
5936 program in the Legislature; and

5937 (b) as required by the Legislature, provide program services similar to those available

5938 to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12,
5939 [~~Part 1, Archives and Records Service~~] Public Records Management Act.

5940 Section 85. Section **63G-6a-303** is amended to read:

5941 **63G-6a-303. Duties and authority of chief procurement officer.**

5942 (1) Except as otherwise specifically provided in this chapter, the chief procurement
5943 officer serves as the central procurement officer of the state and shall:

5944 (a) adopt office policies governing the internal functions of the division;

5945 (b) procure or supervise each procurement over which the chief procurement officer
5946 has authority;

5947 (c) establish and maintain programs for the inspection, testing, and acceptance of each
5948 procurement item over which the chief procurement officer has authority;

5949 (d) prepare statistical data concerning each procurement and procurement usage of a
5950 state procurement unit;

5951 (e) ensure that:

5952 (i) before approving a procurement not covered by an existing statewide contract for
5953 information technology or telecommunications supplies or services, the chief information
5954 officer and the agency have stated in writing to the division that the needs analysis required in
5955 Section **63F-1-205** was completed, unless the procurement is approved in accordance with
5956 Title 63M, Chapter 1, Part 26, Government Procurement Private Proposal Program; and

5957 (ii) the oversight authority required by Subsection [~~(5)(a)~~] (1)(e)(i) is not delegated
5958 outside the division;

5959 (f) provide training to procurement units and to persons who do business with
5960 procurement units;

5961 (g) if the chief procurement officer determines that a procurement over which the chief
5962 procurement officer has authority is out of compliance with this chapter or board rules:

5963 (i) correct or amend the procurement to bring it into compliance; or

5964 (ii) cancel the procurement, if:

5965 (A) it is not feasible to bring the procurement into compliance; or

5966 (B) the chief procurement officer determines that it is in the best interest of the state to
5967 cancel the procurement; and

5968 (h) if the chief procurement officer determines that a contract over which the chief
5969 procurement officer has authority is out of compliance with this chapter or board rules, correct
5970 or amend the contract to bring it into compliance or cancel the contract:

5971 (i) if the chief procurement officer determines that correcting, amending, or canceling
5972 the contract is in the best interest of the state; and

5973 (ii) after consultation with the attorney general's office.

5974 (2) The chief procurement officer may:

5975 (a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any
5976 stage of the procurement process; and

5977 (b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time
5978 during the term of the contract.

5979 Section 86. Section **63G-6a-904** is amended to read:

5980 **63G-6a-904. Debarment or suspension from consideration for award of contracts**
5981 **-- Process -- Causes for debarment -- Appeal.**

5982 (1) (a) Subject to Subsection (1)(b), the chief procurement officer or the head of a
5983 procurement unit with independent procurement authority may:

5984 (i) debar a person for cause from consideration for award of contracts for a period not
5985 to exceed three years; or

5986 (ii) suspend a person from consideration for award of contracts if there is probable
5987 cause to believe that the person has engaged in any activity that might lead to debarment.

5988 (b) Before debarring or suspending a person under Subsection (1)(a), the chief
5989 procurement officer or head of a procurement unit with independent procurement authority
5990 shall:

5991 (i) consult with:

5992 (A) the procurement unit involved in the matter for which debarment or suspension is
5993 sought; and

5994 (B) the attorney general, if the procurement unit is in the state executive branch, or the
5995 procurement unit's attorney, if the procurement unit is not in the state executive branch;

5996 (ii) give the person at least 10 days' prior written notice of:

5997 (A) the reasons for which debarment or suspension is being considered; and

5998 (B) the hearing under Subsection (1)(b)(iii); and

5999 (iii) hold a hearing in accordance with Subsection (1)(c).

6000 (c) (i) At a hearing under Subsection (1)(b)(iii), the chief procurement officer or head
6001 of a procurement unit with independent procurement authority may:

6002 (A) subpoena witnesses and compel their attendance at the hearing;

6003 (B) subpoena documents for production at the hearing;

6004 (C) obtain additional factual information; and

6005 (D) obtain testimony from experts, the person who is the subject of the proposed
6006 debarment or suspension, representatives of the procurement unit, or others to assist the chief
6007 procurement officer or head of a procurement unit with independent procurement authority to
6008 make a decision on the proposed debarment or suspension.

6009 (ii) The Rules of Evidence do not apply to a hearing under Subsection (1)(b)(iii).

6010 (iii) The chief procurement officer or head of a procurement unit with independent
6011 procurement authority shall:

6012 (A) record a hearing under Subsection (1)(b)(iii);

6013 (B) preserve all records and other evidence relied upon in reaching a decision until the
6014 decision becomes final;

6015 (C) for an appeal of a debarment or suspension by a procurement unit other than a
6016 legislative procurement unit, a judicial procurement unit, a local government procurement unit,
6017 or a public transit district, submit to the procurement policy board chair a copy of the written
6018 decision and all records and other evidence relied upon in reaching the decision, within seven
6019 days after receiving a notice that an appeal of a debarment or suspension has been filed under
6020 Section [63G-6a-1702](#) or after receiving a request from the procurement policy board chair; and

6021 (D) for an appeal of a debarment or suspension by a legislative procurement unit, a

6022 judicial procurement unit, a local government procurement unit, or a public transit district,
6023 submit to the Utah Court of Appeals a copy of the written decision and all records and other
6024 evidence relied upon in reaching the decision, within seven days after receiving a notice that an
6025 appeal of a debarment or suspension has been filed under Section [63G-6a-1802](#).

6026 (iv) The holding of a hearing under Subsection (1)(b)(iii) or the issuing of a decision
6027 under Subsection (1)(~~(b)~~)(c)(v) does not affect a person's right to later question or challenge the
6028 jurisdiction of the chief procurement officer or head of a procurement unit with independent
6029 procurement authority to hold a hearing or issue a decision.

6030 (v) The chief procurement officer or head of a procurement unit with independent
6031 procurement authority shall:

6032 (A) promptly issue a written decision regarding a proposed debarment or suspension,
6033 unless the matter is settled by mutual agreement; and

6034 (B) mail, email, or otherwise immediately furnish a copy of the decision to the person
6035 who is the subject of the decision.

6036 (vi) A written decision under Subsection (1)(~~(b)~~)(c)(v) shall:

6037 (A) state the reasons for the debarment or suspension, if debarment or suspension is
6038 ordered;

6039 (B) inform the person who is debarred or suspended of the right to judicial or
6040 administrative review as provided in this chapter; and

6041 (C) indicate the amount of the security deposit or bond required under Section
6042 [63G-6a-1703](#) and how that amount was calculated.

6043 (vii) (A) A decision of debarment or suspension issued by a procurement unit other
6044 than a legislative procurement unit, a judicial procurement unit, a local government
6045 procurement unit, or a public transit district is final and conclusive unless the person who is
6046 debarred or suspended files an appeal of the decision under Section [63G-6a-1702](#).

6047 (B) A decision of debarment or suspension issued by a legislative procurement unit, a
6048 judicial procurement unit, a local government procurement unit, or a public transit district is
6049 final and conclusive unless the person who is debarred or suspended files an appeal of the

6050 decision under Section [63G-6a-1802](#).

6051 (2) A suspension under this section may not be for a period exceeding three months,
6052 unless an indictment has been issued for an offense which would be a cause for debarment
6053 under Subsection (3), in which case the suspension shall, at the request of the attorney general,
6054 if the procurement unit is in the state executive branch, or the procurement unit's attorney, if
6055 the procurement unit is not in the state executive branch, remain in effect until after the trial of
6056 the suspended person.

6057 (3) The causes for debarment include the following:

6058 (a) conviction of a criminal offense as an incident to obtaining or attempting to obtain a
6059 public or private contract or subcontract or in the performance of a public or private contract or
6060 subcontract;

6061 (b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery,
6062 falsification or destruction of records, receiving stolen property, or any other offense indicating
6063 a lack of business integrity or business honesty which currently, seriously, and directly affects
6064 responsibility as a contractor for the procurement unit;

6065 (c) conviction under state or federal antitrust statutes;

6066 (d) failure without good cause to perform in accordance with the terms of the contract;

6067 (e) a violation of this chapter; or

6068 (f) any other cause that the chief procurement officer or the head of a procurement unit
6069 with independent procurement authority determines to be so serious and compelling as to affect
6070 responsibility as a contractor for the procurement unit, including debarment by another
6071 governmental entity.

6072 (4) A person who is debarred or suspended under this section may appeal the
6073 debarment or suspension:

6074 (a) as provided in Section [63G-6a-1702](#), if the debarment or suspension is by a
6075 procurement unit other than a legislative procurement unit, a judicial procurement unit, a local
6076 government procurement unit, or a public transit district; or

6077 (b) as provided in Section [63G-6a-1802](#), if the debarment or suspension is by a

6078 legislative procurement unit, a judicial procurement unit, a local government procurement unit,
6079 or a public transit district.

6080 (5) A procurement unit may consider a cause for debarment under Subsection (3) as the
6081 basis for determining that a person responding to a solicitation is not responsible:

6082 (a) independent of any effort or proceeding under this section to debar or suspend the
6083 person; and

6084 (b) even if the procurement unit does not choose to seek debarment or suspension.

6085 Section 87. Section **63G-6a-1702** is amended to read:

6086 **63G-6a-1702. Appeal to Utah State Procurement Policy Board -- Appointment of**
6087 **procurement appeals panel -- Proceedings.**

6088 (1) This part applies to all procurement units other than:

6089 (a) a legislative procurement unit;

6090 (b) a judicial procurement unit;

6091 (c) a local government procurement unit; or

6092 (d) a public transit district.

6093 (2) (a) Subject to Section **63G-6a-1703**, a party to a protest involving a procurement
6094 unit other than a procurement unit listed in Subsection (1)(a), (b), (c), or (d) may appeal the
6095 protest decision to the board by filing a written notice of appeal with the chair of the board
6096 within seven days after:

6097 (i) the day on which the written decision described in Section **63G-6a-1603** is:

6098 (A) personally served on the party or the party's representative; or

6099 (B) emailed or mailed to the address or email address of record provided by the party
6100 under Subsection **63G-6a-1602**~~[(3)]~~[(2)]; or

6101 (ii) the day on which the 30-day period described in Subsection **63G-6a-1603**~~[(7)]~~[(9)]
6102 ends, if a written decision is not issued before the end of the 30-day period.

6103 (b) A person appealing a debarment or suspension of a procurement unit other than a
6104 procurement unit listed in Subsection (1)(a), (b), (c), or (d) shall file a written notice of appeal
6105 with the chair of the board no later than seven days after the debarment or suspension.

6106 (c) A notice of appeal under Subsection (2)(a) or (b) shall:
6107 (i) include the address of record and email address of record of the party filing the
6108 notice of appeal; and
6109 (ii) be accompanied by a copy of any written protest decision or debarment or
6110 suspension order.

6111 (3) A person may not base an appeal of a protest under this section on a ground not
6112 specified in the person's protest under Section 63G-6a-1602.

6113 (4) A person may not appeal from a protest described in Section 63G-6a-1602, unless:
6114 (a) a decision on the protest has been issued; or
6115 (b) a decision is not issued and the 30-day period described in Subsection
6116 63G-6a-1603~~(7)~~(9), or a longer period agreed to by the parties, has passed.

6117 (5) The chair of the board or a designee of the chair who is not employed by the
6118 procurement unit responsible for the solicitation, contract award, or other action complained of:
6119 (a) shall, within seven days after the day on which the chair receives a timely written
6120 notice of appeal under Subsection (2), and if all the requirements of Subsection (2) and Section
6121 63G-6a-1703 have been met, appoint:
6122 (i) a procurement appeals panel to hear and decide the appeal, consisting of at least
6123 three individuals, each of whom is:
6124 (A) a member of the board; or
6125 (B) a designee of a member appointed under Subsection ~~(4)~~ (5)(a)(i)(A), if the
6126 designee is approved by the chair; and
6127 (ii) one of the members of the procurement appeals panel to be the chair of the panel;
6128 (b) may:
6129 (i) appoint the same procurement appeals panel to hear more than one appeal; or
6130 (ii) appoint a separate procurement appeals panel for each appeal;
6131 (c) may not appoint a person to a procurement appeals panel if the person is employed
6132 by the procurement unit responsible for the solicitation, contract award, or other action
6133 complained of; and

6134 (d) shall, at the time the procurement appeals panel is appointed, provide appeals panel
6135 members with a copy of the protest officer's written decision and all other records and other
6136 evidence that the protest officer relied on in reaching the decision.

6137 (6) A procurement appeals panel described in Subsection (5) shall:

6138 (a) consist of an odd number of members;

6139 (b) conduct an informal proceeding on the appeal within 60 days after the day on which
6140 the procurement appeals panel is appointed:

6141 (i) unless all parties stipulate to a later date; and

6142 (ii) subject to Subsection (8);

6143 (c) at least seven days before the proceeding, mail, email, or hand-deliver a written
6144 notice of the proceeding to the parties to the appeal; and

6145 (d) within seven days after the day on which the proceeding ends:

6146 (i) issue a written decision on the appeal; and

6147 (ii) mail, email, or hand-deliver the written decision on the appeal to the parties to the
6148 appeal and to the protest officer.

6149 (7) (a) The deliberations of a procurement appeals panel may be held in private.

6150 (b) If the procurement appeals panel is a public body, as defined in Section [52-4-103](#),
6151 the procurement appeals panel shall comply with Section [52-4-205](#) in closing a meeting for its
6152 deliberations.

6153 (8) A procurement appeals panel may continue a procurement appeals proceeding
6154 beyond the 60-day period described in Subsection (6)(b) if the procurement appeals panel
6155 determines that the continuance is in the interests of justice.

6156 (9) A procurement appeals panel:

6157 (a) shall, subject to Subsection (9)(c), consider the appeal based solely on:

6158 (i) the protest decision;

6159 (ii) the record considered by the person who issued the protest decision; and

6160 (iii) if a protest hearing was held, the record of the protest hearing;

6161 (b) may not take additional evidence;

6162 (c) notwithstanding Subsection (9)(b), may, during an informal hearing, ask questions
6163 and receive responses regarding the appeal, the protest decision, or the record in order to assist
6164 the panel to understand the appeal, the protest decision, and the record; and

6165 (d) shall uphold the decision of the protest officer, unless the decision is arbitrary and
6166 capricious or clearly erroneous.

6167 (10) If a procurement appeals panel determines that the decision of the protest officer is
6168 arbitrary and capricious or clearly erroneous, the procurement appeals panel:

6169 (a) shall remand the matter to the protest officer, to cure the problem or render a new
6170 decision;

6171 (b) may recommend action that the protest officer should take; and

6172 (c) may not order that:

6173 (i) a contract be awarded to a certain person;

6174 (ii) a contract or solicitation be cancelled; or

6175 (iii) any other action be taken other than the action described in Subsection (10)(a).

6176 (11) The board shall make rules relating to the conduct of an appeals proceeding,
6177 including rules that provide for:

6178 (a) expedited proceedings; and

6179 (b) electronic participation in the proceedings by panel members and participants.

6180 (12) The Rules of Evidence do not apply to an appeals proceeding.

6181 Section 88. Section **63G-10-403** is amended to read:

6182 **63G-10-403. Department of Transportation bid or request for proposals protest**
6183 **settlement agreement approval and review.**

6184 (1) As used in this section:

6185 (a) "Department" means the Department of Transportation created in Section [72-1-201](#).

6186 (b) "Settlement agreement" includes stipulations, consent decrees, settlement
6187 agreements, or other legally binding documents or representations resolving a dispute between
6188 the department and another party when the department is required to pay money or required to
6189 take legally binding action.

6190 (2) The department shall obtain the approval of the Transportation Commission or the
6191 governor or review by the Legislative Management Committee of a settlement agreement that
6192 involves a bid or request for proposal protest in accordance with this section.

6193 (3) A settlement agreement that is being settled by the department as part of a bid or
6194 request for proposal protest, in accordance with Subsection ~~63G-6a-1602~~(5)(4), that might
6195 cost government entities more than \$100,000 to implement shall be presented to the
6196 Transportation Commission for approval or rejection.

6197 (4) A settlement agreement that is being settled by the department as part of a bid or
6198 request for proposal protest, in accordance with Subsection ~~63G-6a-1602~~(5)(4), that might
6199 cost government entities more than \$500,000 to implement shall be presented:

6200 (a) to the Transportation Commission for approval or rejection; and

6201 (b) to the governor for approval or rejection.

6202 (5) (a) A settlement agreement that is being settled by the department as part of a bid or
6203 request for proposal protest, in accordance with Subsection ~~63G-6a-1602~~(5)(4), that might
6204 cost government entities more than \$1,000,000 to implement shall be presented:

6205 (i) to the Transportation Commission for approval or rejection;

6206 (ii) to the governor for approval or rejection; and

6207 (iii) if the settlement agreement is approved by the Transportation Commission and the
6208 governor, to the Legislative Management Committee.

6209 (b) The Legislative Management Committee may recommend approval or rejection of
6210 the settlement agreement.

6211 (6) (a) The department may not enter into a settlement agreement that resolves a bid or
6212 request for proposal protest, in accordance with Subsection ~~63G-6a-1602~~(5)(4), that might
6213 cost government entities more than \$100,000 to implement until the Transportation
6214 Commission has approved the agreement.

6215 (b) The department may not enter into a settlement agreement that resolves a bid or
6216 request for proposal protest, in accordance with Subsection ~~63G-6a-1602~~(5)(4), that might
6217 cost government entities more than \$500,000 to implement until the Transportation

6218 Commission and the governor have approved the agreement.

6219 (c) The department may not enter into a settlement agreement that resolves a bid or
6220 request for proposal protest, in accordance with Subsection [63G-6a-1602](#)~~[(5)]~~(4), that might
6221 cost government entities more than \$1,000,000 to implement until:

- 6222 (i) the Transportation Commission has approved the agreement;
- 6223 (ii) the governor has approved the agreement; and
- 6224 (iii) the Legislative Management Committee has reviewed the agreement.

6225 Section 89. Section **63G-12-102** is amended to read:

6226 **63G-12-102. Definitions.**

6227 As used in this chapter:

6228 (1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a
6229 federally qualified high deductible health plan.

6230 (2) "Department" means the Department of Public Safety created in Section [53-1-103](#).

6231 (3) "Employee" means an individual employed by an employer under a contract for
6232 hire.

6233 (4) "Employer" means a person who has one or more employees employed in the same
6234 business, or in or about the same establishment, under any contract of hire, express or implied,
6235 oral or written.

6236 (5) "E-verify program" means the electronic verification of the work authorization
6237 program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8
6238 U.S.C. Sec. 1324a, known as the e-verify program[;].

6239 (6) "Family member" means for an undocumented individual:

- 6240 (a) a member of the undocumented individual's immediate family;
- 6241 (b) the undocumented individual's grandparent;
- 6242 (c) the undocumented individual's sibling;
- 6243 (d) the undocumented individual's grandchild;
- 6244 (e) the undocumented individual's nephew;
- 6245 (f) the undocumented individual's niece;

- 6246 (g) a spouse of an individual described in this Subsection (6); or
6247 (h) an individual who is similar to one listed in this Subsection (6).
6248 (7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements
6249 Program operated by the United States Department of Homeland Security or an equivalent
6250 program designated by the Department of Homeland Security.
6251 (8) "Guest worker" means an undocumented individual who holds a guest worker
6252 permit.
6253 (9) "Guest worker permit" means a permit issued in accordance with Section
6254 [63G-12-207](#) to an undocumented individual who meets the eligibility criteria of Section
6255 [63G-12-205](#).
6256 (10) "Immediate family" means for an undocumented individual:
6257 (a) the undocumented individual's spouse; or
6258 (b) a child of the undocumented individual if the child is:
6259 (i) under 21 years of age; and
6260 (ii) unmarried.
6261 (11) "Immediate family permit" means a permit issued in accordance with Section
6262 [63G-12-207](#) to an undocumented individual who meets the eligibility criteria of Section
6263 [63G-12-206](#).
6264 (12) "Permit" means a permit issued under Part 2, Guest Worker Program, and
6265 includes:
6266 (a) a guest worker permit; and
6267 (b) an immediate family permit.
6268 (13) "Permit holder" means an undocumented individual who holds a permit.
6269 (14) "Private employer" means an employer who is not the federal government or a
6270 public employer.
6271 ~~[(17)]~~ (15) "Program" means the Guest Worker Program described in Section
6272 [63G-12-201](#).
6273 ~~[(15)]~~ (16) "Program start date" means the day on which the department is required to

6274 implement the program under Subsection 63G-12-202(3).

6275 [(16)] (17) "Public employer" means an employer that is:

6276 (a) the state of Utah or any administrative subunit of the state;

6277 (b) a state institution of higher education, as defined in Section 53B-3-102;

6278 (c) a political subdivision of the state including a county, city, town, school district,
6279 local district, or special service district; or

6280 (d) an administrative subunit of a political subdivision.

6281 (18) "Relevant contact information" means the following for an undocumented
6282 individual:

6283 (a) the undocumented individual's name;

6284 (b) the undocumented individual's residential address;

6285 (c) the undocumented individual's residential telephone number;

6286 (d) the undocumented individual's personal email address;

6287 (e) the name of the person with whom the undocumented individual has a contract for
6288 hire;

6289 (f) the name of the contact person for the person listed in Subsection (18)(e);

6290 (g) the address of the person listed in Subsection (18)(e);

6291 (h) the telephone number for the person listed in Subsection (18)(e);

6292 (i) the names of the undocumented individual's immediate family members;

6293 (j) the names of the family members who reside with the undocumented individual;

6294 and

6295 (k) any other information required by the department by rule made in accordance with
6296 Chapter 3, Utah Administrative Rulemaking Act.

6297 (19) "Restricted account" means the Immigration Act Restricted Account created in
6298 Section 63G-12-103.

6299 (20) "Serious felony" means a felony under:

6300 (a) Title 76, Chapter 5, Offenses Against the Person;

6301 (b) Title 76, Chapter [5a] 5b, Sexual Exploitation [of Children] Act;

- 6302 (c) Title 76, Chapter 6, Offenses Against Property;
- 6303 (d) Title 76, Chapter 7, Offenses Against the Family;
- 6304 (e) Title 76, Chapter 8, Offenses Against the Administration of Government;
- 6305 (f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and
- 6306 (g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.

6307 (21) (a) "Status verification system" means an electronic system operated by the federal
6308 government, through which an authorized official of a state agency or a political subdivision of
6309 the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to
6310 verify the citizenship or immigration status of an individual within the jurisdiction of the
6311 agency or political subdivision for a purpose authorized under this section.

6312 (b) "Status verification system" includes:

- 6313 (i) the e-verify program;
- 6314 (ii) an equivalent federal program designated by the United States Department of
6315 Homeland Security or other federal agency authorized to verify the work eligibility status of a
6316 newly hired employee pursuant to the Immigration Reform and Control Act of 1986;
- 6317 (iii) the Social Security Number Verification Service or similar online verification
6318 process implemented by the United States Social Security Administration; or
- 6319 (iv) an independent third-party system with an equal or higher degree of reliability as
6320 the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

6321 (22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

6322 (23) "Undocumented individual" means an individual who:

- 6323 (a) lives or works in the state; and
- 6324 (b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101
6325 et seq. with regard to presence in the United States.

6326 (24) "U-verify program" means the verification procedure developed by the department
6327 in accordance with Section [63G-12-210](#).

6328 Section 90. Section **63H-1-701** is amended to read:

6329 **63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required --**

6330 **Auditor forms -- Requirement to file form.**

6331 (1) The authority shall prepare and its board adopt an annual budget of revenues and
6332 expenditures for the authority for each fiscal year.

6333 (2) Each annual authority budget shall be adopted before June 22.

6334 (3) The authority's fiscal year shall be the period from July 1 to the following June 30.

6335 (4) (a) Before adopting an annual budget, the authority board shall hold a public
6336 hearing on the annual budget.

6337 (b) The authority shall provide notice of the public hearing on the annual budget by:

6338 (i) publishing notice:

6339 (A) at least once in a newspaper of general circulation within the authority boundaries,
6340 one week before the public hearing; and

6341 (B) on the Utah Public Notice Website created in Section [63F-1-701](#), for at least one
6342 week immediately before the public hearing; or

6343 (ii) if there is no newspaper of general circulation within the authority boundaries as
6344 described in Subsection (4)(~~(a)~~)(b)(i)(A), posting a notice of the public hearing in at least three
6345 public places within the authority boundaries.

6346 (c) The authority shall make the annual budget available for public inspection at least
6347 three days before the date of the public hearing.

6348 (5) The state auditor shall prescribe the budget forms and the categories to be contained
6349 in each authority budget, including:

6350 (a) revenues and expenditures for the budget year;

6351 (b) legal fees; and

6352 (c) administrative costs, including rent, supplies, and other materials, and salaries of
6353 authority personnel.

6354 (6) (a) Within 30 days after adopting an annual budget, the authority board shall file a
6355 copy of the annual budget with the auditor of the county in which the authority is located, the
6356 State Tax Commission, the state auditor, the State Board of Education, and each taxing entity
6357 that levies a tax on property from which the authority collects tax increment.

6358 (b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the
6359 state as a taxing entity is met if the authority files a copy with the State Tax Commission and
6360 the state auditor.

6361 Section 91. Section **63H-7-103** is amended to read:

6362 **63H-7-103. Definitions.**

6363 As used in this chapter:

6364 (1) "Authority" means the Utah Communications Authority, an independent state
6365 agency created in Section [~~67H-7-201~~] [63H-7-201](#).

6366 (2) "Board" means the Utah Communications Authority Board created in Section
6367 [~~67H-7-203~~] [63H-7-203](#).

6368 (3) "Bonds" means bonds, notes, certificates, debentures, contracts, lease purchase
6369 agreements, or other evidences of indebtedness or borrowing issued or incurred by the
6370 authority pursuant to this chapter.

6371 (4) "Communications network" means:

6372 (a) a regional or statewide public safety governmental communications network and
6373 related facilities, including real property, improvements, and equipment necessary for the
6374 acquisition, construction, and operation of the services and facilities; and

6375 (b) 911 emergency services, including radio communications, microwave connectivity,
6376 FirstNet coordination, and computer aided dispatch system.

6377 (5) "FirstNet" means the First Responder Network Authority created by Congress in
6378 the Middle Class Tax Relief and Job Creation Act of 2012.

6379 (6) "Lease" means any lease, lease purchase, sublease, operating, management, or
6380 similar agreement.

6381 (7) "Local entity" means a county, city, town, local district, special service district, or
6382 interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act.

6383 (8) "Member" means a public agency which:

6384 (a) adopts a membership resolution to be included within the authority; and

6385 (b) submits an originally executed copy of an authorizing resolution to the authority's

6386 office.

6387 (9) "Member representative" means a person or that person's designee appointed by the
6388 governing body of each member.

6389 (10) "Public agency" means any political subdivision of the state, including cities,
6390 towns, counties, school districts, local districts, and special service districts, dispatched by a
6391 public safety answering point.

6392 (11) "Public safety answering point" means an organization, entity, or combination of
6393 entities which have joined together to form a central answering point for the receipt,
6394 management, and dissemination to the proper responding agency, of emergency and
6395 nonemergency communications, including 911 communications, police, fire, emergency
6396 medical, transportation, parks, wildlife, corrections, and any other governmental
6397 communications.

6398 (12) "State" means the state of Utah.

6399 (13) "State representative" means the six appointees of the governor or their designees
6400 and the Utah State Treasurer or his designee.

6401 Section 92. Section **63I-1-213** is amended to read:

6402 **63I-1-213. Repeal dates, Title 13.**

6403 [~~(1) Subsections 13-38a-102(3) and 13-38a-102(4) are repealed June 30, 2014.~~]

6404 [~~(2) Sections 13-38a-301 and 13-38a-302 are repealed June 30, 2014.~~]

6405 Section 93. Section **63I-1-226** is amended to read:

6406 **63I-1-226. Repeal dates, Title 26.**

6407 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
6408 1, 2015.

6409 (2) Section ~~26-10-11~~ is repealed July 1, 2015.

6410 [~~(3) Section 26-18-12, Expansion of 340B drug pricing programs, is repealed July 1,~~
6411 ~~2013.~~]

6412 [~~(4)~~ (3) Section ~~26-21-23~~, Licensing of non-Medicaid nursing care facility beds, is
6413 repealed July 1, 2018.

- 6414 [~~(5)~~] Section ~~26-21-211~~ is repealed July 1, 2013.]
- 6415 [~~(6)~~] (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,
6416 2024.
- 6417 [~~(7)~~] (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1,
6418 2016.
- 6419 [~~(8)~~] (6) Section ~~26-38-2.5~~ is repealed July 1, 2017.
- 6420 [~~(9)~~] (7) Section ~~26-38-2.6~~ is repealed July 1, 2017.
- 6421 [~~(10)~~] (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1,
6422 2016.
- 6423 Section 94. Section **63I-1-235** is amended to read:
- 6424 **63I-1-235. Repeal dates, Title 35A.**
- 6425 (1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2015.
- 6426 (2) Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act, is repealed July 1,
6427 2016.
- 6428 [~~(3)~~] Title 35A, Chapter 8, Part 18, Transitional Housing and Community Development
6429 Advisory Council, is repealed July 1, 2014.]
- 6430 [~~(4)~~] (3) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed
6431 July 1, 2016.
- 6432 Section 95. Section **63I-2-219** is amended to read:
- 6433 **63I-2-219. Repeal dates -- Title 19.**
- 6434 [~~(1)~~] Section ~~19-6-405.3~~ is repealed July 1, 2014.]
- 6435 [~~(2)~~] Section ~~19-6-405.4~~ is repealed July 1, 2014.]
- 6436 Section 96. Section **63I-2-253** is amended to read:
- 6437 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**
- 6438 [~~(1)~~] Section ~~53A-1-402.7~~ is repealed July 1, 2014.]
- 6439 [~~(2)~~] (1) Section ~~53A-1-403.5~~ is repealed July 1, 2017.
- 6440 [~~(3)~~] (2) Subsection ~~53A-1-410(5)~~ is repealed July 1, 2015.
- 6441 [~~(4)~~] (3) Section ~~53A-1-411~~ is repealed July 1, 2016.

- 6442 [~~(5)~~] (4) Section [53A-1a-513.5](#) is repealed July 1, 2017.
- 6443 [~~(6)~~] (5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.
- 6444 [~~(7)~~] (6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is
6445 repealed July 1, 2017.
- 6446 [~~(8)~~] (7) Section [53A-17a-169](#) is repealed July 1, 2017.
- 6447 Section 97. Section **63I-2-258** is amended to read:
- 6448 **63I-2-258. Repeal dates -- Title 58.**
- 6449 [~~(1) Subsection [58-72-201](#)(1)(b) is repealed July 1, 2014.~~]
- 6450 [~~(2)~~] Subsection [58-17b-605.5](#)(8) is repealed on May 15, 2015.
- 6451 Section 98. Section **63I-2-262** is amended to read:
- 6452 **63I-2-262. Repeal dates, Title 62A.**
- 6453 [~~Section [62A-4a-122](#) is repealed January 1, 2014.~~]
- 6454 Section 99. Section **63I-2-263** is amended to read:
- 6455 **63I-2-263. Repeal dates, Title 63A to Title 63M.**
- 6456 [~~(1) Section [63A-1-115](#) is repealed on July 1, 2014.~~]
- 6457 [~~(2)~~] (1) Section [63C-9-501.1](#) is repealed on July 1, 2015.
- 6458 [~~(3) Subsection [63J-1-218](#)(3) is repealed on December 1, 2013.~~]
- 6459 [~~(4) Subsection [63J-1-218](#)(4) is repealed on December 1, 2013.~~]
- 6460 [~~(5) Section [63M-1-207](#) is repealed on December 1, 2014.~~]
- 6461 [~~(6)~~] (2) Subsection [63M-1-903](#)(1)(d) is repealed on July 1, 2015.
- 6462 [~~(7) Subsection [63M-1-1406](#)(9) is repealed on January 1, 2015.~~]
- 6463 Section 100. Section **63I-5-302** is amended to read:
- 6464 **63I-5-302. Agency head -- Powers and duties.**
- 6465 If an agency has an internal audit program, and the agency's appointing authority has
6466 not established an audit committee, the agency head shall assume the audit committee powers
6467 and duties described in Subsection [~~[63I-5-303](#)~~] [63I-5-301](#)(3).
- 6468 Section 101. Section **63M-1-3208** is amended to read:
- 6469 **63M-1-3208. STEM education endorsements and incentive program.**

6470 (1) The State Board of Education shall collaborate with the STEM Action Center to:

6471 (a) develop STEM education endorsements; and

6472 (b) create and implement financial incentives for:

6473 (i) an educator to earn an elementary or secondary STEM education endorsement

6474 described in Subsection (1)(a); and

6475 (ii) a school district or a charter school to have STEM endorsed educators on staff.

6476 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

6477 State Board of Education shall make rules to establish how a STEM education endorsement

6478 [~~incentive~~] described in Subsection (1)(a) will be valued on a salary scale for educators.

6479 Section 102. Section ~~65A-7-5~~ is amended to read:

6480 **65A-7-5. Surface leases -- Procedures for issuing leases -- Leases for the**

6481 **construction of a highway facility.**

6482 (1) The division may issue surface leases of state lands for any period up to 99 years.

6483 (2) This section does not apply to leases for oil and gas, grazing, or mining purposes.

6484 (3) The division shall disclose any known geologic hazard affecting leased property.

6485 (4) (a) (i) Surface leases may be entered into by negotiation, public auction, or other

6486 public competitive bidding process as determined by rules of the division.

6487 (ii) Requests for proposals (RFP) on state lands may be offered by the division after

6488 public notice.

6489 (b) (i) A notice of an invitation for bids or a public auction shall, prior to the auction or

6490 acceptance of a bid, be published at least once a week for three consecutive weeks in one or

6491 more newspapers of general circulation in the county in which the lease is offered.

6492 (ii) The notice shall be sent, by certified mail, at least 30 days prior to the auction or

6493 acceptance of a bid, to each person who owns property adjoining the state lands offered for

6494 lease.

6495 (c) (i) Surface leases entered into through negotiation shall be published in the manner

6496 set forth in Subsection (4)(b) 30 days prior to final approval.

6497 (ii) The notice shall include, at a minimum, a general description of the lands proposed

6498 for lease and the type of lease.

6499 (5) (a) The division may not issue a lease for the construction of a highway facility
 6500 over sovereign lakebed lands unless the applicant for the lease submits an approval for the
 6501 construction of a highway facility over sovereign lakebed lands from the Transportation
 6502 Commission in accordance with Section 72-6-303 with the application for the lease.

6503 (b) The division shall consider the information and analysis provided by the
 6504 Transportation Commission under Section 72-6-303 when making its determination as to
 6505 whether to issue a lease for the construction of a highway facility over sovereign lakebed lands.

6506 (c) A lease for the construction of a highway facility over sovereign lakebed lands:

6507 (i) may include an option to renew the lease upon expiration; and

6508 (ii) shall include a provision that requires that at the termination of the lease:

6509 (A) the ownership of the highway facility shall revert to the state;

6510 (B) the highway facility shall be in a state of proper maintenance as outlined in the
 6511 agreement under Subsection 72-6-303[(4)](5)(e) and determined by the Department of
 6512 Transportation; and

6513 (C) the highway facility shall be returned to the Department of Transportation in
 6514 satisfactory condition at no further cost to the Department of Transportation, in a condition of
 6515 good repair.

6516 (d) The requirements under this Subsection (5) apply to all pending and future
 6517 applications for a lease for the construction of a highway facility over sovereign lakebed lands.

6518 Section 103. Section 67-5-3 is amended to read:

6519 **67-5-3. "Agency" defined -- Performance of legal services for agencies -- Billing.**

6520 (1) As used in this act, "agency" means a department, division, agency, commission,
 6521 board, council, committee, authority, institution, or other entity within the state government of
 6522 Utah.

6523 (2) (a) The attorney general may assign [his legal assistants] a legal assistant to perform
 6524 legal services for any agency of state government. [He]

6525 (b) The attorney general shall bill that agency for the legal services performed, if:

6526 ~~[(1)]~~ (i) the agency ~~[so]~~ billed receives federal funds to pay for the legal services
6527 rendered[;]; or ~~[if (2)]~~

6528 (ii) the agency collects funds from any other source in the form of fees, costs, interest,
6529 fines, penalties, forfeitures, or other proceeds reserved or designated for the payment of legal
6530 fees sufficient to pay for all or a portion of the legal services rendered[; ~~however, the~~].

6531 (c) An agency may deduct any unreimbursed costs and expenses incurred by the agency
6532 in connection with the legal services rendered. ~~[As used in this act "agency" means any~~
6533 ~~department, division, agency, commission, board, council, committee, authority, institution, or~~
6534 ~~other entity within the state government of Utah.]~~

6535 Section 104. Section **67-19a-202** is amended to read:

6536 **67-19a-202. Powers -- Scope of authority.**

6537 (1) (a) The office shall serve as the final administrative body to review a grievance
6538 from a career service employee and an agency of a decision regarding:

- 6539 (i) a dismissal;
- 6540 (ii) a demotion;
- 6541 (iii) a suspension;
- 6542 (iv) a reduction in force;
- 6543 (v) a dispute concerning abandonment of position;
- 6544 (vi) a wage grievance if an employee is not placed within the salary range of the
6545 employee's current position;
- 6546 (vii) a violation of a rule adopted under Chapter 19, Utah State Personnel Management
6547 Act; or

6548 (viii) except as provided by Subsection (1)~~[(b)]~~(c)(iii), equitable administration of the
6549 following benefits:

- 6550 (A) long-term disability insurance;
- 6551 (B) medical insurance;
- 6552 (C) dental insurance;
- 6553 (D) post-retirement health insurance;

- 6554 (E) post-retirement life insurance;
- 6555 (F) life insurance;
- 6556 (G) defined contribution retirement;
- 6557 (H) defined benefit retirement; and
- 6558 (I) a leave benefit.
- 6559 (b) The office shall serve as the final administrative body to review a grievance by a
- 6560 reporting employee alleging retaliatory action.
- 6561 (c) The office may not review or take action on:
- 6562 (i) a personnel matter not listed in Subsection (1)(a) or (b);
- 6563 (ii) a grievance listed in Subsection (1)(a) or (b) that alleges discrimination or
- 6564 retaliation related to a claim of discrimination that is a violation of a state or federal law for
- 6565 which review and action by the office is preempted by state or federal law; or
- 6566 (iii) a grievance related to a claim for which an administrative review process is
- 6567 provided by statute and administered by:
- 6568 (A) the Utah State Retirement Systems under Title 49, Utah State Retirement and
- 6569 Insurance Benefit Act;
- 6570 (B) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20,
- 6571 Public Employees' Benefit and Insurance Program Act; or
- 6572 (C) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21,
- 6573 Public Employees' Long-Term Disability Act.
- 6574 (2) The time limits established in this chapter supersede the procedural time limits
- 6575 established in Title 63G, Chapter 4, Administrative Procedures Act.
- 6576 Section 105. Section **67-19a-402.5** is amended to read:
- 6577 **67-19a-402.5. Procedural steps to be followed by reporting employee alleging**
- 6578 **retaliatory action.**
- 6579 (1) A reporting employee who desires to assert an administrative grievance of
- 6580 retaliatory action:
- 6581 (a) shall submit the grievance in writing within 20 days after the day on which the

6582 retaliatory action occurs;

6583 (b) is not required to comply with Section [63G-7-402](#) to file the grievance; and

6584 (c) is subject to the provisions of Section [~~67-24-4~~] [67-21-4](#).

6585 (2) (a) When a reporting employee files a grievance with the administrator under
6586 Subsection (1), the administrator shall initially determine:

6587 (i) whether the reporting employee is entitled, under this chapter and Chapter 21, Utah
6588 Protection of Public Employees Act, to bring the grievance and use the grievance procedure;

6589 (ii) whether the office has authority to review the grievance;

6590 (iii) whether, if the alleged grievance were found to be true, the reporting employee
6591 would be entitled to relief under Subsection [67-21-3.5\(2\)](#); and

6592 (iv) whether the reporting employee has been directly harmed.

6593 (b) To make the determinations described in Subsection (2)(a), the administrator may:

6594 (i) hold an initial hearing, where the parties may present oral arguments, written
6595 arguments, or both; or

6596 (ii) conduct an administrative review of the grievance.

6597 (3) (a) If the administrator holds an initial hearing, the administrator shall issue a
6598 written decision within 15 days after the day on which the hearing is adjourned.

6599 (b) If the administrator chooses to conduct an administrative review of the grievance,
6600 the administrator shall issue the written decision within 15 days after the day on which the
6601 administrator receives the grievance.

6602 (4) (a) If the administrator determines the office has authority to review the grievance,
6603 the administrator shall provide for an evidentiary hearing in accordance with Section
6604 [67-19a-404](#).

6605 (b) The administrator may dismiss the grievance, without holding a hearing or taking
6606 evidence, if the administrator:

6607 (i) finds that, even if the alleged grievance were found to be true, the reporting
6608 employee would not be entitled to relief under Subsection [67-21-3.5\(2\)](#); and

6609 (ii) provides the administrator's findings, in writing, to the reporting employee.

6610 (c) The office shall comply with Chapter 21, Utah Protection of Public Employees Act,
6611 in taking action under this section.

6612 (5) A decision reached by the office in reviewing a retaliatory action grievance from a
6613 reporting employee may be appealed directly to the Utah Court of Appeals.

6614 (6) (a) Except as provided in Subsection (6)(b), an appellate court may award costs and
6615 attorney fees, accrued at the appellate court level, to a prevailing employee.

6616 (b) A court may not order the office to pay costs or attorney fees under this section.

6617 Section 106. Section **70A-2-601** is amended to read:

6618 **70A-2-601. Buyer's rights on improper delivery.**

6619 Subject to the provisions of this chapter on breach in installment contracts (Section
6620 [70A-2-612](#)) and unless otherwise agreed under the sections on contractual limitations of
6621 remedy (Sections [70A-2-718](#) and [70A-2-719](#)), if the goods or the tender of delivery fail in any
6622 respect to conform to the contract, the buyer may:

6623 [~~(a)~~] (1) reject the whole; [~~or~~]

6624 [~~(b)~~] (2) accept the whole; or

6625 [~~(c)~~] (3) accept any commercial unit or units and reject the rest.

6626 Section 107. Section **70A-2-610** is amended to read:

6627 **70A-2-610. Anticipatory repudiation.**

6628 When either party repudiates the contract with respect to a performance not yet due the
6629 loss of which will substantially impair the value of the contract to the other, the aggrieved party
6630 may:

6631 [~~(a)~~] (1) for a commercially reasonable time await performance by the repudiating
6632 party; [~~or~~]

6633 [~~(b)~~] (2) resort to any remedy for breach (Section [70A-2-703](#) or Section [70A-2-711](#)),
6634 even though he has notified the repudiating party that he would await the latter's performance
6635 and has urged retraction; and

6636 [~~(c)~~] (3) in either case suspend his own performance or proceed in accordance with the
6637 provisions of this chapter on the seller's right to identify goods to the contract notwithstanding

6638 breach or to salvage unfinished goods (Section [70A-2-704](#)).

6639 Section 108. Section **70A-2-615** is amended to read:

6640 **70A-2-615. Excuse by failure of presupposed conditions.**

6641 Except so far as a seller may have assumed a greater obligation and subject to the
6642 preceding section on substituted performance:

6643 ~~[(a)]~~ (1) Delay in delivery or nondelivery in whole or in part by a seller who complies
6644 with ~~[paragraphs (b) and (c)]~~ Subsections (2) and (3) is not a breach of his duty under a
6645 contract for sale if performance as agreed has been made impracticable by the occurrence of a
6646 contingency the nonoccurrence of which was a basic assumption on which the contract was
6647 made or by compliance in good faith with any applicable foreign or domestic governmental
6648 regulation or order whether or not it later proves to be invalid.

6649 ~~[(b)]~~ (2) Where the causes mentioned in ~~[paragraph (a)]~~ Subsection (1) affect only a
6650 part of the seller's capacity to perform, he must allocate production and deliveries among his
6651 customers but may at his option include regular customers not then under contract as well as
6652 his own requirements for further manufacture. He may so allocate in any manner which is fair
6653 and reasonable.

6654 ~~[(c)]~~ (3) The seller must notify the buyer seasonably that there will be delay or
6655 nondelivery and, when allocation is required under ~~[paragraph (b)]~~ Subsection (2), of the
6656 estimated quota thus made available for the buyer.

6657 Section 109. Section **70A-4a-207** is amended to read:

6658 **70A-4a-207. Misdescription of beneficiary.**

6659 (1) Subject to Subsection (2), if, in a payment order received by the beneficiary's bank,
6660 the name, bank account number, or other identification of the beneficiary refers to a
6661 nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the
6662 order and acceptance of the order cannot occur.

6663 (2) If a payment order received by the beneficiary's bank identifies the beneficiary both
6664 by name and by an identifying or bank account number and the name and number identify
6665 different persons then the following rules apply[-]:

6666 [~~3~~] (a) Except as otherwise provided in Subsection [~~5~~] (3), the beneficiary's bank
6667 may treat the person identified by number as the beneficiary of the order if the bank does not
6668 know that the name and number refer to different persons, it may rely on the number as the
6669 proper identification of the beneficiary of the order. The beneficiary's bank need not determine
6670 whether the name and number refer to the same person.

6671 [~~4~~] (b) If the beneficiary's bank pays the person identified by name or knows that the
6672 name and number identify different persons, no person has rights as beneficiary except the
6673 person paid by the beneficiary's bank if that person was entitled to receive payment from the
6674 originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order
6675 cannot occur.

6676 [~~5~~] (3) If the conditions listed in Subsections [~~5~~] (3)(a), (b), and (c) are present, the
6677 rules listed in Subsections [~~6~~] (4) and [~~7~~] (5) apply:

6678 (a) a payment order described in Subsection (2) is accepted;

6679 (b) the originator's payment order described the beneficiary inconsistently by name and
6680 number; and

6681 (c) the beneficiary's bank pays the person identified by number as permitted by
6682 Subsection (2)(a).

6683 [~~6~~] (4) If the originator is a bank, the originator is obliged to pay its order.

6684 [~~7~~] (5) If the originator is not a bank and proves that the person identified by number
6685 was not entitled to receive payment from the originator, the originator is not obliged to pay its
6686 order unless the originator's bank proves that the originator, before acceptance of the
6687 originator's order, had notice that payment of a payment order issued by the originator might be
6688 made by the beneficiary's bank on the basis of an identifying or bank account number even if it
6689 identifies a person different from the named beneficiary. Proof of notice may be made by any
6690 admissible evidence. The originator's bank satisfies the burden of proof if it proves that the
6691 originator, before the payment order was accepted, signed a writing stating the information to
6692 which the notice relates.

6693 [~~8~~] (6) In a case governed by Subsection (2)(a), if the beneficiary's bank rightfully

6694 pays the person identified by number and that person was not entitled to receive payment from
6695 the originator, the amount paid may be recovered from that person to the extent allowed by the
6696 law governing mistake and rescission as follows:

6697 (a) If the originator is obliged to pay its payment order as stated in Subsection [~~(5)~~] (3),
6698 the originator has the right to recover.

6699 (b) If the originator is not a bank and is not obliged to pay its payment order, the
6700 originator's bank has the right to recover.

6701 Section 110. Section **72-4-302** is amended to read:

6702 **72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership --**
6703 **Meetings -- Expenses.**

6704 (1) There is created the Utah State Scenic Byway Committee.

6705 (2) (a) The committee shall consist of the following 15 members:

6706 (i) a representative from each of the following entities appointed by the governor:

6707 (A) the Governor's Office of Economic Development;

6708 (B) the Utah Department of Transportation;

6709 (C) the Department of Heritage and Arts;

6710 (D) the Division of [State] Parks and Recreation;

6711 (E) the Federal Highway Administration;

6712 (F) the National Park Service;

6713 (G) the National Forest Service; and

6714 (H) the Bureau of Land Management;

6715 (ii) one local government tourism representative appointed by the governor;

6716 (iii) a representative from the private business sector appointed by the governor;

6717 (iv) three local elected officials from a county, city, or town within the state appointed
6718 by the governor;

6719 (v) a member from the House of Representatives appointed by the speaker of the
6720 House of Representatives; and

6721 (vi) a member from the Senate appointed by the president of the Senate.

6722 (b) Except as provided in Subsection (2)(c), the members appointed in this Subsection
6723 (2) shall be appointed for a four-year term of office.

6724 (c) The governor shall, at the time of appointment or reappointment for appointments
6725 made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the
6726 terms of committee members are staggered so that approximately half of the committee is
6727 appointed every two years.

6728 (d) (i) The appointments made under Subsections (2)(a)(v) and (vi) by the speaker of
6729 the House and the president of the Senate may not be from the same political party.

6730 (ii) The speaker of the House and the president of the Senate shall alternate the
6731 appointments made under Subsections (2)(a)(v) and (vi) as follows:

6732 (A) if the speaker appoints a member under Subsection (2)(a)(v), the next appointment
6733 made by the speaker following the expiration of the existing member's four-year term of office
6734 shall be from a different political party; and

6735 (B) if the president appoints a member under Subsection (2)(a)(vi), the next
6736 appointment made by the president following the expiration of the existing member's four-year
6737 term of office shall be from a different political party.

6738 (3) (a) The representative from the Governor's Office of Economic Development shall
6739 chair the committee.

6740 (b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as
6741 nonvoting, ex officio members of the committee.

6742 (4) The Governor's Office of Economic Development and the department shall provide
6743 staff support to the committee.

6744 (5) (a) The chair may call a meeting of the committee only with the concurrence of the
6745 department.

6746 (b) A majority of the voting members of the committee constitute a quorum.

6747 (c) Action by a majority vote of a quorum of the committee constitutes action by the
6748 committee.

6749 (6) (a) A member who is not a legislator may not receive compensation or benefits for

6750 the member's service, but may receive per diem and travel expenses as allowed in:

6751 (i) Section [63A-3-106](#);

6752 (ii) Section [63A-3-107](#); and

6753 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and

6754 [63A-3-107](#).

6755 (b) Compensation and expenses of a member who is a legislator are governed by
6756 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

6757 Section 111. Section **73-2-22** is amended to read:

6758 **73-2-22. Emergency flood powers -- Action to enforce orders -- Access rights to**
6759 **private and public property -- Injunctive relief against state engineer's decisions --**
6760 **Judicial review provisions not applicable.**

6761 Whenever the state engineer, with approval of the chair of the Emergency Management
6762 Administration Council created in Section [~~63K-3-201~~] [53-2a-105](#), makes a written finding
6763 that any reservoir or stream has reached or will reach during the current water year a level far
6764 enough above average and in excess of capacity that public safety is or is likely to be
6765 endangered or that substantial property damage is occurring or is likely to occur, he shall have
6766 emergency powers until the danger to the public and property is abated. Emergency powers
6767 shall consist of the authority to control stream flow and reservoir storage or release. The state
6768 engineer must protect existing water rights to the maximum extent possible when exercising
6769 emergency powers. Any action taken by the state engineer under this section shall be by
6770 written order.

6771 If any person refuses or neglects to comply with any order of the state engineer issued
6772 pursuant to his emergency powers, the state engineer may bring action in the name of the state
6773 in the district court to enforce them. In carrying out his emergency powers, the state engineer
6774 shall have rights of access to private and public property.

6775 Any person affected by a decision of the state engineer made under his emergency
6776 powers shall have the right to seek injunctive relief, including temporary restraining orders and
6777 temporary injunctions in any district court of the county where that person resides. No order of

6778 the state engineer shall be enjoined or set aside unless shown by clear and convincing evidence
6779 that an emergency does not in fact exist or that the order of the state engineer is arbitrary or
6780 capricious. The provisions of Sections 73-3-14 and 73-3-15 shall not be applicable to any
6781 order of the state engineer issued pursuant to this section.

6782 Section 112. Section 73-22-3 is amended to read:

6783 **73-22-3. Definitions.**

6784 As used in this chapter:

6785 (1) "Correlative rights" mean the rights of each geothermal owner in a geothermal area
6786 to produce without waste his just and equitable share of the geothermal resource underlying the
6787 geothermal area.

6788 (2) "Division" means the Division of Water Rights, Department of Natural Resources.

6789 (3) "Geothermal area" means the general land area which is underlain or reasonably
6790 appears to be underlain by geothermal resources.

6791 (4) "Geothermal fluid" means water and steam at temperatures greater than 120 degrees
6792 centigrade naturally present in a geothermal system.

6793 (5) (a) "Geothermal resource" means:

6794 [~~(a)~~] (i) the natural heat of the earth at temperatures greater than 120 degrees
6795 centigrade; and

6796 [~~(b)~~] (ii) the energy, in whatever form, including pressure, present in, resulting from,
6797 created by, or which may be extracted from that natural heat, directly or through a material
6798 medium.

6799 (b) "Geothermal resource" does not include geothermal fluids.

6800 (6) "Geothermal system" means any strata, pool, reservoir, or other geologic formation
6801 containing geothermal resources.

6802 (7) "Material medium" means geothermal fluids, or water and other substances
6803 artificially introduced into a geothermal system to serve as a heat transfer medium.

6804 (8) "Operator" means any person drilling, maintaining, operating, producing, or in
6805 control of any well.

6806 (9) "Owner" means a person who has the right to drill into, produce, and make use of
6807 the geothermal resource.

6808 (10) "Person" means any individual, business entity (corporate or otherwise), or
6809 political subdivision of this or any other state.

6810 (11) "Waste" means any inefficient, excessive, or improper production, use, or
6811 dissipation of geothermal resources. Wasteful practices include, but are not limited to: (a)
6812 transporting or storage methods that cause or tend to cause unnecessary surface loss of
6813 geothermal resources; or (b) locating, spacing, constructing, equipping, operating, producing,
6814 or venting of any well in a manner that results or tends to result in unnecessary surface loss or
6815 in reducing the ultimate economic recovery of geothermal resources.

6816 (12) "Well" means any well drilled, converted, or reactivated for the discovery, testing,
6817 production, or subsurface injection of geothermal resources.

6818 Section 113. Section **75-3-603** is amended to read:

6819 **75-3-603. Bond not required -- Exceptions.**

6820 (1) No bond is required of a personal representative appointed in formal or informal
6821 proceedings, except:

6822 [~~(1)~~] (a) upon the appointment of a special administrator without notice having been
6823 given[;];

6824 [~~(2)~~] (b) when an executor or other personal representative is appointed to administer
6825 an estate under a will containing an express requirement of bond[;];

6826 [~~(3)~~] (c) when bond is requested prior to appointment, by an interested party[;]; or

6827 [~~(4)~~] (d) when bond is required under Section **75-3-605**. No bond is required of any
6828 personal representative who is exempted from bond under Title 7, Financial Institutions Act.

6829 [~~Bond~~]

6830 (2) A bond required pursuant to this section may be dispensed with upon a
6831 determination by the court that it is not necessary.

6832 Section 114. Section **76-5-109** is amended to read:

6833 **76-5-109. Child abuse -- Child abandonment.**

- 6834 (1) As used in this section:
- 6835 (a) "Child" means a human being who is under 18 years of age.
- 6836 (b) (i) "Child abandonment" means that a parent or legal guardian of a child:
- 6837 (A) intentionally ceases to maintain physical custody of the child;
- 6838 (B) intentionally fails to make reasonable arrangements for the safety, care, and
- 6839 physical custody of the child; and
- 6840 (C) (I) intentionally fails to provide the child with food, shelter, or clothing;
- 6841 (II) manifests an intent to permanently not resume physical custody of the child; or
- 6842 (III) for a period of at least 30 days:
- 6843 (Aa) intentionally fails to resume physical custody of the child; and
- 6844 (Bb) fails to manifest a genuine intent to resume physical custody of the child.
- 6845 (ii) "Child abandonment" does not include:
- 6846 (A) safe relinquishment of a child pursuant to the provisions of Section [62A-4a-802](#); or
- 6847 (B) giving legal consent to a court order for termination of parental rights:
- 6848 (I) in a legal adoption proceeding; or
- 6849 (II) in a case where a petition for the termination of parental rights, or the termination
- 6850 of a guardianship, has been filed.
- 6851 (c) "Child abuse" means any offense described in Subsection (2), (3), or (4) or in
- 6852 Section [76-5-109.1](#).
- 6853 (d) "Enterprise" is as defined in Section [76-10-1602](#).
- 6854 (e) "Physical injury" means an injury to or condition of a child which impairs the
- 6855 physical condition of the child, including:
- 6856 (i) a bruise or other contusion of the skin;
- 6857 (ii) a minor laceration or abrasion;
- 6858 (iii) failure to thrive or malnutrition; or
- 6859 (iv) any other condition which imperils the child's health or welfare and which is not a
- 6860 serious physical injury as defined in Subsection (1)(f).
- 6861 (f) (i) "Serious physical injury" means any physical injury or set of injuries that:

- 6862 (A) seriously impairs the child's health;
- 6863 (B) involves physical torture;
- 6864 (C) causes serious emotional harm to the child; or
- 6865 (D) involves a substantial risk of death to the child.
- 6866 (ii) "Serious physical injury" includes:
- 6867 (A) fracture of any bone or bones;
- 6868 (B) intracranial bleeding, swelling or contusion of the brain, whether caused by blows,
- 6869 shaking, or causing the child's head to impact with an object or surface;
- 6870 (C) any burn, including burns inflicted by hot water, or those caused by placing a hot
- 6871 object upon the skin or body of the child;
- 6872 (D) any injury caused by use of a dangerous weapon as defined in Section [76-1-601](#);
- 6873 (E) any combination of two or more physical injuries inflicted by the same person,
- 6874 either at the same time or on different occasions;
- 6875 (F) any damage to internal organs of the body;
- 6876 (G) any conduct toward a child that results in severe emotional harm, severe
- 6877 developmental delay or intellectual disability, or severe impairment of the child's ability to
- 6878 function;
- 6879 (H) any injury that creates a permanent disfigurement or protracted loss or impairment
- 6880 of the function of a bodily member, limb, or organ;
- 6881 (I) any conduct that causes a child to cease breathing, even if resuscitation is successful
- 6882 following the conduct; or
- 6883 (J) any conduct that results in starvation or failure to thrive or malnutrition that
- 6884 jeopardizes the child's life.
- 6885 (2) Any person who inflicts upon a child serious physical injury or, having the care or
- 6886 custody of such child, causes or permits another to inflict serious physical injury upon a child is
- 6887 guilty of an offense as follows:
- 6888 (a) if done intentionally or knowingly, the offense is a felony of the second degree;
- 6889 (b) if done recklessly, the offense is a felony of the third degree; or

- 6890 (c) if done with criminal negligence, the offense is a class A misdemeanor.
- 6891 (3) Any person who inflicts upon a child physical injury or, having the care or custody
- 6892 of such child, causes or permits another to inflict physical injury upon a child is guilty of an
- 6893 offense as follows:
- 6894 (a) if done intentionally or knowingly, the offense is a class A misdemeanor;
- 6895 (b) if done recklessly, the offense is a class B misdemeanor; or
- 6896 (c) if done with criminal negligence, the offense is a class C misdemeanor.
- 6897 (4) A person who commits child abandonment, or encourages or causes another to
- 6898 commit child abandonment, or an enterprise that encourages, commands, or causes another to
- 6899 commit child abandonment, is:
- 6900 (a) except as provided in Subsection (4)(b), guilty of a felony of the third degree; or
- 6901 (b) guilty of a felony of the second degree, if, as a result of the child abandonment:
- 6902 (i) the child suffers a serious physical injury; or
- 6903 (ii) the person or enterprise receives, directly or indirectly, any benefit.
- 6904 (5) (a) In addition to the penalty described in Subsection (4)(b), the court may order the
- 6905 person or enterprise described in Subsection (4)(b)(ii) to pay the costs of investigating and
- 6906 prosecuting the offense and the costs of securing any forfeiture provided for under Subsection
- 6907 (5)(b).
- 6908 (b) Any tangible or pecuniary benefit received under Subsection (4)(b)(ii) is subject to
- 6909 criminal or civil forfeiture pursuant to Title 24, [~~Chapter 1, Utah Uniform Forfeiture~~
- 6910 Procedures] Forfeiture and Disposition of Property Act.
- 6911 (6) A parent or legal guardian who provides a child with treatment by spiritual means
- 6912 alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices
- 6913 of an established church or religious denomination of which the parent or legal guardian is a
- 6914 member or adherent shall not, for that reason alone, be considered to have committed an
- 6915 offense under this section.
- 6916 (7) A parent or guardian of a child does not violate this section by selecting a treatment
- 6917 option for the medical condition of the child, if the treatment option is one that a reasonable

6918 parent or guardian would believe to be in the best interest of the child.

6919 (8) A person is not guilty of an offense under this section for conduct that constitutes:

6920 (a) reasonable discipline or management of a child, including withholding privileges;

6921 (b) conduct described in Section 76-2-401; or

6922 (c) the use of reasonable and necessary physical restraint or force on a child:

6923 (i) in self-defense;

6924 (ii) in defense of others;

6925 (iii) to protect the child; or

6926 (iv) to remove a weapon in the possession of a child for any of the reasons described in

6927 Subsections (8)(c)(i) through (iii).

6928 Section 115. Section 76-6-111 is amended to read:

6929 **76-6-111. Wanton destruction of livestock -- Penalties -- Seizure and disposition**
6930 **of property.**

6931 (1) As used in this section:

6932 (a) "Law enforcement officer" is as defined in Section 53-13-103.

6933 (b) "Livestock" means a domestic animal or fur bearer raised or kept for profit,

6934 including:

6935 (i) cattle;

6936 (ii) sheep;

6937 (iii) goats;

6938 (iv) swine;

6939 (v) horses;

6940 (vi) mules;

6941 (vii) poultry; and

6942 (viii) domesticated elk as defined in Section 4-39-102.

6943 (2) Unless authorized by Section 4-25-4, 4-25-5, 4-25-14, 4-39-401, or 18-1-3, a

6944 person is guilty of wanton destruction of livestock if that person:

6945 (a) injures, physically alters, releases, or causes the death of livestock; and

6946 (b) does so:

6947 (i) intentionally or knowingly; and

6948 (ii) without the permission of the owner of the livestock.

6949 (3) Wanton destruction of livestock is punishable as a:

6950 (a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;

6951 (b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but

6952 does not exceed \$1,500;

6953 (c) third degree felony if the aggregate value of the livestock is more than \$1,500, but

6954 does not exceed \$5,000; and

6955 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.

6956 (4) A material, device, or vehicle used in violation of Subsection (2) is subject to

6957 forfeiture under the procedures and substantive protections established in Title 24, [~~Chapter 1,~~

6958 ~~Utah Uniform Forfeiture Procedures~~] Forfeiture and Disposition of Property Act.

6959 (5) A peace officer may seize a material, device, or vehicle used in violation of

6960 Subsection (2):

6961 (a) upon notice and service of process issued by a court having jurisdiction over the

6962 property; or

6963 (b) without notice and service of process if:

6964 (i) the seizure is incident to an arrest under:

6965 (A) a search warrant; or

6966 (B) an inspection under an administrative inspection warrant;

6967 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of

6968 the state in a criminal injunction or forfeiture proceeding under this section; or

6969 (iii) the peace officer has probable cause to believe that the property has been used in

6970 violation of Subsection (2).

6971 (6) (a) A material, device, or vehicle seized under this section is not repleviable but is

6972 in custody of the law enforcement agency making the seizure, subject only to the orders and

6973 decrees of a court or official having jurisdiction.

- 6974 (b) A peace officer who seizes a material, device, or vehicle under this section may:
6975 (i) place the property under seal;
6976 (ii) remove the property to a place designated by the warrant under which it was seized;
6977 or
6978 (iii) take custody of the property and remove it to an appropriate location for
6979 disposition in accordance with law.

6980 Section 116. Section **76-6-501** is amended to read:

6981 **76-6-501. Forgery and producing false identification -- Elements of offense --**

6982 **Definitions.**

6983 (1) As used in this part:

6984 (a) "Authentication feature" means any hologram, watermark, certification, symbol,
6985 code, image, sequence of numbers or letters, or other feature that either individually or in
6986 combination with another feature is used by the issuing authority on an identification
6987 document, document-making implement, or means of identification to determine if the
6988 document is counterfeit, altered, or otherwise falsified.

6989 (b) "Document-making implement" means any implement, impression, template,
6990 computer file, computer disc, electronic device, computer hardware or software, or scanning
6991 printing, or laminating equipment that is specifically configured or primarily used for making
6992 an identification document, a false identification document, or another document-making
6993 implement.

6994 (c) "False authentication feature" means an authentication feature that:

6995 (i) is genuine in origin but that, without the authorization of the issuing authority, has
6996 been tampered with or altered for purposes of deceit;

6997 (ii) is genuine, but has been distributed, or is intended for distribution, without the
6998 authorization of the issuing authority and not in connection with a lawfully made identification
6999 document, document-making implement, or means of identification to which the authentication
7000 feature is intended to be affixed or embedded by the issuing authority; or

7001 (iii) appears to be genuine, but is not.

7002 (d) "False identification document" means a document of a type intended or commonly
7003 accepted for the purposes of identification of individuals, and that:

7004 (i) is not issued by or under the authority of a governmental entity or was issued under
7005 the authority of a governmental entity but was subsequently altered for purposes of deceit; and

7006 (ii) appears to be issued by or under the authority of a governmental entity.

7007 (e) "Governmental entity" means the United States government, a state, a political
7008 subdivision of a state, a foreign government, a political subdivision of a foreign government, an
7009 international governmental organization, or a quasi-governmental organization.

7010 (f) "Identification document" means a document made or issued by or under the
7011 authority of a governmental entity, which, when completed with information concerning a
7012 particular individual, is of a type intended or commonly accepted for the purpose of
7013 identification of individuals.

7014 (g) "Issuing authority" means:

7015 (i) any governmental entity that is authorized to issue identification documents, means
7016 of identification, or authentication features; or

7017 (ii) a business organization or financial institution or its agent that issues a financial
7018 transaction card as defined in Section [76-6-506](#).

7019 (h) "Means of identification" means any name or number that may be used, alone or in
7020 conjunction with any other information, to identify a specific individual, including:

7021 (i) name, Social Security number, date of birth, government issued driver license or
7022 identification number, alien registration number, government passport number, or employer or
7023 taxpayer identification number;

7024 (ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other
7025 unique physical representation; or

7026 (iii) unique electronic identification number, address, or routing code.

7027 (i) "Personal identification card" means an identification document issued by a
7028 governmental entity solely for the purpose of identification of an individual.

7029 (j) "Produce" includes altering, authenticating, or assembling.

7030 (k) "State" includes any state of the United States, the District of Columbia, the
7031 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
7032 United States.

7033 (l) "Traffic" means to:

7034 (i) transport, transfer, or otherwise dispose of an item to another, as consideration for
7035 anything of value; or

7036 (ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of
7037 an item to another.

7038 (m) "Writing" includes printing, electronic storage or transmission, or any other
7039 method of recording valuable information including forms such as:

7040 (i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any
7041 other symbols of value, right, privilege, or identification;

7042 (ii) a security, revenue stamp, or any other instrument or writing issued by a
7043 government or any agency; or

7044 (iii) a check, an issue of stocks, bonds, or any other instrument or writing representing
7045 an interest in or claim against property, or a pecuniary interest in or claim against any person or
7046 enterprise.

7047 (2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge
7048 that the person is facilitating a fraud to be perpetrated by anyone, the person:

7049 (a) alters any writing of another without his authority or utters the altered writing; or

7050 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any
7051 writing so that the writing or the making, completion, execution, authentication, issuance,
7052 transference, publication, or utterance:

7053 (i) purports to be the act of another, whether the person is existent or nonexistent;

7054 (ii) purports to be an act on behalf of another party with the authority of that other
7055 party; or

7056 (iii) purports to have been executed at a time or place or in a numbered sequence other
7057 than was in fact the case, or to be a copy of an original when an original did not exist.

7058 (3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs
7059 his own name to the writing if the actor does not have authority to make, complete, execute,
7060 authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the
7061 actor purports to act.

7062 (4) A person is guilty of producing or transferring any false identification document
7063 who:

7064 (a) knowingly and without lawful authority produces, attempts, or conspires to produce
7065 an identification document, authentication feature, or a false identification document that is or
7066 appears to be issued by or under the authority of an issuing authority;

7067 (b) transfers an identification document, authentication feature, or a false identification
7068 document knowing that the document or feature was stolen or produced without lawful
7069 authority;

7070 (c) produces, transfers, or possesses a document-making implement or authentication
7071 feature with the intent that the document-making implement or the authentication feature be
7072 used in the production of a false identification document or another document-making
7073 implement or authentication feature; or

7074 (d) traffics in false or actual authentication features for use in false identification
7075 documents, document-making implements, or means of identification.

7076 (5) A person who violates:

7077 (a) Subsection (2) is guilty of a third degree felony; and

7078 (b) Subsection (4) is guilty of a second degree felony.

7079 (6) This part may not be construed to impose criminal or civil liability on any law
7080 enforcement officer acting within the scope of a criminal investigation.

7081 (7) The forfeiture of property under this part, including any seizure and disposition of
7082 the property and any related judicial or administrative proceeding, shall be conducted in
7083 accordance with Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures~~] Forfeiture and
7084 Disposition of Property Act.

7085 (8) The court shall order, in addition to the penalty prescribed for any person convicted

7086 of a violation of this section, the forfeiture and destruction or other disposition of all illicit
7087 authentication features, identification documents, false transaction cards, document-making
7088 implements, or means of identification.

7089 Section 117. Section **76-6-506.7** is amended to read:

7090 **76-6-506.7. Obtaining encoded information on a financial transaction card with**
7091 **the intent to defraud the issuer, holder, or merchant.**

7092 (1) As used in this section:

7093 (a) "Financial transaction card" or "card" means any credit card, credit plate, bank
7094 services card, banking card, check guarantee card, debit card, telephone credit card, or any
7095 other card, issued by an issuer for the use of the card holder in:

7096 (i) obtaining money, goods, services, or anything else of value on credit; or

7097 (ii) certifying or guaranteeing to a merchant the availability to the card holder of the
7098 funds on deposit that are equal to or greater than the amount necessary to honor a draft or check
7099 as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other
7100 thing of value from the merchant.

7101 (b) (i) "Merchant" means an owner or operator of any retail mercantile establishment or
7102 any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor
7103 of the owner or operator.

7104 (ii) "Merchant" also means a person:

7105 (A) who receives from a card holder, or a third person the merchant believes to be the
7106 card holder, a financial transaction card or information from a financial transaction card, or
7107 what the merchant believes to be a financial transaction card or information from a card; and

7108 (B) who accepts the financial transaction card or information from a card under
7109 Subsection (1)(a)(ii)~~[(A)]~~ as the instrument for obtaining, purchasing, or receiving goods,
7110 services, money, or any other thing of value from the merchant.

7111 (c) "Reencoder" means an electronic device that places encoded information from the
7112 magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a
7113 different financial transaction card.

7114 (d) "Scanning device" means a scanner, reader, or any other electronic device used to
7115 access, read, scan, obtain, memorize, or store, temporarily or permanently, information
7116 encoded on the magnetic strip or stripe of a financial transaction card.

7117 (2) (a) A person is guilty of a third degree felony who uses:

7118 (i) a scanning device to access, read, obtain, memorize, or store, temporarily or
7119 permanently, information encoded on the magnetic strip or stripe of a financial transaction card
7120 without the permission of the card holder and with intent to defraud the card holder, the issuer,
7121 or a merchant; or

7122 (ii) a reencoder to place information encoded on the magnetic strip or stripe of a
7123 financial transaction card onto the magnetic strip or stripe of a different card without the
7124 permission of the authorized user of the card from which the information is being reencoded
7125 and with the intent to defraud the card holder, the issuer, or a merchant.

7126 (b) Any person who has been convicted previously of an offense under Subsection
7127 (2)(a) is guilty of a second degree felony upon a second conviction and any subsequent
7128 conviction for the offense.

7129 Section 118. Section **76-6-1102** is amended to read:

7130 **76-6-1102. Identity fraud crime.**

7131 (1) As used in this part, "personal identifying information" may include:

7132 (a) name;

7133 (b) birth date;

7134 (c) address;

7135 (d) telephone number;

7136 (e) drivers license number;

7137 (f) Social Security number;

7138 (g) place of employment;

7139 (h) employee identification numbers or other personal identification numbers;

7140 (i) mother's maiden name;

7141 (j) electronic identification numbers;

7142 (k) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions
7143 Act;

7144 (l) any other numbers or information that can be used to access a person's financial
7145 resources or medical information, except for numbers or information that can be prosecuted as
7146 financial transaction card offenses under Sections 76-6-506 through 76-6-506.6; or

7147 (m) a photograph or any other realistic likeness.

7148 (2) (a) A person is guilty of identity fraud when that person knowingly or intentionally
7149 uses, or attempts to use, the personal identifying information of another person, whether that
7150 person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain,
7151 credit, goods, services, employment, any other thing of value, or medical information.

7152 (b) It is not a defense to a violation of Subsection (2)(a) that the person did not know
7153 that the personal information belonged to another person.

7154 (3) Identity fraud is:

7155 (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the
7156 credit, goods, services, employment, or any other thing of value is less than \$5,000; or

7157 (b) a second degree felony if:

7158 (i) the value of the credit, goods, services, employment, or any other thing of value is
7159 or exceeds \$5,000; or

7160 (ii) the use described in Subsection (2)(a)~~[(iii)]~~ of personal identifying information
7161 results, directly or indirectly, in bodily injury to another person.

7162 (4) Multiple violations may be aggregated into a single offense, and the degree of the
7163 offense is determined by the total value of all credit, goods, services, or any other thing of
7164 value used, or attempted to be used, through the multiple violations.

7165 (5) When a defendant is convicted of a violation of this section, the court shall order
7166 the defendant to make restitution to any victim of the offense or state on the record the reason
7167 the court does not find ordering restitution to be appropriate.

7168 (6) Restitution under Subsection (5) may include:

7169 (a) payment for any costs incurred, including attorney fees, lost wages, and

7170 replacement of checks; and

7171 (b) the value of the victim's time incurred due to the offense:

7172 (i) in clearing the victim's credit history or credit rating;

7173 (ii) in any civil or administrative proceedings necessary to satisfy or resolve any debt,

7174 lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

7175 (iii) in attempting to remedy any other intended or actual harm to the victim incurred as

7176 a result of the offense.

7177 Section 119. Section **76-6-1303** is amended to read:

7178 **76-6-1303. Possession, sale, or use of automated sales suppression device unlawful**

7179 **-- Penalties.**

7180 (1) It is a third degree felony to willfully or knowingly sell, purchase, install, transfer,

7181 use, or possess in this state any automated sales suppression device or phantomware with the

7182 intent to defraud, except that any second or subsequent violation of this Subsection (1) is a

7183 second degree felony.

7184 (2) Notwithstanding Section [76-3-301](#), any person convicted of violating Subsection

7185 (1) may be fined not more than twice the amount of the applicable taxes that would otherwise

7186 be due, but for the use of the automated sales suppression device or phantomware.

7187 (3) Any person convicted of a violation of Subsection (1):

7188 (a) is liable for all applicable taxes, penalties under Section [59-1-401](#), and interest

7189 under Section [59-1-402](#) that would otherwise be due, but for the use of the automated sales

7190 suppression device or phantomware to evade the payment of taxes; and

7191 (b) shall disgorge all profits associated with the sale or use of an automated sales

7192 suppression device or phantomware.

7193 (4) An automated sales suppression device and any device containing an automated

7194 sales suppression device is contraband and subject to forfeiture under Title 24, [~~Chapter 1,~~

7195 ~~Utah Uniform Forfeiture Procedures~~] Forfeiture and Disposition of Property Act.

7196 Section 120. Section **76-7-305** is amended to read:

7197 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**

7198 -- **Exceptions.**

7199 (1) A person may not perform an abortion, unless, before performing the abortion, the
7200 physician who will perform the abortion obtains a voluntary and informed written consent from
7201 the woman on whom the abortion is performed, that is consistent with:

7202 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,
7203 Current Opinions; and

7204 (b) the provisions of this section.

7205 (2) Except as provided in Subsection (9), consent to an abortion is voluntary and
7206 informed only if:

7207 (a) at least 72 hours before the abortion, the physician who is to perform the abortion,
7208 the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice
7209 registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a
7210 face-to-face consultation in any location in the state, orally informs the woman:

7211 (i) consistent with Subsection (3)(a), of:

7212 (A) the nature of the proposed abortion procedure;

7213 (B) specifically how the procedure described in Subsection (2)(a)(i)(A) will affect the
7214 fetus; and

7215 (C) the risks and alternatives to an abortion procedure or treatment;

7216 (ii) of the probable gestational age and a description of the development of the unborn
7217 child at the time the abortion would be performed;

7218 (iii) of the medical risks associated with carrying her child to term; and

7219 (iv) [~~except as provided in Subsection (3)(b);~~] if the abortion is to be performed on an
7220 unborn child who is at least 20 weeks gestational age:

7221 (A) that, upon the woman's request, an anesthetic or analgesic will be administered to
7222 the unborn child, through the woman, to eliminate or alleviate organic pain to the unborn child
7223 that may be caused by the particular method of abortion to be employed; and

7224 (B) of any medical risks to the woman that are associated with administering the
7225 anesthetic or analgesic described in Subsection (2)(a)(iv)(A);

7226 (b) at least 72 hours prior to the abortion the physician who is to perform the abortion,
7227 the referring physician, or, as specifically delegated by either of those physicians, a physician, a
7228 registered nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered
7229 nurse, clinical laboratory technologist, psychologist, marriage and family therapist, clinical
7230 social worker, genetic counselor, or certified social worker orally, in a face-to-face consultation
7231 in any location in the state, informs the pregnant woman that:

7232 (i) the Department of Health, in accordance with Section [76-7-305.5](#), publishes printed
7233 material and an informational video that:

7234 (A) provides medically accurate information regarding all abortion procedures that may
7235 be used;

7236 (B) describes the gestational stages of an unborn child; and

7237 (C) includes information regarding public and private services and agencies available
7238 to assist her through pregnancy, at childbirth, and while the child is dependent, including
7239 private and agency adoption alternatives;

7240 (ii) the printed material and a viewing of or a copy of the informational video shall be
7241 made available to her, free of charge, on the Department of Health's website;

7242 (iii) medical assistance benefits may be available for prenatal care, childbirth, and
7243 neonatal care, and that more detailed information on the availability of that assistance is
7244 contained in the printed materials and the informational video published by the Department of
7245 Health;

7246 (iv) except as provided in Subsection (3)(b):

7247 (A) the father of the unborn child is legally required to assist in the support of her
7248 child, even if he has offered to pay for the abortion; and

7249 (B) the Office of Recovery Services within the Department of Human Services will
7250 assist her in collecting child support; and

7251 (v) she has the right to view an ultrasound of the unborn child, at no expense to her,
7252 upon her request;

7253 (c) the information required to be provided to the pregnant woman under Subsection

7254 (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face
7255 consultation, prior to performance of the abortion, unless the attending or referring physician is
7256 the individual who provides the information required under Subsection (2)(a);

7257 (d) a copy of the printed materials published by the Department of Health has been
7258 provided to the pregnant woman;

7259 (e) the informational video, published by the Department of Health, has been provided
7260 to the pregnant woman in accordance with Subsection (4); and

7261 (f) the pregnant woman has certified in writing, prior to the abortion, that the
7262 information required to be provided under Subsections (2)(a) through (e) was provided, in
7263 accordance with the requirements of those subsections.

7264 (3) (a) The alternatives required to be provided under Subsection (2)(a)(i) include:

7265 (i) a description of adoption services, including private and agency adoption methods;
7266 and

7267 (ii) a statement that it is legal for adoptive parents to financially assist in pregnancy and
7268 birth expenses.

7269 (b) The information described in Subsection (2)(b)(iv) may be omitted from the
7270 information required to be provided to a pregnant woman under this section if the woman is
7271 pregnant as the result of rape.

7272 (c) Nothing in this section shall be construed to prohibit a person described in
7273 Subsection (2)(a) from, when providing the information described in Subsection (2)(a)(iv),
7274 informing a woman of the person's own opinion regarding:

7275 (i) the capacity of an unborn child to experience pain;

7276 (ii) the advisability of administering an anesthetic or analgesic to an unborn child; or

7277 (iii) any other matter related to fetal pain.

7278 (4) When the informational video described in Section [76-7-305.5](#) is provided to a
7279 pregnant woman, the person providing the information shall:

7280 (a) request that the woman view the video at that time or at another specifically
7281 designated time and location; or

7282 (b) if the woman chooses not to view the video at a time described in Subsection (4)(a),
7283 inform the woman that she can access the video on the Department of Health's website.

7284 (5) When a serious medical emergency compels the performance of an abortion, the
7285 physician shall inform the woman prior to the abortion, if possible, of the medical indications
7286 supporting the physician's judgment that an abortion is necessary.

7287 (6) If an ultrasound is performed on a woman before an abortion is performed, the
7288 person who performs the ultrasound, or another qualified person, shall:

7289 (a) inform the woman that the ultrasound images will be simultaneously displayed in a
7290 manner to permit her to:

7291 (i) view the images, if she chooses to view the images; or

7292 (ii) not view the images, if she chooses not to view the images;

7293 (b) simultaneously display the ultrasound images in order to permit the woman to:

7294 (i) view the images, if she chooses to view the images; or

7295 (ii) not view the images, if she chooses not to view the images;

7296 (c) inform the woman that, if she desires, the person performing the ultrasound, or
7297 another qualified person shall provide a detailed description of the ultrasound images,
7298 including:

7299 (i) the dimensions of the unborn child;

7300 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and

7301 (iii) the presence of external body parts or internal organs, if present and viewable; and

7302 (d) provide the detailed description described in Subsection (6)(c), if the woman
7303 requests it.

7304 (7) The information described in Subsections (2), (3), (4), and (6) is not required to be
7305 provided to a pregnant woman under this section if the abortion is performed for a reason
7306 described in:

7307 (a) Subsection [76-7-302\(3\)\(b\)\(i\)](#), if the treating physician and one other physician
7308 concur, in writing, that the abortion is necessary to avert:

7309 (i) the death of the woman on whom the abortion is performed; or

7310 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
7311 of the woman on whom the abortion is performed; or

7312 (b) Subsection 76-7-302(3)(b)(ii).

7313 (8) In addition to the criminal penalties described in this part, a physician who violates
7314 the provisions of this section:

7315 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;

7316 and

7317 (b) shall be subject to:

7318 (i) suspension or revocation of the physician's license for the practice of medicine and
7319 surgery in accordance with Section 58-67-401 or 58-68-401; and

7320 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

7321 (9) A physician is not guilty of violating this section for failure to furnish any of the
7322 information described in Subsection (2), or for failing to comply with Subsection (6), if:

7323 (a) the physician can demonstrate by a preponderance of the evidence that the
7324 physician reasonably believed that furnishing the information would have resulted in a severely
7325 adverse effect on the physical or mental health of the pregnant woman;

7326 (b) in the physician's professional judgment, the abortion was necessary to avert:

7327 (i) the death of the woman on whom the abortion is performed; or

7328 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
7329 of the woman on whom the abortion is performed;

7330 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
7331 76-5-402 and 76-5-402.1;

7332 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and
7333 Section 76-7-102; or

7334 (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

7335 (10) A physician who complies with the provisions of this section and Section
7336 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
7337 informed consent under Section 78B-3-406.

7338 (11) (a) The Department of Health shall provide an ultrasound, in accordance with the
7339 provisions of Subsection (2)(b), at no expense to the pregnant woman.

7340 (b) A local health department shall refer a person who requests an ultrasound described
7341 in Subsection (11)(a) to the Department of Health.

7342 (12) A physician is not guilty of violating this section if:

7343 (a) the physician provides the information described in Subsection (2) less than 72
7344 hours before performing the abortion; and

7345 (b) in the physician's professional judgment, the abortion was necessary in a case
7346 where:

7347 (i) a ruptured membrane, documented by the attending or referring physician, will
7348 cause a serious infection; or

7349 (ii) a serious infection, documented by the attending or referring physician, will cause a
7350 ruptured membrane.

7351 Section 121. Section **76-10-808** is amended to read:

7352 **76-10-808. Relief granted for public nuisance.**

7353 If the existence of a public nuisance as defined by Subsection **76-10-803(1)(b)** is
7354 admitted or established, either in a civil or criminal proceeding, a judgment shall be entered
7355 which shall:

7356 ~~[(a)]~~ (1) permanently enjoin each defendant and any other person from further
7357 maintaining the nuisance at the place complained of and each defendant from maintaining such
7358 nuisance elsewhere;

7359 ~~[(b)]~~ (2) direct the person enjoined to surrender to the sheriff of the county in which the
7360 action was brought any material in his possession which is subject to the injunction, and the
7361 sheriff shall seize and destroy this material; and

7362 ~~[(c)]~~ (3) without proof of special injury direct that an accounting be had and all money
7363 and other consideration paid as admission to view any motion picture film determined to
7364 constitute a public nuisance, or paid for any publication determined to constitute a public
7365 nuisance, in either case without deduction for expenses, be forfeited and paid into the general

7366 fund of the county where the nuisance was maintained.

7367 Section 122. Section **76-10-1108** is amended to read:

7368 **76-10-1108. Seizure and disposition of gambling debts or proceeds.**

7369 Any gambling bets or gambling proceeds which are reasonably identifiable as having
7370 been used or obtained in violation of this part may be seized and are subject to forfeiture
7371 proceedings in accordance with Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures~~]
7372 Forfeiture and Disposition of Property Act.

7373 Section 123. Section **77-10a-12** is amended to read:

7374 **77-10a-12. Representation of state -- Appointment and compensation of special**
7375 **prosecutor.**

7376 (1) The state may be represented before any grand jury summoned in the state by:

7377 (a) the attorney general or any assistant attorney general;

7378 (b) a county attorney or any deputy county attorney;

7379 (c) a district attorney or any deputy district attorney;

7380 (d) a municipal attorney or any deputy municipal attorney; [~~and~~] or

7381 (e) special prosecutors appointed under this chapter and their assistants.

7382 (2) The supervising judge shall determine if a special prosecutor is necessary. A special
7383 prosecutor may be appointed only upon good cause shown and after the supervising judge
7384 makes a written finding that a conflict of interest exists in the Office of the Attorney General,
7385 the office of the county attorney, district attorney, or municipal attorney who would otherwise
7386 represent the state before the grand jury.

7387 (3) In selecting a special prosecutor, the supervising judge shall give preference to the
7388 attorney general and assistant attorneys general, county attorneys, district attorneys, or
7389 municipal attorneys and their deputies.

7390 (4) (a) The compensation of a special prosecutor appointed under this chapter who is
7391 an employee of the Office of the Attorney General, the office of a county attorney, district
7392 attorney, or municipal attorney is only the current compensation received in that office.

7393 (b) The compensation for an appointed special prosecutor who is not an employee of a

7394 prosecutorial office under Subsection (4)(a) shall be comparable to the compensation of a
7395 deputy or assistant attorney general having similar experience to that of the special prosecutor.

7396 (5) The attorney general, county attorney, district attorney, or municipal attorney may
7397 elect to have a special prosecutor appointed by the supervising judge at the expense of the
7398 governmental entity supporting the electing prosecutor. Upon receipt of written notice from
7399 the prosecutor of that election, the supervising judge shall appoint a special prosecutor in
7400 accordance with this section. The electing prosecutor's supporting governmental entity shall
7401 reimburse the state for expenses incurred in appointment and compensation of the special
7402 prosecutor.

7403 Section 124. Section **77-15a-104** is amended to read:

7404 **77-15a-104. Hearing -- Notice -- Stay of proceeding -- Examinations of defendant**
7405 **-- Scope of examination -- Report -- Procedures.**

7406 (1) (a) If a defendant proposes to offer evidence concerning or argue that he qualifies
7407 for an exemption from the death penalty under Subsection **77-15a-101**(1) or (2), the defendant
7408 shall file and serve the prosecuting attorney with written notice of his intention as soon as
7409 practicable, but not fewer than 60 days before trial.

7410 (b) If the defendant wishes to claim the exemption provided in Subsection
7411 **77-15a-101**(2), the defendant shall file and serve the prosecuting attorney with written notice of
7412 his intention as soon as practicable, but not fewer than 60 days before trial.

7413 (2) When notice is given under Subsection (1), the court raises the issue, or a motion is
7414 filed regarding Section **77-15a-101**, the court may stay all proceedings in order to address the
7415 issue.

7416 (3) (a) The court shall order the Department of Human Services to appoint at least two
7417 mental health experts to examine the defendant and report to the court. The experts:

7418 (i) may not be involved in the current treatment of the defendant; and

7419 (ii) shall have expertise in mental retardation assessment.

7420 (b) Upon appointment of the experts, the defendant or other party as directed by the
7421 court shall provide information and materials to the examiners relevant to a determination of

7422 the defendant's mental retardation, including copies of the charging document, arrest or
7423 incident reports pertaining to the charged offense, known criminal history information, and
7424 known prior mental health evaluations and treatments.

7425 (c) The court may make the necessary orders to provide the information listed in
7426 Subsection (3)(b) to the examiners.

7427 (d) The court may provide in its order appointing the examiners that custodians of
7428 mental health records pertaining to the defendant shall provide those records to the examiners
7429 without the need for consent of the defendant or further order of the court.

7430 (e) Prior to examining the defendant, examiners shall specifically advise the defendant
7431 of the limits of confidentiality as provided under Section [77-15a-106](#).

7432 (4) During any examinations under Subsection (3), unless the court directs otherwise,
7433 the defendant shall be retained in the same custody or status he was in at the time the
7434 examination was ordered.

7435 (5) The experts shall in the conduct of their examinations and in their reports to the
7436 court consider and address:

7437 (a) whether the defendant is mentally retarded as defined in Section [77-15a-102](#);

7438 (b) the degree of any mental retardation the expert finds to exist;

7439 (c) whether the defendant has the mental deficiencies specified in Subsection
7440 [77-15a-101\(2\)](#); and

7441 (d) the degree of any mental deficiencies the expert finds to exist.

7442 (6) (a) The experts examining the defendant shall provide written reports to the court,
7443 the prosecution, and the defense within 60 days of the receipt of the court's order, unless the
7444 expert submits to the court a written request for additional time in accordance with Subsection
7445 (6)(c).

7446 (b) The reports shall provide to the court and to prosecution and defense counsel the
7447 examiners' written opinions concerning the mental retardation of the defendant.

7448 (c) If an examiner requests of the court additional time, the examiner shall provide the
7449 report to the court and counsel within 90 days from the receipt of the court's order unless, for

7450 good cause shown, the court authorizes an additional period of time to complete the
7451 examination and provide the report.

7452 (7) Any written report submitted by an expert shall:

7453 (a) identify the specific matters referred for evaluation;

7454 (b) describe the procedures, techniques, and tests used in the examination and the
7455 purpose or purposes for each;

7456 (c) state the expert's clinical observations, findings, and opinions; and

7457 (d) identify the sources of information used by the expert and present the basis for the
7458 expert's clinical findings and opinions.

7459 (8) Within 30 days after receipt of the report from the Department of Human Services,
7460 but not later than five days before hearing, or at any other time the court directs, the
7461 prosecuting attorney shall file and serve upon the defendant a notice of witnesses the
7462 prosecuting attorney proposes to call in rebuttal.

7463 (9) (a) Except pursuant to Section 77-15a-105, this chapter does not prevent any party
7464 from producing any other testimony as to the mental condition of the defendant.

7465 (b) Expert witnesses who are not appointed by the court are not entitled to
7466 compensation under Subsection (10).

7467 (10) (a) Expenses of examinations of the defendant ordered by the court under this
7468 section shall be paid by the Department of Human Services.

7469 (b) Travel expenses associated with any court-ordered examination that are incurred by
7470 the defendant shall be charged by the Department of Human Services to the county where
7471 prosecution is commenced.

7472 (11) (a) When the report is received, the court shall set a date for a hearing to
7473 determine if the exemption under Section 77-15a-101 applies. The hearing shall be held and
7474 the judge shall make the determination within a reasonable time prior to jury selection.

7475 (b) Prosecution and defense counsel may subpoena to testify at the hearing any person
7476 or organization appointed by the Department of Human Services to conduct the examination
7477 and any independent examiner.

7478 (c) The court may call any examiner to testify at the hearing who is not called by the
7479 parties. If the court calls an examiner, counsel for the parties may cross-examine that
7480 examiner.

7481 (12) (a) A defendant is presumed to be not mentally retarded unless the court, by a
7482 preponderance of the evidence, finds the defendant to be mentally retarded. The burden of
7483 proof is upon the proponent of mental retardation at the hearing.

7484 (b) A finding of mental retardation does not operate as an adjudication of mental
7485 retardation for any purpose other than exempting the person from a sentence of death in the
7486 case before the court.

7487 (13) (a) The defendant is presumed not to possess the mental deficiencies listed in
7488 Subsection 77-15a-101(2) unless the court, by a preponderance of the evidence, finds that the
7489 defendant has significant subaverage general intellectual functioning that exists concurrently
7490 with significant deficiencies in adaptive functioning and that this functioning was manifested
7491 prior to age 22. The burden of proof is upon the proponent of that proposition.

7492 (b) If the court finds by a preponderance of the evidence that the defendant has
7493 significant subaverage general intellectual functioning that exists concurrently with significant
7494 deficiencies in adaptive functioning and that this functioning was manifested prior to age 22,
7495 then the burden is upon the state to establish that any confession by the defendant which the
7496 state intends to introduce into evidence is supported by substantial evidence independent of the
7497 confession.

7498 (14) (a) If the court finds the defendant mentally retarded, it shall issue an order:

7499 (i) containing findings of fact and conclusions of law, and addressing each of the
7500 factors in Subsections (5)(a) and (b); and

7501 (ii) stating that the death penalty is not a sentencing option in the case before the court.

7502 (b) If the court finds by a preponderance of the evidence that the defendant possesses
7503 the mental deficiencies listed in Subsection 77-15a-101(2) and that the state fails to establish
7504 that any confession is supported by substantial evidence independent of the confession, the
7505 state may proceed with its case and:

- 7506 (i) introduce the confession into evidence, and the death penalty will not be a
7507 sentencing option in the case; or
- 7508 (ii) not introduce into evidence any confession or the fruits of a confession that the
7509 court has found is not supported by substantial evidence independent of the confession, and the
7510 death penalty will be a sentencing option in the case.
- 7511 (c) (i) A finding by the court regarding whether the defendant qualifies for an
7512 exemption under Section 77-15a-101 is a final determination of that issue for purposes of this
7513 chapter.
- 7514 (ii) The following questions may not be submitted to the jury by instruction, special
7515 verdict, argument, or other means:
- 7516 (A) whether the defendant is mentally retarded for purposes of this chapter; and
7517 (B) whether the defendant possesses the mental deficiencies specified in Subsection
7518 77-15a-101(2).
- 7519 (iii) This chapter does not prevent the defendant from submitting evidence of
7520 retardation or other mental deficiency to establish a mental condition as a mitigating
7521 circumstance under Section 76-3-207.
- 7522 (15) A ruling by the court that the defendant is exempt from the death penalty may be
7523 appealed by the state pursuant to [Subsection] Section 77-18a-1[(2)(h)].
- 7524 (16) Failure to comply with this section does not result in the dismissal of criminal
7525 charges.
- 7526 Section 125. Section 77-27-21.8 is amended to read:
- 7527 **77-27-21.8. Sex offender in presence of a child -- Definitions -- Penalties.**
- 7528 (1) As used in this section:
- 7529 (a) "Accompany" means:
- 7530 (i) to be in the presence of an individual; and
7531 (ii) to move or travel with that individual from one location to another, whether
7532 outdoors, indoors, or in or on any type of vehicle.
- 7533 (b) "Child" means an individual younger than 14 years of age.

7534 (2) A sex offender subject to registration in accordance with Title 77, Chapter 41, Sex
7535 and Kidnap Offender Registry, for an offense committed or attempted to be committed against
7536 a child younger than 14 years of age is guilty of a class A misdemeanor if the sex offender
7537 requests, invites, or solicits a child to accompany the sex offender, under circumstances that do
7538 not constitute an attempt to violate Section [76-5-301.1](#), child kidnapping, unless:

7539 (a) (i) the sex offender, prior to accompanying the child:

7540 (A) verbally advises the child's parent or legal guardian that the sex offender is on the
7541 state sex offender registry and is required by state law to obtain written permission in order for
7542 the sex offender to accompany the child; and

7543 (B) requests that the child's parent or legal guardian provide written authorization for
7544 the sex offender to accompany the child, including the specific dates and locations;

7545 (ii) the child's parent or legal guardian has provided to the sex offender written
7546 authorization, including the specific dates and locations, for the sex offender to accompany the
7547 child; and

7548 (iii) the sex offender has possession of the written authorization and is accompanying
7549 the child only at the dates and locations specified in the authorization;

7550 (b) the child's parent or guardian has verbally authorized the sex offender to
7551 accompany the child either in the child's residence or on property appurtenant to the child's
7552 residence, but in no other locations; or

7553 (c) the child is the natural child of the sex offender, and the offender is not prohibited
7554 by any court order, or probation or parole provision, from contact with the child.

7555 (3) (a) A sex offender convicted of a violation of Subsection (2) is subject to
7556 registration in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, for an
7557 additional five years subsequent to the required registration under Section [~~77-27-21.5~~]
7558 [77-41-105](#).

7559 (b) The period of additional registration imposed under Subsection (3)(a) is also in
7560 addition to any period of registration imposed under Subsection [77-41-107](#)(3) for failure to
7561 comply with registration requirements.

7562 (4) It is not a defense to a prosecution under this section that the defendant mistakenly
7563 believed the individual to be 14 years of age or older at the time of the offense or was unaware
7564 of the individual's true age.

7565 (5) This section does not apply if a sex offender is acting to rescue a child who is in an
7566 emergency and life-threatening situation.

7567 Section 126. Section **77-32-301** is amended to read:

7568 **77-32-301. Minimum standards for defense of an indigent.**

7569 (1) Each county, city, and town shall provide for the legal defense of an indigent in
7570 criminal cases in the courts and various administrative bodies of the state in accordance with
7571 legal defense standards as defined in Subsection [~~77-32-208~~] [77-32-201](#)(8).

7572 (2) (a) A county or municipality which contracts with a defense services provider shall
7573 provide that all legal defense elements be included as a single package of legal defense services
7574 made available to indigents, except as provided in Sections [77-32-302](#) and [77-32-303](#).

7575 (b) When needed to avoid a conflict of interest between:

7576 (i) trial counsel and counsel on appeal, a defense services provider contract shall also
7577 provide for separate trial and appellate counsel; and

7578 (ii) counsel for co-defendants, a defense services provider contract shall also provide
7579 for separate trial counsel.

7580 (c) If a county or municipality contracts to provide all legal defense elements as a
7581 single package, a defendant may not receive funding for defense resources unless represented
7582 by publicly funded counsel or as provided in Subsection [77-32-303](#)(2).

7583 Section 127. Section **78A-6-606** is amended to read:

7584 **78A-6-606. Suspension of license for certain offenses.**

7585 (1) This section applies to a minor who is at least 13 years of age when found by the
7586 court to be within its jurisdiction by the commission of an offense under:

7587 (a) Section [32B-4-409](#);

7588 (b) Section [32B-4-410](#);

7589 (c) Section [32B-4-411](#);

7590 (d) Section [58-37-8](#);

7591 (e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

7592 (f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

7593 (g) Subsection [76-9-701\(1\)](#).

7594 (2) If the court hearing the case determines that the minor committed an offense under

7595 Section [58-37-8](#) or Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or 37b, Imitation

7596 Controlled Substances Act, the court shall prepare and send to the Driver License Division of

7597 the Department of Public Safety an order to suspend that minor's driving privileges.

7598 (3) (a) The court hearing the case shall suspend the minor's driving privileges if:

7599 (i) the minor violated Section [32B-4-409](#), Section [32B-4-410](#), or Subsection

7600 [76-9-701\(1\)](#); and

7601 (ii) the violation described in Subsection (3)(a)(i) was committed on or after July 1,

7602 2009.

7603 (b) Notwithstanding the requirement in Subsection (3)(a), the court may reduce the

7604 suspension period required under Section [53-3-219](#) if:

7605 (i) the violation is the minor's first violation of Section [32B-4-409](#), Section [32B-4-410](#),

7606 or Subsection [76-9-701\(1\)](#); and

7607 (ii) the minor completes an educational series as defined in Section [41-6a-501](#).

7608 (c) Notwithstanding the requirement in Subsection (3)(a) and in accordance with the

7609 requirements of Section [53-3-219](#), the court may reduce the suspension period required under

7610 Section [53-3-219](#) if:

7611 (i) the violation is the minor's second or subsequent violation of Section [32B-4-409](#),

7612 Section [32B-4-410](#), or Subsection [76-9-701\(1\)](#); and

7613 (ii) (A) the person is 18 years of age or older and provides a sworn statement to the

7614 court that the person has not unlawfully consumed alcohol for at least a one-year consecutive

7615 period during the suspension period imposed under Subsection (3)(a); or

7616 (B) the person is under 18 years of age and has the person's parent or legal guardian

7617 provide an affidavit or sworn statement to the court certifying that to the parent or legal

7618 guardian's knowledge the person has not unlawfully consumed alcohol for at least a one-year
7619 consecutive period during the suspension period imposed under Subsection (3)(a).

7620 (d) If a minor commits a proof of age violation, as defined in Section 32B-4-411:

7621 (i) the court shall forward a record of adjudication to the Department of Public Safety
7622 for a first or subsequent violation; and

7623 (ii) the minor's driving privileges will be suspended:

7624 (A) for a period of at least one year under Section 53-3-220 for a first conviction for a
7625 violation of Section 32B-4-411; or

7626 (B) for a period of two years for a second or subsequent conviction for a violation of
7627 Section 32B-4-411.

7628 (4) A minor's license shall be suspended under Section 53-3-219 when a court issues
7629 an order suspending the minor's driving privileges for a violation of:

7630 (a) Section 32B-4-409;

7631 (b) Section 32B-4-410;

7632 (c) Section 58-37-8;

7633 (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or 37b, Imitation Controlled
7634 Substances Act; or

7635 (e) Subsection 76-9-701(1).

7636 (5) When the Department of Public Safety receives the arrest or conviction record of a
7637 person for a driving offense committed while the person's license is suspended under this
7638 section, the Department of Public Safety shall extend the suspension for a like period of time.

7639 Section 128. Section 78A-6-1113 is amended to read:

7640 **78A-6-1113. Property damage caused by a minor -- Liability of parent or legal**
7641 **guardian -- Criminal conviction or adjudication for criminal mischief or criminal**
7642 **trespass not a prerequisite for civil action under chapter -- When parent or guardian not**
7643 **liable.**

7644 (1) The parent or legal guardian having legal custody of the minor is liable for damages
7645 sustained to property not to exceed \$2,000 when:

7646 (a) the minor intentionally damages, defaces, destroys, or takes the property of another;

7647 (b) the minor recklessly or willfully shoots or propels a missile, or other object at or
7648 against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether
7649 moving or standing; or

7650 (c) the minor intentionally and unlawfully tampers with the property of another and
7651 thereby recklessly endangers human life or recklessly causes or threatens a substantial
7652 interruption or impairment of any public utility service.

7653 (2) The parent or legal guardian having legal custody of the minor is liable for damages
7654 sustained to property not to exceed \$5,000 when the minor commits an offense under Section
7655 (1):

7656 (a) for the benefit of, at the direction of, or in association with any criminal street gang
7657 as defined in Section 76-9-802; or

7658 (b) to gain recognition, acceptance, membership, or increased status with a criminal
7659 street gang.

7660 (3) The court may make an order for the restitution authorized in this section to be paid
7661 by the minor's parent or guardian as part of the minor's disposition order.

7662 (4) As used in this section, property damage described under Subsection (1)(a) or (c),
7663 or Subsection (2), includes graffiti, as defined in Section 76-6-107.

7664 (5) A court may waive part or all of the liability for damages under this section by the
7665 parent or legal guardian if the offender is adjudicated in the juvenile court under Section
7666 78A-6-117 only upon stating on the record that the court finds:

7667 (a) good cause; or

7668 (b) the parent or legal guardian:

7669 (i) made a reasonable effort to restrain the wrongful conduct; and

7670 (ii) reported the conduct to the property owner involved or the law enforcement agency
7671 having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.

7672 (6) A report is not required under Subsection [~~(4)~~] (5)(b) from a parent or legal
7673 guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on

7674 behalf of the property owner involved.

7675 (7) A conviction for criminal mischief under Section 76-6-106, criminal trespass under
7676 Section 76-6-206, or an adjudication under Section 78A-6-117 is not a condition precedent to a
7677 civil action authorized under Subsection (1) or (2).

7678 (8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or
7679 guardian made a reasonable effort to supervise and direct their minor child, or, in the event the
7680 parent or guardian knew in advance of the possible taking, injury, or destruction by their minor
7681 child, made a reasonable effort to restrain the child.

7682 Section 129. Section 78A-7-118 is amended to read:

7683 **78A-7-118. Appeals from justice court -- Trial or hearing de novo in district**
7684 **court.**

7685 (1) In a criminal case, a defendant is entitled to a trial de novo in the district court only
7686 if the defendant files a notice of appeal within 30 days of:

7687 (a) sentencing, except as provided in Subsection [~~(3)~~] (4)(b); or

7688 (b) a plea of guilty or no contest in the justice court that is held in abeyance.

7689 (2) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice
7690 court shall be stayed as provided for in Section 77-20-10 and the Rules of Criminal Procedure.

7691 (3) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with
7692 the prosecutor, and the defendant did not reserve the right to appeal as part of the plea
7693 negotiation, the negotiation is voided by the appeal.

7694 (4) A defendant convicted and sentenced in justice court is entitled to a hearing de
7695 novo in the district court on the following matters, if the defendant files a notice of appeal
7696 within 30 days of:

7697 (a) an order revoking probation;

7698 (b) an order entering a judgment of guilt pursuant to the person's failure to fulfil the
7699 terms of a plea in abeyance agreement;

7700 (c) a sentence entered pursuant to Subsection (4)(b); or

7701 (d) an order denying a motion to withdraw a plea.

- 7702 (5) The prosecutor is entitled to a hearing de novo in the district court on:
- 7703 (a) a final judgment of dismissal;
- 7704 (b) an order arresting judgment;
- 7705 (c) an order terminating the prosecution because of a finding of double jeopardy or
- 7706 denial of a speedy trial;
- 7707 (d) a judgment holding invalid any part of a statute or ordinance;
- 7708 (e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of
- 7709 that evidence prevents continued prosecution of an infraction or class C misdemeanor;
- 7710 (f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of
- 7711 that evidence impairs continued prosecution of a class B misdemeanor; or
- 7712 (g) an order granting a motion to withdraw a plea of guilty or no contest.
- 7713 (6) A notice of appeal for a hearing de novo in the district court on a pretrial order
- 7714 excluding evidence under Subsection (5)(e) or (f) shall be filed within 30 days of the order
- 7715 excluding the evidence.
- 7716 (7) Upon entering a decision in a hearing de novo, the district court shall remand the
- 7717 case to the justice court unless:
- 7718 (a) the decision results in immediate dismissal of the case;
- 7719 (b) with agreement of the parties, the district court consents to retain jurisdiction; or
- 7720 (c) the defendant enters a plea of guilty or no contest in the district court.
- 7721 (8) The district court shall retain jurisdiction over the case on trial de novo.
- 7722 (9) The decision of the district court is final and may not be appealed unless the district
- 7723 court rules on the constitutionality of a statute or ordinance.
- 7724 Section 130. Section **78B-4-202** is amended to read:
- 7725 **78B-4-202. Equine and livestock activity liability limitations.**
- 7726 (1) It shall be presumed that participants in equine or livestock activities are aware of
- 7727 and understand that there are inherent risks associated with these activities.
- 7728 (2) An equine activity sponsor, equine professional, livestock activity sponsor, or
- 7729 livestock professional is not liable for an injury to or the death of a participant due to the

7730 inherent risks associated with these activities, unless the sponsor or professional:

7731 (a) (i) provided the equipment or tack;

7732 (ii) the equipment or tack caused the injury; and

7733 (iii) the equipment failure was due to the sponsor's or professional's negligence;

7734 (b) failed to make reasonable efforts to determine whether the equine or livestock

7735 could behave in a manner consistent with the activity with the participant;

7736 (c) owns, leases, rents, or is in legal possession and control of land or facilities upon

7737 which the participant sustained injuries because of a dangerous condition which was known to

7738 or should have been known to the sponsor or professional and for which warning signs have

7739 not been conspicuously posted;

7740 (d) (i) commits an act or omission that constitutes negligence, gross negligence, or

7741 willful or wanton disregard for the safety of the participant; and

7742 (ii) that act or omission causes the injury; or

7743 (e) intentionally injures or causes the injury to the participant.

7744 (3) This chapter does not prevent or limit the liability of an equine activity sponsor, an

7745 equine professional, a livestock activity sponsor, or a livestock professional who is:

7746 (a) a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in an

7747 action to recover for damages incurred in the course of providing professional treatment of an

7748 equine;

7749 (b) liable under Title 4, Chapter 25, [~~Estrays~~] Estraying and Trespassing Animals; or

7750 (c) liable under Title 78B, Chapter 6, Part 7, Utah Product Liability Act.

7751 Section 131. Section **78B-4-514** is amended to read:

7752 **78B-4-514. Definitions -- Immunity for architects and engineers during**

7753 **emergencies.**

7754 (1) As used in this section:

7755 (a) "Architect" means a person licensed in accordance with Title 58, Chapter 3a,

7756 Architects Licensing Act.

7757 (b) "Declared state of emergency" means a state of emergency declared by the governor

7758 of this state or by the chief executive officer of a political subdivision, in accordance with Title
7759 [~~63K~~] 53, Chapter [~~4, Disaster Response and Recovery~~] 2a, Emergency Management Act.

7760 (c) "Professional engineer" means a person licensed in accordance with Title 58,
7761 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

7762 (d) "Public official" means an appointed or elected federal, state, or local official,
7763 including building inspectors and police and fire chiefs, acting within the scope and jurisdiction
7764 of the official's authority during a declared emergency.

7765 (2) An architect or professional engineer, acting in good faith and within the scope of
7766 his or her respective license, is not liable for:

7767 (a) any acts, errors, or omissions; or

7768 (b) personal injury, wrongful death, property damage, or any other loss arising from
7769 architectural or engineering services provided by the architect or engineer:

7770 (i) as a non-paid volunteer at the request of a public official; and

7771 (ii) during, or for 90 days following, a declared state of emergency.

7772 (3) Nothing in Subsection (2) shall be construed to provide immunity to an architect or
7773 engineer for architectural or engineering services that are not within the scope of licensure.

7774 Section 132. Section **78B-15-612** is amended to read:

7775 **78B-15-612. Minor as party -- Representation.**

7776 (1) A minor is a permissible party, but is not a necessary party to a proceeding under
7777 this part.

7778 (2) The tribunal may appoint an attorney guardian ad litem under Sections [78A-2-703](#)
7779 and [78A-6-902](#), or a private attorney guardian ad litem under Section [78A-2-705](#), to represent a
7780 minor or incapacitated child if the child is a party.