

1 **DEPARTMENT OF ADMINISTRATIVE SERVICES**

2 **AMENDMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Steve Eliason**

6 Senate Sponsor: Deidre M. Henderson

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies and repeals provisions related to the Department of Administrative
11 Services and funds administered by the Division of Finance.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ repeals certain funds and accounts administered by the Division of Finance;
- 15 ▶ modifies the duties of the director of the Division of Finance;
- 16 ▶ removes certain reporting requirements from the Division of Finance;
- 17 ▶ repeals provisions relating to adoption and use of a seal by the Division of Facilities
18 Construction and Management; and
- 19 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **53A-17a-156**, as last amended by Laws of Utah 2016, Chapter 217

27 **63A-3-103**, as last amended by Laws of Utah 2015, Chapter 175



- 28 **63A-3-203**, as last amended by Laws of Utah 2016, Chapter 298
- 29 **63A-3-205**, as last amended by Laws of Utah 2014, Chapter 227
- 30 **63A-3-502**, as last amended by Laws of Utah 2016, Chapter 129
- 31 **63A-5-204**, as last amended by Laws of Utah 2016, Chapters 298 and 300
- 32 **77-32-201**, as last amended by Laws of Utah 2016, Chapter 177
- 33 **77-32-401.5**, as last amended by Laws of Utah 2010, Chapter 286
- 34 **77-32-402**, as enacted by Laws of Utah 1997, Chapter 354
- 35 **78B-1-119**, as last amended by Laws of Utah 2014, Chapter 138

REPEALS:

- 37 **53A-17a-157**, as last amended by Laws of Utah 2015, Chapter 122
- 38 **59-12-120**, as last amended by Laws of Utah 2011, Chapter 303
- 39 **77-32-701**, as last amended by Laws of Utah 2011, Chapter 303
- 40 **77-32-702**, as last amended by Laws of Utah 1998, Chapter 333
- 41 **77-32-703**, as last amended by Laws of Utah 1998, Chapter 333
- 42 **77-32-704**, as last amended by Laws of Utah 1998, Chapter 333

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

Section 1. Section **53A-17a-156** is amended to read:

53A-17a-156. Teacher Salary Supplement Program -- Appeal process.

(1) As used in this section:

- (a) "Board" means the State Board of Education.
- (b) "Certificate teacher" means a teacher who holds a National Board certification.
- (c) "Eligible teacher" means a teacher who:
 - (i) has an assignment to teach:
 - (A) a secondary school level mathematics course;
 - (B) integrated science in grade seven or eight;
 - (C) chemistry;
 - (D) physics; or
 - (E) computer science;
 - (ii) holds the appropriate endorsement for the assigned course;
 - (iii) has qualifying educational background; and

- 59 (iv) (A) is a new employee; or
60 (B) received a satisfactory rating or above on the teacher's most recent evaluation.
61 (d) "National Board certification" means the same as that term is defined in Section
62 53A-6-103.
- 63 (e) "Qualifying educational background" means:
64 (i) for a teacher who is assigned a secondary school level mathematics course:
65 (A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or
66 (B) a bachelor's degree major, master's degree, or doctoral degree that has course
67 requirements that are substantially equivalent to the course requirements for a bachelor's degree
68 major, master's degree, or doctoral degree in mathematics;
- 69 (ii) for a teacher who is assigned a grade seven or eight integrated science course,
70 chemistry course, or physics course, a bachelor's degree major, master's degree, or doctoral
71 degree in:
72 (A) integrated science;
73 (B) chemistry;
74 (C) physics;
75 (D) physical science;
76 (E) general science; or
77 (F) a bachelor's degree major, master's degree, or doctoral degree that has course
78 requirements that are substantially equivalent to the course requirements of those required for a
79 degree listed in Subsections (1)(e)(ii)(A) through (E);
- 80 (iii) for a teacher who is assigned a computer science course, a bachelor's degree major,
81 master's degree, or doctoral degree in:
82 (A) computer science;
83 (B) computer information technology; or
84 (C) a bachelor's degree major, master's degree, or doctoral degree that has course
85 requirements that are substantially equivalent to the course requirements of those required for a
86 degree listed in Subsections (1)(e)(iii)(A) and (B).
- 87 (f) "Title I school" means a school that receives funds under the Elementary and
88 Secondary Education Act of 1965, Title I, 20 U.S.C. Sec. 6301 et seq.
- 89 (g) "Title I school certificate teacher" means a certificate teacher who is assigned to

90 teach at a Title I school.

91 (2) (a) Subject to future budget constraints, the Legislature shall annually appropriate
92 money to [~~the Teacher Salary Supplement Restricted Account established in Section~~
93 ~~53A-17a-157 to fund~~] the Teacher Salary Supplement Program.

94 (b) Money appropriated for the Teacher Salary Supplement Program shall include
95 money for the following employer-paid benefits:

- 96 (i) retirement;
- 97 (ii) workers' compensation;
- 98 (iii) Social Security; and
- 99 (iv) Medicare.

100 (3) (a) (i) The annual salary supplement for an eligible teacher who is assigned full
101 time to teach one or more courses listed in Subsections (1)(c)(i)(A) through (E) is \$4,100.

102 (ii) An eligible teacher who has a part-time assignment to teach one or more courses
103 listed in Subsections (1)(c)(i)(A) through (E) shall receive a partial salary supplement based on
104 the number of hours worked in a course assignment that meets the requirements of Subsections
105 (1)(c)(ii) and (iii).

106 (b) The annual salary supplement for a certificate teacher is \$750.

107 (c) (i) The annual salary supplement for a Title I school certificate teacher is \$1,500.

108 (ii) A certificate teacher who qualifies for a salary supplement under Subsections (3)(b)
109 and (c) may only receive the salary supplement that is greater in value.

110 (4) The board shall:

111 (a) create an online application system for a teacher to apply to receive a salary
112 supplement through the Teacher Salary Supplement Program;

113 (b) determine if a teacher:

114 (i) (A) is an eligible teacher; and

115 (B) has a course assignment as listed in Subsections (1)(c)(i)(A) through (E);

116 (ii) is a certificate teacher; or

117 (iii) is a Title I school certificate teacher;

118 (c) verify, as needed, the determinations made under Subsection (4)(b) with school
119 district and school administrators; and

120 (d) certify a list of eligible teachers, certificate teachers, and Title I school certificate

121 teachers.

122 (5) (a) An eligible teacher, a certificate teacher, or a Title I school certificate teacher
123 shall apply with the board before the conclusion of a school year to receive the salary
124 supplement authorized in this section.

125 (b) An eligible teacher, a certificate teacher, or a Title I school certificate teacher may
126 apply with the board, after verification that the requirements under this section have been
127 satisfied, to receive a salary supplement after the completion of:

128 (i) the school year as an annual award; or

129 (ii) a semester or trimester as a partial award based on the portion of the school year
130 that has been completed.

131 (6) (a) The board shall establish and administer an appeal process for a teacher to
132 follow if the teacher applies for the salary supplement and is not certified under Subsection (4).

133 (b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to
134 appeal eligibility as an eligible teacher on the basis that the teacher has a degree or degree
135 major with course requirements that are substantially equivalent to the course requirements for
136 a degree listed in:

137 (A) Subsection (1)(e)(i)(A);

138 (B) Subsections (1)(e)(ii)(A) through (E); or

139 (C) Subsections (1)(e)(iii)(A) and (B).

140 (ii) A teacher shall provide transcripts and other documentation to the board in order
141 for the board to determine if the teacher has a degree or degree major with course requirements
142 that are substantially equivalent to the course requirements for a degree listed in:

143 (A) Subsection (1)(e)(i)(A);

144 (B) Subsections (1)(e)(ii)(A) through (E); or

145 (C) Subsections (1)(e)(iii)(A) and (B).

146 (c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to
147 appeal eligibility as a certificate teacher on the basis that the teacher holds a current certificate.

148 (ii) A teacher shall provide to the board a certificate or other related documentation in
149 order for the board to determine if the teacher holds a current certificate.

150 (d) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to
151 appeal eligibility as a Title I school certificate teacher on the basis that the teacher:

152 (A) holds a current certificate; and
153 (B) is assigned to teach at a Title I school.

154 (ii) A teacher shall provide to the board:

155 (A) information described in Subsection (6)(c)(ii); and

156 (B) verification that the teacher is assigned to teach at a Title I school.

157 (7) (a) The board shall distribute money [~~from~~] appropriated to the Teacher Salary
158 Supplement [~~Restricted Account~~] Program to school districts and charter schools for the
159 Teacher Salary Supplement Program in accordance with the provisions of this section.

160 (b) The board shall include the employer-paid benefits described under Subsection
161 (2)(b) in the amount of each salary supplement.

162 (c) The employer-paid benefits described under Subsection (2)(b) are an addition to the
163 salary supplement limits described under Subsection (3).

164 (8) (a) Money received from the Teacher Salary Supplement [~~Restricted Account~~]
165 Program shall be used by a school district or charter school to provide a salary supplement
166 equal to the amount specified in Subsection (3) for each eligible teacher, certificate teacher, or
167 Title I school certificate teacher.

168 (b) The salary supplement is part of the teacher's base pay, subject to the teacher's
169 qualification as an eligible teacher, a certificate teacher, or a Title I school certificate teacher
170 every year, semester, or trimester.

171 (9) Notwithstanding the provisions of this section, if the appropriation for the program
172 is insufficient to cover the costs associated with salary supplements, the board may limit or
173 reduce the salary supplements.

174 Section 2. Section **63A-3-103** is amended to read:

175 **63A-3-103. Duties of director of division -- Application to institutions of higher**
176 **education.**

177 (1) The director of the Division of Finance shall:

178 (a) define fiscal procedures relating to approval and allocation of funds;

179 (b) provide for the accounting control of funds;

180 [~~(c) approve proposed expenditures for the purchase of supplies and services;~~]

181 [~~(d)~~] (c) promulgate rules that:

182 (i) establish procedures for maintaining detailed records of all types of leases;

- 183 (ii) account for all types of leases in accordance with generally accepted accounting
184 principles;
- 185 (iii) require the performance of a lease with an option to purchase study by state
186 agencies prior to any lease with an option to purchase acquisition of capital equipment; and
- 187 (iv) require that the completed lease with an option to purchase study be approved by
188 the director of the Division of Finance;
- 189 ~~[(e)]~~ (d) if the department operates the Division of Finance as an internal service fund
190 agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in
191 Section 63A-1-114:
- 192 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
- 193 (ii) other information or analysis requested by the Rate Committee;
- 194 ~~[(f)]~~ (e) oversee the Office of State Debt Collection;
- 195 ~~[(g)]~~ (f) publish the state's current constitutional debt limit on the Utah Public Finance
196 Website, created in Section 63A-3-402; and
- 197 ~~[(h)]~~ (g) prescribe other fiscal functions required by law or under the constitutional
198 authority of the governor to transact all executive business for the state.
- 199 (2) (a) Institutions of higher education are subject to the provisions of Title 63A,
200 Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System,
201 only to the extent expressly authorized or required by the State Board of Regents under Title
202 53B, State System of Higher Education.
- 203 (b) Institutions of higher education shall submit financial data for the past fiscal year
204 conforming to generally accepted accounting principles to the director of the Division of
205 Finance.
- 206 (3) The Division of Finance shall prepare financial statements and other reports in
207 accordance with legal requirements and generally accepted accounting principles for the state
208 auditor's examination and certification:
- 209 (a) not later than 60 days after a request from the state auditor; and
- 210 (b) at the end of each fiscal year.
- 211 Section 3. Section 63A-3-203 is amended to read:
- 212 **63A-3-203. Accounting control over state departments and agencies --**
213 **Prescription and approval of financial forms, accounting systems, and fees.**

214 (1) The director of the Division of Finance shall:
 215 (a) exercise accounting control over all state departments and agencies except
 216 institutions of higher education; and
 217 (b) prescribe the manner and method of certifying that funds are available and adequate
 218 to meet all contracts and obligations.

219 (2) The director shall audit all claims against the state for which an appropriation has
 220 been made.

221 (3) (a) The director shall prescribe:

222 (i) [~~prescribe~~] all forms of requisitions, receipts, vouchers, bills, or claims to be used
 223 by all state departments and agencies; and

224 [~~(ii) prescribe the forms, procedures, and records to be maintained by all departmental,
 225 institutional, or agency store rooms;~~]

226 [~~(iii) exercise inventory control over the store rooms; and~~]

227 [~~(iv) prescribe~~] (ii) all forms to be used by the division.

228 (b) Before approving the forms in Subsection (3)(a), the director shall obtain approval
 229 from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

230 (4) Before implementation by any state agency, the director of the Division of Finance
 231 shall review and approve[~~-(a)~~] any accounting system developed by a state agency[~~;-and~~].

232 [~~(b) any fees established by any state agency to recover the costs of operations;~~]

233 Section 4. Section **63A-3-205** is amended to read:

234 **63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.**

235 (1) As used in this section, "revolving loan fund" means:

236 (a) the Water Resources Conservation and Development Fund, created in Section
 237 [73-10-24](#);

238 (b) the Water Resources Construction Fund, created in Section [73-10-8](#);

239 (c) the Water Resources Cities Water Loan Fund, created in Section [73-10-22](#);

240 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
 241 Fuels and Vehicle Technology Program Act;

242 (e) the Water Development Security Fund and its subaccounts, created in Section
 243 [73-10c-5](#);

244 (f) the Agriculture Resource Development Fund, created in Section [4-18-106](#);

- 245 (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;
- 246 (h) the Permanent Community Impact Fund, created in Section [35A-8-603]
- 247 [35A-8-303](#);
- 248 (i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409;
- 249 (j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;
- 250 (k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and
- 251 (l) the Energy Efficiency Fund, created in Section 11-45-201.
- 252 (2) The division shall for each revolving loan fund[:(a)] make rules establishing
- 253 standards and procedures governing:
- 254 [(i)] (a) payment schedules and due dates;
- 255 [(ii)] (b) interest rate effective dates;
- 256 [(iii)] (c) loan documentation requirements; and
- 257 [(iv)] (d) interest rate calculation requirements[;and].
- 258 [~~(b) make an annual report to the Legislature containing:~~]
- 259 [~~(i) the total dollars loaned by that fund during the last fiscal year;~~]
- 260 [~~(ii) a listing of each loan currently more than 90 days delinquent, in default, or that~~
- 261 ~~was restructured during the last fiscal year;~~]
- 262 [~~(iii) a description of each project that received money from that revolving loan fund;~~]
- 263 [~~(iv) the amount of each loan made to that project;~~]
- 264 [~~(v) the specific purpose for which the proceeds of the loan were to be used, if any;~~]
- 265 [~~(vi) any restrictions on the use of the loan proceeds;~~]
- 266 [~~(vii) the present value of each loan at the end of the fiscal year calculated using the~~
- 267 ~~interest rate paid by the state on the bonds providing the revenue on which the loan is based or,~~
- 268 ~~if that is unknown, on the average interest rate paid by the state on general obligation bonds~~
- 269 ~~issued during the most recent fiscal year in which bonds were sold; and]~~
- 270 [~~(viii) the financial position of each revolving loan fund, including the fund's cash~~
- 271 ~~investments, cash forecasts, and equity position.]~~
- 272 Section 5. Section 63A-3-502 is amended to read:
- 273 **63A-3-502. Office of State Debt Collection created -- Duties.**
- 274 (1) The state and each state agency shall comply with the requirements of this chapter
- 275 and any rules established by the Office of State Debt Collection.

- 276 (2) There is created the Office of State Debt Collection in the Division of Finance.
- 277 (3) The office shall:
- 278 (a) have overall responsibility for collecting and managing state receivables;
- 279 (b) assist the Division of Finance to develop consistent policies governing the
- 280 collection and management of state receivables;
- 281 (c) oversee and monitor state receivables to ensure that state agencies are:
- 282 (i) implementing all appropriate collection methods;
- 283 (ii) following established receivables guidelines; and
- 284 (iii) accounting for and reporting receivables in the appropriate manner;
- 285 (d) assist the Division of Finance to develop policies, procedures, and guidelines for
- 286 accounting, reporting, and collecting money owed to the state;
- 287 (e) provide information, training, and technical assistance to each state agency on
- 288 various collection-related topics;
- 289 (f) write an inclusive receivables management and collection manual for use by each
- 290 state agency;
- 291 (g) prepare quarterly and annual reports of the state's receivables;
- 292 (h) create or coordinate a state accounts receivable database;
- 293 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
- 294 effective accounts receivable program;
- 295 (j) identify any state agency that is not making satisfactory progress toward
- 296 implementing collection techniques and improving accounts receivable collections;
- 297 (k) coordinate information, systems, and procedures between each state agency to
- 298 maximize the collection of past-due accounts receivable;
- 299 (l) establish an automated cash receipt process between each state agency;
- 300 (m) assist the Division of Finance to establish procedures for writing off accounts
- 301 receivable for accounting and collection purposes;
- 302 (n) establish standard time limits after which an agency will delegate responsibility to
- 303 collect state receivables to the office or its designee;
- 304 (o) be a real party in interest for an account receivable referred to the office by any
- 305 state agency or for any restitution to victims referred to the office by a court; and
- 306 (p) allocate money collected for judgments registered under Section 77-18-6 in

307 accordance with Sections [51-9-402](#), [63A-3-506](#), and [78A-5-110](#).

308 (4) The office may:

309 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
310 by state agencies;

311 (b) collect accounts receivables for higher education entities, if the higher education
312 entity agrees;

313 (c) prepare a request for proposal for consulting services to:

314 (i) analyze the state's receivable management and collection efforts; and

315 (ii) identify improvements needed to further enhance the state's effectiveness in
316 collecting its receivables;

317 (d) contract with private or state agencies to collect past-due accounts;

318 (e) perform other appropriate and cost-effective coordinating work directly related to
319 collection of state receivables;

320 (f) obtain access to records and databases of any state agency that are necessary to the
321 duties of the office by following the procedures and requirements of Section [63G-2-206](#),
322 including the financial disclosure form described in Section [77-38a-204](#);

323 (g) collect interest and fees related to the collection of receivables under this chapter,
324 and establish, by following the procedures and requirements of Section [63J-1-504](#):

325 (i) a fee to cover the administrative costs of collection, on accounts administered by the
326 office;

327 (ii) a late penalty fee that may not be more than 10% of the account receivable on
328 accounts administered by the office;

329 (iii) an interest charge that is:

330 (A) the postjudgment interest rate established by Section [15-1-4](#) in judgments
331 established by the courts; or

332 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
333 receivable for which no court judgment has been entered; and

334 (iv) fees to collect accounts receivable for higher education;

335 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
336 the collection of receivables under this chapter;

337 (i) make rules that allow accounts receivable to be collected over a reasonable period

338 of time and under certain conditions with credit cards;

339 (j) file a satisfaction of judgment in the court by following the procedures and
340 requirements of the Utah Rules of Civil Procedure;

341 (k) ensure that judgments for which the office is the judgment creditor are renewed, as
342 necessary;

343 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)
344 with private sector vendors under contract with the state to assist state agencies in collecting
345 debts owed to the state agencies without changing the classification of any private, controlled,
346 or protected record into a public record;

347 (m) enter into written agreements with other governmental agencies to obtain
348 information for the purpose of collecting state accounts receivable and restitution for victims;
349 and

350 (n) collect accounts receivable for a political subdivision of the state, if the political
351 subdivision enters into an agreement or contract with the office under Title 11, Chapter 13,
352 Interlocal Cooperation Act, for the office to collect the political subdivision's accounts
353 receivable.

354 (5) The office shall ensure that:

355 (a) a record obtained by the office or a private sector vendor as referred to in
356 Subsection (4)(l):

357 (i) is used only for the limited purpose of collecting accounts receivable; and

358 (ii) is subject to federal, state, and local agency records restrictions; and

359 (b) any person employed by, or formerly employed by, the office or a private sector
360 vendor as referred to in Subsection (4)(l) is subject to:

361 (i) the same duty of confidentiality with respect to the record imposed by law on
362 officers and employees of the state agency from which the record was obtained; and

363 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a
364 private, controlled, or protected record.

365 (6) (a) The office shall collect accounts receivable ordered by a court as a result of
366 prosecution for a criminal offense that have been transferred to the office under Subsection
367 76-3-201.1(5)(h) [~~or (8)~~].

368 (b) The office may not assess the interest charge established by the office under

369 Subsection (4) on an account receivable subject to the postjudgment interest rate established by
370 Section 15-1-4.

371 (7) The office shall require a state agency to:

372 (a) transfer collection responsibilities to the office or its designee according to time
373 limits established by the office;

374 (b) make annual progress towards implementing collection techniques and improved
375 accounts receivable collections;

376 (c) use the state's accounts receivable system or develop systems that are adequate to
377 properly account for and report their receivables;

378 (d) develop and implement internal policies and procedures that comply with the
379 collections policies and guidelines established by the office;

380 (e) provide internal accounts receivable training to staff involved in the management
381 and collection of receivables as a supplement to statewide training;

382 (f) bill for and make initial collection efforts of its receivables up to the time the
383 accounts must be transferred; and

384 (g) submit quarterly receivable reports to the office that identify the age, collection
385 status, and funding source of each receivable.

386 ~~[(8) The office shall use the information provided by the agencies and any additional
387 information from the office's records to compile a one-page summary report of each agency.]~~

388 ~~[(9) The summary shall include:]~~

389 ~~[(a) the type of revenue that is owed to the agency;]~~

390 ~~[(b) any attempted collection activity; and]~~

391 ~~[(c) any costs incurred in the collection process.]~~

392 ~~[(10) The office shall annually provide copies of each agency's summary to the
393 governor and to the Legislature.]~~

394 ~~[(11)]~~ (8) All interest, fees, and other amounts authorized to be charged by the office
395 under Subsection (4):

396 (a) are penalties that may be charged by the office; and

397 (b) are not compensation for actual pecuniary loss.

398 Section 6. Section 63A-5-204 is amended to read:

399 **63A-5-204. Specific powers and duties of director.**

400 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the
401 same meaning as provided in Section 63C-9-102.

402 (2) (a) The director shall:

403 (i) recommend rules to the executive director for the use and management of facilities
404 and grounds owned or occupied by the state for the use of its departments and agencies;

405 (ii) supervise and control the allocation of space, in accordance with legislative
406 directive through annual appropriations acts or other specific legislation, to the various
407 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or
408 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as
409 otherwise provided by law;

410 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,
411 Division of Facilities Construction and Management Leasing;

412 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature
413 through the appropriations act or other specific legislation, and hold title to, in the name of the
414 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its
415 agencies;

416 [~~(v) adopt and use a common seal, of a form and design determined by the director, and~~
417 ~~of which courts shall take judicial notice;~~]

418 [~~(vi) file a description and impression of the seal with the Division of Archives;~~]

419 [~~(vii)~~] (v) collect and maintain all deeds, abstracts of title, and all other documents
420 evidencing title to or interest in property belonging to the state or any of its departments, except
421 institutions of higher education and the School and Institutional Trust Lands Administration;

422 [~~(viii)~~] (vi) report all properties acquired by the state, except those acquired by
423 institutions of higher education, to the director of the Division of Finance for inclusion in the
424 state's financial records;

425 [~~(ix)~~] (vii) before charging a rate, fee, or other amount for services provided by the
426 division's internal service fund to an executive branch agency, or to a subscriber of services
427 other than an executive branch agency:

428 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee
429 established in Section 63A-1-114; and

430 (B) obtain the approval of the Legislature as required by Section 63J-1-410;

431 [~~(x)~~] (viii) conduct a market analysis by July 1, 2005, and periodically thereafter, of
432 proposed rates and fees, which analysis shall include a comparison of the division's rates and
433 fees with the fees of other public or private sector providers where comparable services and
434 rates are reasonably available;

435 [~~(xi)~~] (ix) implement the State Building Energy Efficiency Program under Section
436 [63A-5-701](#);

437 [~~(xii)~~] (x) convey, lease, or dispose of the real property or water rights associated with
438 the Utah State Developmental Center according to the Utah State Developmental Center
439 Board's determination, as described in Subsection [62A-5-206.6\(5\)](#); and

440 [~~(xiii)~~] (xi) take all other action necessary for carrying out the purposes of this chapter.

441 (b) Legislative approval is not required for acquisitions by the division that cost less
442 than \$250,000.

443 (3) (a) The director shall direct or delegate maintenance and operations, preventive
444 maintenance, and facilities inspection programs and activities for any agency, except:

445 (i) the State Capitol Preservation Board; and

446 (ii) state institutions of higher education.

447 (b) The director may choose to delegate responsibility for these functions only when
448 the director determines that:

449 (i) the agency has requested the responsibility;

450 (ii) the agency has the necessary resources and skills to comply with facility
451 maintenance standards approved by the State Building Board; and

452 (iii) the delegation would result in net cost savings to the state as a whole.

453 (c) The State Capitol Preservation Board and state institutions of higher education are
454 exempt from Division of Facilities Construction and Management oversight.

455 (d) Each state institution of higher education shall comply with the facility
456 maintenance standards approved by the State Building Board.

457 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
458 exempt from division oversight shall annually report their compliance with the facility
459 maintenance standards to the division in the format required by the division.

460 (f) The division shall:

461 (i) prescribe a standard format for reporting compliance with the facility maintenance

462 standards;

463 (ii) report agency compliance or noncompliance with the standards to the Legislature;

464 and

465 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are

466 complying with the standards.

467 (4) (a) In making any allocations of space under Subsection (2), the director shall:

468 (i) conduct studies to determine the actual needs of each agency; and

469 (ii) comply with the restrictions contained in this Subsection (4).

470 (b) The supervision and control of the legislative area is reserved to the Legislature.

471 (c) The supervision and control of the judicial area is reserved to the judiciary for trial

472 courts only.

473 (d) The director may not supervise or control the allocation of space for entities in the

474 public and higher education systems.

475 (e) The supervision and control of capitol hill facilities and capitol hill grounds is

476 reserved to the State Capitol Preservation Board.

477 (5) The director may:

478 (a) hire or otherwise procure assistance and services, professional, skilled, or

479 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds

480 provided for that purpose either through annual operating budget appropriations or from

481 nonlapsing project funds;

482 (b) sue and be sued in the name of the division; and

483 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the

484 Legislature, whatever real or personal property that is necessary for the discharge of the

485 director's duties.

486 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may

487 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes

488 other than administration that are under their control and management:

489 (a) the Office of Trust Administrator;

490 (b) the Department of Transportation;

491 (c) the Division of Forestry, Fire, and State Lands;

492 (d) the Department of Natural Resources;

493 (e) the Utah National Guard;

494 (f) any area vocational center or other institution administered by the State Board of
495 Education;

496 (g) any institution of higher education; and

497 (h) the Utah Science Technology and Research Governing Authority.

498 (7) The director shall ensure that any firm performing testing and inspection work
499 governed by the American Society for Testing Materials Standard E-329 on public buildings
500 under the director's supervision shall:

501 (a) fully comply with the American Society for Testing Materials standard
502 specifications for agencies engaged in the testing and inspection of materials known as ASTM
503 E-329; and

504 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

505 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust
506 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances
507 held by it that are under its control.

508 Section 7. Section **77-32-201** is amended to read:

509 **77-32-201. Definitions.**

510 For the purposes of this chapter:

511 (1) "Board" means the Indigent Defense Funds Board created in Section [77-32-401](#).

512 (2) "Commission" means the Utah Indigent Defense Commission created in Section
513 [77-32-801](#).

514 (3) "Compelling reason" shall include one or more of the following circumstances
515 relating to the contracting attorney:

516 (a) a conflict of interest;

517 (b) the contracting attorney does not have sufficient expertise to provide an effective
518 defense of the indigent; or

519 (c) the legal defense is insufficient or lacks expertise to provide a complete defense.

520 (4) "Defense resources" means a competent investigator, expert witness, scientific or
521 medical testing, or other appropriate means necessary, for an effective defense of an indigent,
522 but does not include legal counsel.

523 (5) "Defense services provider" means a legal aid association, legal defender's office,

524 regional legal defense association, law firm, attorney, or attorneys contracting with a county or
525 municipality to provide legal defense and includes any combination of counties or
526 municipalities to provide regional indigent criminal defense services.

527 (6) "Effective representation" means legal representation consistent with the Sixth
528 Amendment to the United States Constitution, and Utah Constitution, Article I, Section 12, as
529 interpreted through federal and Utah state appellate courts.

530 (7) "Indigent" means a person qualifying as an indigent under indigency standards
531 established in Part 3, Counsel for Indigents.

532 (8) "Indigent criminal defense services" means the provision of a defense services
533 provider and defense resources to a defendant who is:

534 (a) being prosecuted or sentenced for a crime for which the defendant may be
535 incarcerated upon conviction, beginning with the defendant's initial appearance in court to
536 answer to the criminal charge; and

537 (b) determined to be indigent under Section [77-32-202](#).

538 (9) "Indigent criminal defense system" means:

539 (a) indigent criminal defense services provided by local units of government, including
540 counties, cities, and towns funded by state and local government; or

541 (b) indigent criminal defense services provided by regional legal defense funded by
542 state and local government.

543 (10) "Legal aid association" means a nonprofit defense association or society that
544 provides legal defense for indigent defendants.

545 (11) "Legal defender's office" means a division of county government created and
546 authorized by the county legislative body to provide legal representation in criminal matters to
547 indigent defendants.

548 (12) "Legal defense" means to:

549 (a) provide defense counsel for each indigent who faces the potential deprivation of the
550 indigent's liberty;

551 (b) afford timely representation by defense counsel;

552 (c) provide the defense resources necessary for a complete defense;

553 (d) assure undivided loyalty of defense counsel to the client;

554 (e) provide a first appeal of right; and

555 (f) prosecute other remedies before or after a conviction, considered by defense counsel
556 to be in the interest of justice except for other and subsequent discretionary appeals or
557 discretionary writ proceedings.

558 (13) "Local funding" includes funding by an indigent criminal defense system for
559 defense services. Local funding may be adjusted annually to reflect population growth and
560 inflation for consideration of state funding for indigent criminal defense resources and critical
561 need indigent criminal defense providers.

562 (14) "Participating county" means a county that has complied with the provisions of
563 this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as
564 provided in Sections 77-32-602 and 77-32-603 [or the Indigent Felony Defense Trust Fund as
565 provided in Sections ~~77-32-702~~ and ~~77-32-703~~].

566 (15) "Regional legal defense" means a defense services provider which provides legal
567 defense to any combination of counties or municipalities through an interlocal cooperation
568 agreement pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and Subsection
569 77-32-306(3).

570 (16) "Serious offense" means a felony or capital felony.

571 ~~[(18)]~~ (17) "Shared state and local funding" means the recognition of the state's
572 constitutional responsibility for the provision of indigent defense services and the collaborative
573 assistance by indigent criminal defense systems to fairly provide effective representation in the
574 state, consistent with the safeguards of the United States Constitution, the Utah Constitution,
575 and this chapter.

576 ~~[(17)]~~ (18) "State funding" means funding by the state for:

- 577 (a) the establishment of a statewide indigent criminal defense data collection system;
578 (b) defense resources; and
579 (c) critical need defense services providers.

580 Section 8. Section 77-32-401.5 is amended to read:

581 **77-32-401.5. Interim board -- Members -- Administrative support -- Duties.**

582 (1) Until the Indigent Defense Funds Board authorized by Section 77-32-401 is
583 constituted after achieving the number of participating counties required by ~~[Sections]~~ Section
584 77-32-604 ~~[and 77-32-704]~~, an interim board may be created within the Division of Finance
585 composed of the following three members:

586 (a) a county commissioner from a county participating in the Indigent Inmate Trust
587 Fund pursuant to Section 77-32-502 appointed by the Utah Association of Counties;

588 (b) a county attorney from a county participating in the Indigent Inmate Trust Fund
589 pursuant to Section 77-32-502 appointed by the Utah Association of Counties; and

590 (c) a representative appointed by the Administrative Office of the Courts.

591 (2) The Division of Finance shall provide administrative support to the interim board.

592 (3) (a) Members shall serve until the Indigent Defense Funds Board is constituted.

593 (b) When a vacancy occurs in the membership for any reason, a replacement shall be
594 appointed for the remaining unexpired term in the same manner as the original appointment.

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

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

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

599 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
600 63A-3-107.

601 (5) The per diem and travel expenses for board members under Subsection (4) shall be
602 paid from the Indigent Inmate Trust Fund in Section 77-32-502.

603 (6) Until the Indigent Defense Funds Board is constituted, the interim board shall be
604 authorized to carry out any responsibility provided to the Indigent Defense Funds Board in
605 statute as it relates to Chapter 32, Part 5, Indigent Inmates.

606 (7) The action by two members present shall constitute the action of the board.

607 Section 9. Section 77-32-402 is amended to read:

608 **77-32-402. Duties of board.**

609 (1) The board shall:

610 (a) establish rules and procedures for the application by counties for disbursements,
611 and the screening and approval of the applications for money from the:

612 (i) Indigent Inmate Trust Fund established in Part 5, Indigent Inmates; and

613 (ii) Indigent Capital Defense Trust Fund established in Part 6, Indigent Capital Defense
614 Trust Fund; ~~and~~

615 ~~[(iii) Indigent Felony Defense Trust Fund established in Part 7, Indigent Felony
616 Defense Trust Fund;]~~

- 617 (b) receive, screen, and approve or disapprove the application of counties for
618 disbursements from each fund;
- 619 (c) calculate the amount of the annual contribution to be made to the funds by each
620 participating county;
- 621 (d) prescribe forms for the application for money from each fund;
- 622 (e) oversee and approve the disbursement of money from each fund as provided in
623 Sections [~~77-32-401~~], 77-32-502[;] and 77-32-601[, ~~and 77-32-701~~];
- 624 (f) establish its own rules of procedure, elect its own officers, and appoint committees
625 of its members and other people as may be reasonable and necessary; and
- 626 (g) negotiate, enter into, and administer contracts with legal counsel, qualified under
627 and meeting the standards consistent with this chapter, to provide defense counsel services to:
- 628 (i) indigents prosecuted in participating counties for serious offenses in violation of
629 state law; and
- 630 (ii) an indigent inmate who is incarcerated in certain counties.
- 631 (2) The board may provide to the court a list of attorneys qualified under Utah Rules of
632 Criminal Procedure, Rule 8, with which the board has a preliminary contract to defend indigent
633 cases for an assigned rate.
- 634 Section 10. Section **78B-1-119** is amended to read:
- 635 **78B-1-119. Jurors and witnesses -- Fees and mileage.**
- 636 (1) Every juror and witness legally required or in good faith requested to attend a trial
637 court of record or not of record or a grand jury is entitled to:
- 638 (a) \$18.50 for the first day of attendance and \$49 per day for each subsequent day of
639 attendance; and
- 640 (b) if traveling more than 50 miles, \$1 for each four miles in excess of 50 miles
641 actually and necessarily traveled in going only, regardless of county lines.
- 642 (2) Persons in the custody of a penal institution upon conviction of a criminal offense
643 are not entitled to a witness fee.
- 644 (3) A witness attending from outside the state in a civil case is allowed mileage at the
645 rate of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside
646 the state in going only.
- 647 (4) If the witness is attending from outside the state in a criminal case, the state shall

648 reimburse the witness under Section 77-21-3.

649 (5) A prosecution witness or a witness subpoenaed by an indigent defendant attending
650 from outside the county but within the state may receive reimbursement for necessary lodging
651 and meal expenses under rule of the Judicial Council.

652 (6) A witness subpoenaed to testify in court proceedings in a civil action shall receive
653 reimbursement for necessary and reasonable parking expenses from the attorney issuing the
654 subpoena under rule of the Judicial Council or Supreme Court.

655 ~~[(7) There is created within the General Fund, a restricted account known as the CASA~~
656 ~~Volunteer Account. A juror may donate the juror's fee to the CASA Volunteer Account in~~
657 ~~\$18.50 or \$49 increments. The Legislature shall annually appropriate money from the CASA~~
658 ~~Volunteer Account to the Administrative Office of the Courts for the purpose of recruiting,~~
659 ~~training, and supervising volunteers for the Court Appointed Special Advocate program~~
660 ~~established pursuant to Section 78A-6-902.]~~

661 Section 11. **Repealer.**

662 This bill repeals:

663 Section 53A-17a-157, **Teacher Salary Supplement Restricted Account.**

664 Section 59-12-120, **Investment incentive to ski resorts for lease or purchase of**
665 **certain equipment -- Ski Resort Capital Investment Restricted Account created --**
666 **Conditions and restrictions on receiving incentive -- State Tax Commission to administer.**

667 Section 77-32-701, **Establishment of Indigent Felony Defense Trust Fund -- Use of**
668 **fund -- Compensation for indigent legal defense from fund.**

669 Section 77-32-702, **County participation.**

670 Section 77-32-703, **Computing participating county assessments.**

671 Section 77-32-704, **Application and qualification for fund money.**