

**GOVERNMENT INSURANCE AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: James A. Dunnigan**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**Committee Note:**

The Business and Labor Interim Committee recommended this bill.

Legislative Vote: 14 voting for 2 voting against 4 absent

**General Description:**

This bill makes changes to the Administrative Services Code, Independent Entities Code, and Independent State Entities relating to risk management.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes the state risk manager to create one or more captive insurance companies;
- ▶ requires the risk manager to coordinate and cooperate with any covered entity having responsibility for risk control and safety of school districts and charter schools;
- ▶ authorizes school districts, charter schools, the Utah Communications Authority, and the Utah State Fair Corporation to participate in any captive insurance company created by the risk manager; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 [31A-12-101](#), as last amended by Laws of Utah 1993, Chapter 212
- 33 [51-7-2](#), as last amended by Laws of Utah 2018, Chapters 207 and 404
- 34 [63A-4-102](#), as last amended by Laws of Utah 2009, Chapter 183
- 35 [63A-4-103](#), as last amended by Laws of Utah 2020, Chapter 365
- 36 [63A-4-201](#), as last amended by Laws of Utah 2011, Chapter 303
- 37 [63A-4-202](#), as renumbered and amended by Laws of Utah 1993, Chapter 212
- 38 [63A-4-204](#), as last amended by Laws of Utah 2018, Chapter 415
- 39 [63A-4-204.5](#), as last amended by Laws of Utah 2018, Chapter 415
- 40 [63A-4-205.5](#), as last amended by Laws of Utah 2015, Chapter 411
- 41 [63E-1-304](#), as enacted by Laws of Utah 2013, Chapter 220
- 42 [63G-7-605](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 9
- 43 [63G-10-501](#), as enacted by Laws of Utah 2015, Chapter 355
- 44 [63H-6-103](#), as last amended by Laws of Utah 2020, Chapter 152

45 ENACTS:

- 46 [63A-4-101.1](#), Utah Code Annotated 1953
- 47 [63A-4-208](#), Utah Code Annotated 1953

48 RENUMBERS AND AMENDS:

- 49 [63A-4-101.5](#), (Renumbered from 63A-4-101, as last amended by Laws of Utah 2006,
- 50 Chapter 275)



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

52 Section 1. Section **31A-12-101** is amended to read:

53 **31A-12-101. Definitions.**

54 As used in this chapter:

- 55 (1) "Risk Management Fund" means the fund created under Section [63A-4-201](#).
- 56 (2) "Risk manager" means the person appointed under Section [~~[63A-4-101](#)~~]

57 [63A-4-101.5](#).

59 Section 2. Section **51-7-2** is amended to read:

60 **51-7-2. Exemptions from chapter.**

61 The following funds are exempt from this chapter:

62 (1) funds invested in accordance with the participating employees' designation or  
63 direction pursuant to a public employees' deferred compensation plan established and operated  
64 in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

65 (2) funds of the Utah State Retirement Board;

66 (3) funds of the Utah Housing Corporation;

67 (4) endowment funds of higher education institutions;

68 (5) permanent and other land grant trust funds established pursuant to the Utah

69 Enabling Act and the Utah Constitution;

70 (6) the State Post-Retirement Benefits Trust Fund;

71 (7) the funds of the Utah Educational Savings Plan;

72 (8) funds of the permanent state trust fund created by and operated under Utah

73 Constitution, Article XXII, Section 4;

74 (9) the funds in the Navajo Trust Fund;

75 (10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

76 (11) the funds in the Employers' Reinsurance Fund;

77 (12) the funds in the Uninsured Employers' Fund; [~~and~~]

78 (13) the Utah State Developmental Center Long-Term Sustainability Fund, created in

79 Section [62A-5-206.7](#)[~~-~~]; and

80 [\(14\) the funds in the Risk Management Fund created in Section \[63A-4-201\]\(#\).](#)

81 Section 3. Section **63A-4-101.1** is enacted to read:

82 **63A-4-101.1. Definitions.**

83 As used in this chapter:

84 (1) "Captive insurance company" means the same as that term is defined in Section

85 [31A-37-102](#).

86 (2) "Covered entity" means a participating entity of:

87 (a) the Risk Management Fund; or

88 (b) any captive insurance company created by the risk manager.

89 Section 4. Section **63A-4-101.5**, which is renumbered from Section 63A-4-101 is

90 renumbered and amended to read:

91 ~~[63A-4-101].~~ **63A-4-101.5. Risk manager -- Appointment -- Duties.**

92 (1) The executive director shall appoint a risk manager, who shall be qualified by  
93 education and experience in the management of general property and casualty insurance.

94 (2) The risk manager shall:

95 (a) ~~Ŝ~~ **→ except as provided in Subsection (4),** ~~←Ŝ~~ acquire and administer the following  
95a purchased by the state ~~Ŝ~~ **→ [and] or** ~~←Ŝ~~ any captive  
96 insurance company created by the risk manager:

97 ~~[(i) all property, casualty insurance; and]~~

98 (i) all property and casualty insurance;

99 (ii) reinsurance of property and casualty insurance; and

100 ~~[(ii)]~~ (iii) subject to Section 34A-2-203, workers' compensation insurance;

101 (b) recommend that the executive director make rules:

102 (i) prescribing reasonable and objective underwriting and risk control standards for  
103 ~~[state agencies];~~

104 (A) all covered entities of the Risk Management Fund; and

105 (B) any captive insurance company created by the risk manager;

106 (ii) prescribing the risks to be covered by the Risk Management Fund and the extent to  
107 which these risks will be covered;

108 (iii) prescribing the properties, risks, deductibles, and amount limits eligible for  
109 payment out of the ~~[fund]~~ Risk Management Fund;

110 (iv) prescribing procedures for making claims and proof of loss; and

111 (v) establishing procedures for the resolution of disputes relating to coverage or claims,  
112 which may include binding arbitration;

113 (c) implement a risk management and loss prevention program for ~~[state agencies]~~  
114 covered entities for the purpose of reducing risks, accidents, and losses to assist ~~[state officers~~  
115 ~~and employees]~~ covered entities in fulfilling their responsibilities for risk control and safety;

116 (d) coordinate and cooperate with any ~~[state agency]~~ covered entity having  
117 responsibility to manage and protect state properties, including:

118 (i) the state fire marshal;

119 (ii) the director of the Division of Facilities Construction and Management;

120 (iii) the Department of Public Safety; ~~[and]~~

- 121 (iv) institutions of higher education;
- 122 (v) school districts; and
- 123 (vi) charter schools;
- 124 (e) maintain records necessary to fulfill the requirements of this section;
- 125 (f) manage the ~~[fund]~~ Risk Management Fund and any captive insurance company
- 126 created by the risk manager in accordance with economically and actuarially sound principles
- 127 to produce adequate reserves for the payment of contingencies, including unpaid and
- 128 unreported claims, and may purchase any insurance or reinsurance considered necessary to
- 129 accomplish this objective; and
- 130 (g) inform the ~~[agency's]~~ covered entity's governing body and the governor when any
- 131 ~~[agency]~~ covered entity fails or refuses to comply with reasonable risk control
- 132 recommendations made by the risk manager.

133 (3) Before the effective date of any rule, the risk manager shall provide a copy of the

134 rule to each ~~[agency]~~ covered entity affected by it.

134a **Ŝ→ (4) The risk manager may not use a captive insurance company created by the risk**

134b **manager to purchase:**

134c **(a) workers' compensation insurance;**

134d **(b) health insurance; or**

134e **(c) life insurance.** ←Ŝ

135 Section 5. Section **63A-4-102** is amended to read:

136 **63A-4-102. Risk manager -- Powers.**

137 (1) The risk manager may:

138 (a) enter into contracts;

139 (b) form one or more captive insurance companies authorized under Title 31A, Chapter

140 37, Captive Insurance Companies Act;

141 ~~[(b)]~~ (c) purchase insurance or reinsurance;

142 ~~[(e)]~~ (d) adjust, settle, and pay claims;

143 ~~[(d)]~~ (e) pay expenses and costs;

144 ~~[(e)]~~ (f) study the risks of all ~~[state agencies]~~ covered entities and properties;

145 ~~[(f)]~~ (g) issue certificates of coverage ~~[to state agencies for]~~ or insurance for covered

146 entities with respect to any risks covered by the Risk Management Fund or any captive

147 insurance company created by the risk manager;

148 ~~[(g)]~~ (h) make recommendations about risk management and risk reduction strategies

149 to ~~[state agencies]~~ covered entities;

150 ~~[(h)]~~ (i) in consultation with the attorney general, prescribe insurance, indemnification,

151 and liability provisions to be included in all state contracts;

152           ~~[(i)]~~ (j) review ~~[agency]~~ covered entity building construction, major remodeling plans,  
153 agency program plans, and make recommendations to the agency about needed changes to  
154 address risk considerations;

155           ~~[(j)]~~ (k) attend agency planning and management meetings when necessary;

156           ~~[(k)]~~ (l) review any proposed legislation and communicate with legislators and  
157 legislative committees about the liability or risk management issues connected with any  
158 legislation; and

159           ~~[(l)]~~ (m) solicit any needed information about agency plans, agency programs, or  
160 agency risks necessary to perform the risk manager's responsibilities under this part.

161           (2) (a) The risk manager may expend money from the Risk Management Fund to  
162 procure and provide coverage to all ~~[state agencies]~~ covered entities and their indemnified  
163 employees, except those ~~[agencies]~~ entities or employees specifically exempted by statute.

164           (b) The risk manager shall apportion the costs of that coverage according to the  
165 requirements of this part.

166           (3) Before charging a rate, fee, or other amount to an executive branch agency, or to a  
167 subscriber of services other than an executive branch agency, the director shall:

168           (a) submit the proposed rates, fees, or other amount and cost analysis to the Rate  
169 Committee established in Section [63A-1-114](#); and

170           (b) obtain the approval of the Legislature as required by Section [63J-1-410](#).

171           (4) The director shall conduct a market analysis by July 1, 2005, and periodically  
172 thereafter, of proposed rates and fees, which analysis shall include a comparison of the  
173 division's rates and fees with the fees of other public or private sector providers where  
174 comparable services and rates are reasonably available.

175           Section 6. Section **63A-4-103** is amended to read:

176           **63A-4-103. Risk management -- Duties of covered entities.**

177           (1) (a) Unless ~~[specifically]~~ expressly authorized by statute ~~[to do so, a state agency]~~, a  
178 covered entity may not:

179           (i) purchase insurance or self-fund any risk unless authorized by the risk manager; or

180           (ii) procure or provide liability insurance for the state.

181           (b) (i) Notwithstanding the provisions of Subsection (1)(a), the Utah Board of Higher  
182 Education may authorize higher education institutions to purchase insurance for, or self-fund,

183 risks associated with their programs and activities that are not covered through the risk  
184 manager.

185 (ii) The Utah Board of Higher Education shall provide copies of those purchased  
186 policies to the risk manager.

187 (iii) The Utah Board of Higher Education shall ensure that the state is named as  
188 additional insured on any of those policies.

189 (2) Each ~~[state agency]~~ covered entity shall:

190 (a) comply with reasonable risk related recommendations made by the risk manager;

191 (b) participate in risk management training activities conducted or sponsored by the  
192 risk manager;

193 (c) include the insurance, indemnification, and liability provisions prescribed by the  
194 risk manager in all state contracts, together with a statement certifying to the other party to the  
195 contract that the insurance and liability provisions in the contract are those prescribed by the  
196 risk manager;

197 (d) ~~[at each principal design stage,]~~ upon request of the risk manager, provide written  
198 notice to the risk manager that construction and major remodeling plans relating to ~~[agency]~~  
199 covered entity buildings and facilities to be covered by the ~~[fund]~~ Risk Management Fund are  
200 available for review at each principal design stage, for risk control purposes, and make them  
201 available to the risk manager for ~~[his]~~ review and to provide recommendations; and

202 (e) cooperate fully with requests from the risk manager for ~~[agency]~~ covered entity  
203 planning, program, or risk related information, and allow the risk manager to attend ~~[agency]~~  
204 covered entity planning and management meetings.

205 (3) Failure to include in the contract the provisions required by Subsection (2)(c) does  
206 not make the contract unenforceable by the state.

207 Section 7. Section **63A-4-201** is amended to read:

208 **63A-4-201. Risk Management Fund created -- Administration -- Use.**

209 (1) (a) There is created the Risk Management Fund, which shall be administered by the  
210 risk manager.

211 (b) The fund shall cover property, liability, fidelity, and other risks as determined by  
212 the risk manager in consultation with the executive director.

213 (2) The risk manager may only use the ~~[fund]~~ Risk Management Fund to pay:

- 214 (a) insurance or reinsurance premiums;
- 215 (b) costs of administering the ~~[fund]~~ Risk Management Fund and any captive insurance
- 216 companies created by the risk manager;
- 217 (c) loss adjustment expenses;
- 218 (d) risk control and related educational and training expenses; and
- 219 (e) loss costs which at the time of loss were eligible for payment under rules previously
- 220 issued by the executive director under the authority of Section ~~[63A-4-101]~~ 63A-4-101.5.

221 (3) In addition to any money appropriated to the ~~[fund]~~ Risk Management Fund by the

222 Legislature, the risk manager shall deposit with the state treasurer for credit to the ~~[fund]~~ Risk

223 Management Fund:

- 224 (a) any insured loss or loss expenses paid by insurance or reinsurance companies;
- 225 (b) the gross amount of all premiums and surcharges received under Section
- 226 63A-4-202;
- 227 (c) the net refunds from cancelled insurance policies necessary to self-insure previously
- 228 insured risks, with the balance of the proceeds to be refunded to the previously insured
- 229 ~~[agencies]~~ entities;
- 230 (d) all refunds, returns, or dividends from insurance carriers not specifically covered in
- 231 Subsections (3)(a), (b), and (c);
- 232 (e) savings from amounts otherwise appropriated for participation in the fund; and
- 233 (f) all net proceeds from sale of salvage and subrogation recoveries from adverse
- 234 parties related to losses paid out of the fund.

235 ~~[(4)(a) Pending disbursement, the risk manager shall provide surplus money in the~~

236 ~~fund to the state treasurer for investment as provided in Title 51, Chapter 7, State Money~~

237 ~~Management Act.]~~

238 ~~[(b) The state treasurer shall deposit all interest earned on invested fund money into the~~

239 ~~fund.]~~

240 (4) The state treasurer shall invest the Risk Management Fund in accordance with

241 Section 63A-4-208 and deposit all interest or other income earned from investments into the

242 Risk Management Fund.

243 Section 8. Section **63A-4-202** is amended to read:

244 **63A-4-202. Determination of insurance premiums -- Information furnished by**



245 **covered entities -- Notice to covered entities.**

246 (1) Each [~~agency~~] covered entity shall provide the risk manager with all reasonable  
 247 information necessary to compute insurance premiums whenever [~~he~~] the risk manager  
 248 requests that information [~~from them~~].

249 (2) (a) The risk manager shall charge to each [~~agency~~] entity that receives insurance  
 250 coverage from the Risk Management Fund or any captive insurance company created by the  
 251 risk manager its proportionate share of the cost incurred based upon actuarially sound rating  
 252 techniques.

253 (b) [~~That premium~~] The risk manager shall include in the premium determined under  
 254 this section all costs of operating the [~~fund~~] Risk Management Fund as stated in Section  
 255 63A-4-201 and operating any captive insurance company created by the risk manager.

256 (3) To enable each [~~participating agency~~] covered entity to meet its budgeting  
 257 requirements, the risk manager shall provide each [~~participating agency~~] covered entity with  
 258 projected insurance costs for the next two fiscal years within the time limits required.

259 Section 9. Section **63A-4-204** is amended to read:

260 **63A-4-204. School district participation in Risk Management Fund.**

261 (1) (a) For the purpose of this section, action by a public school district shall be taken  
 262 upon resolution by a majority of the members of the school district's board of education.

263 (b) (i) Upon approval by the state risk manager and the board of education of the  
 264 school district, a public school district may participate in the Risk Management Fund or any  
 265 captive insurance company created by the risk manager, and may permit a foundation  
 266 established under Section 53E-3-403 to participate in the Risk Management Fund or any  
 267 captive insurance company created by the risk manager.

268 (ii) Upon approval by the state risk manager and the State Board of Education, a state  
 269 public education foundation may participate in the Risk Management Fund or any captive  
 270 insurance company created by the risk manager.

271 (c) Subject to any cancellation or other applicable coverage provisions, either the state  
 272 risk manager or the public school district may terminate participation in the [~~fund~~] Risk  
 273 Management Fund.

274 (2) The state risk manager shall contract for all insurance, reinsurance, legal, loss  
 275 adjustment, consulting, loss control, safety, and other related services necessary to support the

276 insurance ~~[program]~~ programs provided to a participating public school district, except that all  
277 supporting legal services are subject to the prior approval of the state attorney general.

278 ~~[(3)(a) The state risk manager shall treat each participating public school district as a  
279 state agency when participating in the Risk Management Fund.]~~

280 ~~[(b)]~~ (3) Each public school district participating in the ~~[fund]~~ Risk Management Fund  
281 shall comply with ~~[the provisions of this part that affect state agencies]~~ Section 63A-4-103.

282 (4) (a) Each year, the risk manager shall prepare, in writing, the information required  
283 by Subsection (4)(b) regarding the coverage against legal liability provided a school district  
284 employee of this state:

285 (i) by the Risk Management Fund or any captive insurance company created by the risk  
286 manager;

287 (ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

288 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and  
289 Employees Act.

290 (b) (i) The information described in Subsection (4)(a) shall include:

291 (A) the eligibility requirements, if any, to receive the coverage;

292 (B) the basic nature of the coverage for a school district employee, including what is  
293 not covered; and

294 (C) whether the coverage is primary or in excess of any other coverage the risk  
295 manager knows is commonly available to a school district employee in this state.

296 (ii) The information described in Subsection (4)(a) may include:

297 (A) comparisons the risk manager considers beneficial to a school district employee  
298 between:

299 (I) the coverage described in Subsection (4)(a); and

300 (II) other coverage the risk manager knows is commonly available to a school district  
301 employee in this state; and

302 (B) any other information the risk manager considers appropriate.

303 (c) By no later than July 1 of each year, the risk manager shall provide the information  
304 prepared under this Subsection (4) to each school district that participates in the Risk  
305 Management Fund or any captive insurance company created by the risk manager.

306 (d) A school district that participates in the Risk Management Fund shall provide a

307 copy of the information described in Subsection (4)(c) to each school district employee within  
308 the school district no later than the first day of each school year.

309 (e) If a school district hires an employee after the first day of the school year, no later  
310 than 10 days after the day on which the employee is hired, the school district shall provide the  
311 information described in Subsection (4)(c) to the employee.

312 Section 10. Section **63A-4-204.5** is amended to read:

313 **63A-4-204.5. Charter school participation in Risk Management Fund.**

314 (1) A charter school established under the authority of Title 53G, Chapter 5, Charter  
315 Schools, may participate in the Risk Management Fund or any captive insurance company  
316 created by the risk manager upon the approval of the state risk manager and the governing body  
317 of the charter school.

318 [~~(2)(a) For purposes of administration, the state risk manager shall treat each charter~~  
319 ~~school participating in the fund as a state agency.]~~

320 [~~(b)~~] (2) Each charter school participating in the [~~fund~~] Risk Management Fund shall  
321 comply with [~~the provisions of this part that affect state agencies~~] Section 63A-4-103.

322 (3) (a) Each year, the risk manager shall prepare, in writing, the information required  
323 by Subsection (3)(b) regarding the coverage against legal liability provided a charter school  
324 employee of this state:

325 (i) by the Risk Management Fund or any captive insurance company created by the risk  
326 manager;

327 (ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

328 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and  
329 Employees Act.

330 (b) (i) The information described in Subsection (3)(a) shall include:

331 (A) the eligibility requirements, if any, to receive the coverage;

332 (B) the basic nature of the coverage for a charter school employee, including what is  
333 not covered; and

334 (C) whether the coverage is primary or in excess of any other coverage the risk  
335 manager knows is commonly available to a charter school employee in this state.

336 (ii) The information described in Subsection (3)(a) may include:

337 (A) comparisons the risk manager considers beneficial to a charter school employee

338 between:

339 (I) the coverage described in Subsection (3)(a); and

340 (II) other coverage the risk manager knows is commonly available to a charter school  
341 employee in this state; and

342 (B) any other information the risk manager considers appropriate.

343 (c) By no later than July 1 of each year, the risk manager shall provide the information  
344 prepared under this Subsection (3) to each charter school that participates in the Risk  
345 Management Fund or any captive insurance company created by the risk manager.

346 (d) A charter school that participates in the Risk Management Fund or any captive  
347 insurance company created by the risk manager shall provide a copy of the information  
348 described in Subsection (3)(c) to each charter school employee within the charter school no  
349 later than the first day of each school year.

350 (e) If a charter school hires an employee after the first day of the school year, no later  
351 than 10 days after the day on which the employee is hired, the charter school shall provide the  
352 information described in Subsection (3)(c) to the employee.

353 Section 11. Section **63A-4-205.5** is amended to read:

354 **63A-4-205.5. Risk management -- Coverage of the Utah Communications**  
355 **Authority.**

356 The Utah Communications Authority established under authority of Title 63H, Chapter  
357 7a, Utah Communications Authority Act, may participate in the Risk Management Fund or any  
358 captive insurance company created by the risk manager.

359 Section 12. Section **63A-4-208** is enacted to read:

360 **63A-4-208. Investment of Risk Management Fund.**

361 (1) The state treasurer shall invest the assets of the Risk Management Fund created  
362 under Section [63A-4-201](#) with the primary goal of providing for the stability, income, and  
363 growth of the principal.

364 (2) Nothing in this section requires a specific outcome in investing.

365 (3) The state treasurer may deduct any administrative costs incurred in managing fund  
366 assets from earnings before distributing the earnings.

367 (4) (a) The state treasurer may employ professional asset managers to assist in the  
368 investment of the assets of the funds.

369 (b) The treasurer may only provide compensation to asset managers from earnings  
370 generated by the funds' investments.

371 (5) (a) The state treasurer shall invest and manage the assets of the funds as a prudent  
372 investor would by:

373 (i) considering the purposes, terms, distribution requirements, and other circumstances  
374 of the funds; and

375 (ii) exercising reasonable care, skill, and caution in order to meet the standard of care  
376 of a prudent investor.

377 (b) In determining whether the state treasurer has met the standard of care of a prudent  
378 investor, the judge or finder of fact shall:

379 (i) consider the state treasurer's actions in light of the facts and circumstances existing  
380 at the time of the investment decision or action, and not by hindsight; and

381 (ii) evaluate the state treasurer's investment and management decisions respecting  
382 individual assets:

383 (A) not in isolation, but in the context of a fund portfolio as a whole; and

384 (B) as a part of an overall investment strategy that has risk and return objectives  
385 reasonably suited to the funds.

386 Section 13. Section **63E-1-304** is amended to read:

387 **63E-1-304. Limitations on risk management coverage.**

388 (1) Except as specifically modified in its authorizing statute, an independent entity is  
389 not eligible to receive coverage under the Risk Management Fund created by Section  
390 [63A-4-201](#) or any captive insurance company created by the risk manager.

391 (2) If an independent entity that receives coverage under the Risk Management Fund or  
392 any captive insurance company created by the risk manager is involved in a commercial  
393 activity, the state risk manager may require that the entity:

394 (a) procure commercial insurance coverage or provide proof of vendor's insurance  
395 coverage for the commercial activity; and

396 (b) comply with loss prevention measures specified by the state risk manager.

397 Section 14. Section **63G-7-605** is amended to read:

398 **63G-7-605. Adjustments to limitation of judgment amounts.**

399 (1) As used in this section:

400 (a) "Adjusted consumer price factor" means what the consumer price index would be  
401 without the medical care component and the medical services component.

402 (b) "Aggregate limit" means the limit on the aggregate amount of personal injury  
403 damages claims from a single occurrence, as provided in Subsection [63G-7-604\(1\)\(d\)](#).

404 (c) "Applicable index" means:

405 (i) the consumer price index, for a calculation of the percentage change in the  
406 consumer price index;

407 (ii) the adjusted consumer price factor, for a calculation of the percentage change in the  
408 adjusted consumer price factor;

409 (iii) the medical care component, for a calculation of the percentage change in the  
410 medical care component; or

411 (iv) the medical services component, for a calculation of the percentage change in the  
412 medical services component.

413 (d) "Base applicable index" means an applicable index for the year that is three years  
414 before the year in which the legislative fiscal analyst calculates new limits under this section.

415 (e) "Consumer price index" means the annual index reported by the United States  
416 Bureau of Labor Statistics for consumer prices for all urban consumers, not seasonally  
417 adjusted.

418 (f) "Individual limit" means the limit on the amount of a judgment for damages for  
419 personal injury, as provided in Subsection [63G-7-604\(1\)\(a\)](#).

420 (g) "Latest aggregate limit" means the aggregate limit, as last adjusted by the risk  
421 manager under this section.

422 (h) "Latest individual limit" means the individual limit, as last adjusted by the risk  
423 manager under this section.

424 (i) "Latest property damage limit" means the property damage limit, as last adjusted by  
425 the risk manager under this section.

426 (j) "Medical care component" means the medical care sub-index of the consumer price  
427 index.

428 (k) "Medical services component" means the medical care services sub-index of the  
429 consumer price index.

430 (l) "Percentage change" means the amount of change between the base applicable index

431 and the applicable index for the year before the year in which the legislative fiscal analyst  
432 calculates new limits under this section, expressed as a percentage of the base applicable index.

433 (m) "Property damage limit" means the limit on the amount of a judgment for property  
434 damage, as provided in Subsection [63G-7-604\(1\)\(c\)](#).

435 (n) "Risk manager" means the state risk manager appointed under Section [~~63A-4-101~~]  
436 [63A-4-101.5](#).

437 (2) Each even-numbered year, the legislative fiscal analyst shall, subject to Subsection  
438 (3):

439 (a) calculate a new individual limit by adding to the latest individual limit the sum of:

440 (i) 66.5% of the latest individual limit, multiplied by the percentage change in the  
441 adjusted consumer price factor;

442 (ii) 16.75% of the latest individual limit, multiplied by the percentage change in the  
443 medical care component; and

444 (iii) 16.75% of the latest individual limit, multiplied by the percentage change in the  
445 medical services component;

446 (b) calculate a new aggregate limit by adding to the latest aggregate limit the sum of:

447 (i) 66.5% of the latest aggregate limit, multiplied by the percentage change in the  
448 adjusted consumer price factor;

449 (ii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the  
450 medical care component; and

451 (iii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the  
452 medical services component;

453 (c) calculate a new property damage limit by adding to the latest property damage limit  
454 the amount of the latest property damage limit multiplied by the percentage change in the  
455 consumer price index;

456 (d) round up to the nearest \$100 the individual limit, aggregate limit, and property  
457 damage limit calculated under Subsections (2)(a), (b), and (c); and

458 (e) no later than May 1, communicate the newly calculated limits under Subsections  
459 (2)(a), (b), and (c) to the risk manager.

460 (3) The newly calculated individual limit, aggregate limit, or property damage limit  
461 under Subsection (2) may not be less than the amount of the limit before the new calculation

462 under Subsection (2).

463 (4) (a) Each even-numbered year, the risk manager shall make rules, to become  
464 effective no later than July 1 of that year, that establish a new individual limit, aggregate limit,  
465 and property damage limit, as calculated under Subsection (2).

466 (b) A newly calculated individual limit, aggregate limit, or property damage limit under  
467 this section has prospective effect only from the date the rules establishing the new limit take  
468 effect.

469 (c) An individual limit, aggregate limit, or property damage limit, as newly calculated  
470 under this section, applies only to a claim for injury or loss that occurs after the effective date  
471 of the rules that establish the newly calculated limit.

472 Section 15. Section **63G-10-501** is amended to read:

473 **63G-10-501. Definitions.**

474 As used in this part:

475 (1) "Executive director" means the individual appointed under Section [63A-1-105](#) as  
476 the executive director of the Department of Administrative Services, created in Section  
477 [63A-1-104](#).

478 (2) "Risk management fund" means the fund created in Section [63A-4-201](#).

479 (3) "Risk manager" means the state risk manager appointed under Section [~~63A-4-101~~]  
480 [63A-4-101.5](#).

481 Section 16. Section **63H-6-103** is amended to read:

482 **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

483 (1) There is created an independent public nonprofit corporation known as the "Utah  
484 State Fair Corporation."

485 (2) The board shall file articles of incorporation for the corporation with the Division  
486 of Corporations and Commercial Code.

487 (3) The corporation, subject to this chapter, has all powers and authority permitted  
488 nonprofit corporations by law.

489 (4) The corporation shall:

490 (a) manage, supervise, and control:

491 (i) all activities relating to the annual exhibition described in Subsection (4)(j); and

492 (ii) except as otherwise provided by statute, all state expositions, including setting the



- 493 time, place, and purpose of any state exposition;
- 494 (b) for public entertainment, displays, and exhibits or similar events:
- 495 (i) provide, sponsor, or arrange the events;
- 496 (ii) publicize and promote the events; and
- 497 (iii) secure funds to cover the cost of the exhibits from:
- 498 (A) private contributions;
- 499 (B) public appropriations;
- 500 (C) admission charges; and
- 501 (D) other lawful means;
- 502 (c) acquire and designate exposition sites;
- 503 (d) use generally accepted accounting principles in accounting for the corporation's
- 504 assets, liabilities, and operations;
- 505 (e) seek corporate sponsorships for the state fair park or for individual buildings or
- 506 facilities within the fair park;
- 507 (f) work with county and municipal governments, the Salt Lake Convention and
- 508 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote
- 509 expositions and the use of the state fair park;
- 510 (g) develop and maintain a marketing program to promote expositions and the use of
- 511 the state fair park;
- 512 (h) in accordance with provisions of this part, operate and maintain the state fair park,
- 513 including the physical appearance and structural integrity of the state fair park and the
- 514 buildings located at the state fair park;
- 515 (i) prepare an economic development plan for the state fair park;
- 516 (j) hold an annual exhibition that:
- 517 (i) is called the state fair or a similar name;
- 518 (ii) promotes and highlights agriculture throughout the state;
- 519 (iii) includes expositions of livestock, poultry, agricultural, domestic science,
- 520 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic
- 521 animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and
- 522 educational pursuits and the sharing of talents among the people of Utah;
- 523 (iv) includes the award of premiums for the best specimens of the exhibited articles

524 and animals;

525 (v) permits competition by livestock exhibited by citizens of other states and territories  
526 of the United States; and

527 (vi) is arranged according to plans approved by the board;

528 (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j);

529 and

530 (l) publish a list of premiums that will be awarded at the annual exhibition described in  
531 Subsection (4)(j) for the best specimens of exhibited articles and animals.

532 (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation  
533 may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,  
534 floricultural, mineral and industrial products, manufactured articles, and domestic animals that,  
535 in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational  
536 pursuits and the sharing of talents among the people of Utah.

537 (6) The corporation may:

538 (a) employ advisers, consultants, and agents, including financial experts and  
539 independent legal counsel, and fix their compensation;

540 (b) (i) participate in the state's Risk Management Fund created under Section  
541 [63A-4-201](#) or any captive insurance company created by the risk manager; or

542 (ii) procure insurance against any loss in connection with the corporation's property  
543 and other assets, including mortgage loans;

544 (c) receive and accept aid or contributions of money, property, labor, or other things of  
545 value from any source, including any grants or appropriations from any department, agency, or  
546 instrumentality of the United States or Utah;

547 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the  
548 purposes of the corporation, subject to the conditions, if any, upon which the aid and  
549 contributions were made;

550 (e) enter into management agreements with any person or entity for the performance of  
551 the corporation's functions or powers;

552 (f) establish whatever accounts and procedures as necessary to budget, receive, and  
553 disburse, account for, and audit all funds received, appropriated, or generated;

554 (g) subject to Subsection (8), lease any of the facilities at the state fair park;

- 555 (h) sponsor events as approved by the board; and
- 556 (i) enter into one or more agreements to develop the state fair park.
- 557 (7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the
- 558 corporation is exempt from:
- 559 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 560 (ii) Title 51, Chapter 7, State Money Management Act;
- 561 (iii) Title 63A, Utah Administrative Services Code;
- 562 (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 563 (v) Title 67, Chapter 19, Utah State Personnel Management Act.
- 564 (b) The board shall adopt policies parallel to and consistent with:
- 565 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 566 (ii) Title 51, Chapter 7, State Money Management Act;
- 567 (iii) Title 63A, Utah Administrative Services Code; and
- 568 (iv) Title 63J, Chapter 1, Budgetary Procedures Act.
- 569 (c) The corporation shall comply with:
- 570 (i) Title 52, Chapter 4, Open and Public Meetings Act;
- 571 (ii) Title 63G, Chapter 2, Government Records Access and Management Act;
- 572 (iii) the provisions of Title 63A, Chapter 1, Part 2, Utah Public Finance Website;
- 573 (iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:
- 574 (A) entertainment provided at the state fair park;
- 575 (B) judges for competitive exhibits; or
- 576 (C) sponsorship of an event at the state fair park; and
- 577 (v) the legislative approval requirements for new facilities established in Section
- 578 [63A-5b-404](#).
- 579 (8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a
- 580 term of 10 or more years, the corporation shall:
- 581 (i) submit the proposed lease to the State Building Board for the State Building Board's
- 582 approval or rejection; and
- 583 (ii) if the State Building Board approves the proposed lease, submit the proposed lease
- 584 to the Executive Appropriations Committee for the Executive Appropriation Committee's
- 585 review and recommendation in accordance with Subsection (8)(b).

586           (b) The Executive Appropriations Committee shall review a proposed lease submitted  
587 in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:  
588           (i) execute the proposed sublease; or  
589           (ii) reject the proposed sublease.