

1 **GOVERNMENT INSURANCE AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: James A. Dunnigan**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 [31A-12-101](#), as last amended by Laws of Utah 1993, Chapter 212

- 30 **51-7-2**, as last amended by Laws of Utah 2018, Chapters 207 and 404
- 31 **63A-4-102**, as last amended by Laws of Utah 2009, Chapter 183
- 32 **63A-4-103**, as last amended by Laws of Utah 2020, Chapter 365
- 33 **63A-4-201**, as last amended by Laws of Utah 2011, Chapter 303
- 34 **63A-4-202**, as renumbered and amended by Laws of Utah 1993, Chapter 212
- 35 **63A-4-204**, as last amended by Laws of Utah 2018, Chapter 415
- 36 **63A-4-204.5**, as last amended by Laws of Utah 2018, Chapter 415
- 37 **63A-4-205.5**, as last amended by Laws of Utah 2015, Chapter 411
- 38 **63E-1-304**, as enacted by Laws of Utah 2013, Chapter 220
- 39 **63G-7-605**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 9
- 40 **63G-10-501**, as enacted by Laws of Utah 2015, Chapter 355
- 41 **63H-6-103**, as last amended by Laws of Utah 2020, Chapter 152

42 ENACTS:

- 43 **63A-4-101.1**, Utah Code Annotated 1953
- 44 **63A-4-208**, Utah Code Annotated 1953

45 RENUMBERS AND AMENDS:

- 46 **63A-4-101.5**, (Renumbered from 63A-4-101, as last amended by Laws of Utah 2006,
- 47 Chapter 275)



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

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

51 **31A-12-101. Definitions.**

52 As used in this chapter:

- 53 (1) "Risk Management Fund" means the fund created under Section **63A-4-201**.
- 54 (2) "Risk manager" means the person appointed under Section [~~63A-4-101~~]
- 55 **63A-4-101.5**.

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

57 **51-7-2. Exemptions from chapter.**

58 The following funds are exempt from this chapter:

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

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

63 (3) funds of the Utah Housing Corporation;

64 (4) endowment funds of higher education institutions;

65 (5) permanent and other land grant trust funds established pursuant to the Utah
66 Enabling Act and the Utah Constitution;

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

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

69 (8) funds of the permanent state trust fund created by and operated under Utah
70 Constitution, Article XXII, Section 4;

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

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

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

74 (12) the funds in the Uninsured Employers' Fund; ~~and~~

75 (13) the Utah State Developmental Center Long-Term Sustainability Fund, created in
76 Section [62A-5-206.7](#)[-]; and

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

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

79 **63A-4-101.1. Definitions.**

80 As used in this chapter:

81 (1) "Captive insurance company" means the same as that term is defined in Section
82 [31A-37-102](#).

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

84 (a) the Risk Management Fund; or

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

86 Section 4. Section ~~63A-4-101.5~~, which is renumbered from Section 63A-4-101 is
87 renumbered and amended to read:

88 ~~[63A-4-101]~~. 63A-4-101.5. Risk manager -- Appointment -- Duties.

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

91 (2) The risk manager shall:

92 (a) except as provided in Subsection (4), acquire and administer the following
93 purchased by the state or any captive insurance company created by the risk manager:

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

95 (i) all property and casualty insurance;

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

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

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

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

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

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

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

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

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

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

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

113 (d) coordinate and cooperate with any ~~[state agency]~~ covered entity having

114 responsibility to manage and protect state properties, including:

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

130 (3) Before the effective date of any rule, the risk manager shall provide a copy of the
131 rule to each [~~agency~~] covered entity affected by it.

132 (4) The risk manager may not use a captive insurance company created by the risk
133 manager to purchase:

- 134 (a) workers' compensation insurance;
- 135 (b) health insurance; or
- 136 (c) life insurance.

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

138 **63A-4-102. Risk manager -- Powers.**

139 (1) The risk manager may:

- 140 (a) enter into contracts;
- 141 (b) form one or more captive insurance companies authorized under Title 31A, Chapter

142 37, Captive Insurance Companies Act;
143 ~~[(b)]~~ (c) purchase insurance or reinsurance;
144 ~~[(c)]~~ (d) adjust, settle, and pay claims;
145 ~~[(d)]~~ (e) pay expenses and costs;
146 ~~[(e)]~~ (f) study the risks of all ~~[state agencies]~~ covered entities and properties;
147 ~~[(f)]~~ (g) issue certificates of coverage ~~[to state agencies for]~~ or insurance for covered
148 entities with respect to any risks covered by the Risk Management Fund or any captive
149 insurance company created by the risk manager;
150 ~~[(g)]~~ (h) make recommendations about risk management and risk reduction strategies
151 to ~~[state agencies]~~ covered entities;
152 ~~[(h)]~~ (i) in consultation with the attorney general, prescribe insurance, indemnification,
153 and liability provisions to be included in all state contracts;
154 ~~[(i)]~~ (j) review ~~[agency]~~ covered entity building construction, major remodeling plans,
155 agency program plans, and make recommendations to the agency about needed changes to
156 address risk considerations;
157 ~~[(j)]~~ (k) attend agency planning and management meetings when necessary;
158 ~~[(k)]~~ (l) review any proposed legislation and communicate with legislators and
159 legislative committees about the liability or risk management issues connected with any
160 legislation; and
161 ~~[(l)]~~ (m) solicit any needed information about agency plans, agency programs, or
162 agency risks necessary to perform the risk manager's responsibilities under this part.
163 (2) (a) The risk manager may expend money from the Risk Management Fund to
164 procure and provide coverage to all ~~[state agencies]~~ covered entities and their indemnified
165 employees, except those ~~[agencies]~~ entities or employees specifically exempted by statute.
166 (b) The risk manager shall apportion the costs of that coverage according to the
167 requirements of this part.
168 (3) Before charging a rate, fee, or other amount to an executive branch agency, or to a
169 subscriber of services other than an executive branch agency, the director shall:

170 (a) submit the proposed rates, fees, or other amount and cost analysis to the Rate
171 Committee established in Section 63A-1-114; and

172 (b) obtain the approval of the Legislature as required by Section 63J-1-410.

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

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

178 **63A-4-103. Risk management -- Duties of covered entities.**

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

- 181 (i) purchase insurance or self-fund any risk unless authorized by the risk manager; or
- 182 (ii) procure or provide liability insurance for the state.

183 (b) (i) Notwithstanding the provisions of Subsection (1)(a), the Utah Board of Higher
184 Education may authorize higher education institutions to purchase insurance for, or self-fund,
185 risks associated with their programs and activities that are not covered through the risk
186 manager.

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

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

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

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

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

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

198 risk manager;

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

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

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

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

210 **63A-4-201. Risk Management Fund created -- Administration -- Use.**

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

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

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

216 (a) insurance or reinsurance premiums;

217 (b) costs of administering the [fund] Risk Management Fund and any captive insurance
218 companies created by the risk manager;

219 (c) loss adjustment expenses;

220 (d) risk control and related educational and training expenses; and

221 (e) loss costs which at the time of loss were eligible for payment under rules previously
222 issued by the executive director under the authority of Section [~~63A-4-101~~] 63A-4-101.5.

223 (3) In addition to any money appropriated to the [fund] Risk Management Fund by the
224 Legislature, the risk manager shall deposit with the state treasurer for credit to the [fund] Risk
225 Management Fund:

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

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

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

239 ~~Management Act.]~~

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

241 ~~fund.]~~

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

243 Section [63A-4-208](#) and deposit all interest or other income earned from investments into the

244 Risk Management Fund.

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

246 **63A-4-202. Determination of insurance premiums -- Information furnished by**

247 **covered entities -- Notice to covered entities.**

248 (1) Each ~~[agency]~~ covered entity shall provide the risk manager with all reasonable

249 information necessary to compute insurance premiums whenever ~~[he]~~ the risk manager

250 requests that information ~~[from them]~~.

251 (2) (a) The risk manager shall charge to each ~~[agency]~~ entity that receives insurance

252 coverage from the Risk Management Fund or any captive insurance company created by the

253 risk manager its proportionate share of the cost incurred based upon actuarially sound rating

254 techniques.

255 (b) ~~[That premium]~~ The risk manager shall include in the premium determined under
256 this section all costs of operating the [fund] Risk Management Fund as stated in Section
257 63A-4-201 and operating any captive insurance company created by the risk manager.

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

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

262 **63A-4-204. School district participation in Risk Management Fund.**

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

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

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

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

276 (2) The state risk manager shall contract for all insurance, reinsurance, legal, loss
277 adjustment, consulting, loss control, safety, and other related services necessary to support the
278 insurance ~~[program]~~ programs provided to a participating public school district, except that all
279 supporting legal services are subject to the prior approval of the state attorney general.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

308 (d) A school district that participates in the Risk Management Fund shall provide a
309 copy of the information described in Subsection (4)(c) to each school district employee within

310 the school district no later than the first day of each school year.

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

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

315 **63A-4-204.5. Charter school participation in Risk Management Fund.**

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

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

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

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

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

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

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

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

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

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

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

- 338 (ii) The information described in Subsection (3)(a) may include:
- 339 (A) comparisons the risk manager considers beneficial to a charter school employee
- 340 between:
- 341 (I) the coverage described in Subsection (3)(a); and
- 342 (II) other coverage the risk manager knows is commonly available to a charter school
- 343 employee in this state; and
- 344 (B) any other information the risk manager considers appropriate.
- 345 (c) By no later than July 1 of each year, the risk manager shall provide the information
- 346 prepared under this Subsection (3) to each charter school that participates in the Risk
- 347 Management Fund or any captive insurance company created by the risk manager.
- 348 (d) A charter school that participates in the Risk Management Fund or any captive
- 349 insurance company created by the risk manager shall provide a copy of the information
- 350 described in Subsection (3)(c) to each charter school employee within the charter school no
- 351 later than the first day of each school year.
- 352 (e) If a charter school hires an employee after the first day of the school year, no later
- 353 than 10 days after the day on which the employee is hired, the charter school shall provide the
- 354 information described in Subsection (3)(c) to the employee.

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

356 **63A-4-205.5. Risk management -- Coverage of the Utah Communications**
357 **Authority.**

358 The Utah Communications Authority established under authority of Title 63H, Chapter
359 7a, Utah Communications Authority Act, may participate in the Risk Management Fund or any
360 captive insurance company created by the risk manager.

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

362 **63A-4-208. Investment of Risk Management Fund.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

389 **63E-1-304. Limitations on risk management coverage.**

390 (1) Except as specifically modified in its authorizing statute, an independent entity is
391 not eligible to receive coverage under the Risk Management Fund created by Section
392 63A-4-201 or any captive insurance company created by the risk manager.

393 (2) If an independent entity that receives coverage under the Risk Management Fund or

394 any captive insurance company created by the risk manager is involved in a commercial
395 activity, the state risk manager may require that the entity:

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

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

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

400 **63G-7-605. Adjustments to limitation of judgment amounts.**

401 (1) As used in this section:

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

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

406 (c) "Applicable index" means:

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

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

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

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

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

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

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

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

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

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

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

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

432 (l) "Percentage change" means the amount of change between the base applicable index
433 and the applicable index for the year before the year in which the legislative fiscal analyst
434 calculates new limits under this section, expressed as a percentage of the base applicable index.

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

437 (n) "Risk manager" means the state risk manager appointed under Section [~~63A-4-101~~]
438 [63A-4-101.5](#).

439 (2) Each even-numbered year, the legislative fiscal analyst shall, subject to Subsection
440 (3):

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

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

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

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

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

449 (i) 66.5% of the latest aggregate limit, multiplied by the percentage change in the

450 adjusted consumer price factor;

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

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

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

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

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

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

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

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

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

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

475 **63G-10-501. Definitions.**

476 As used in this part:

477 (1) "Executive director" means the individual appointed under Section **63A-1-105** as

478 the executive director of the Department of Administrative Services, created in Section
479 [63A-1-104](#).

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

481 (3) "Risk manager" means the state risk manager appointed under Section [~~[63A-4-101](#)~~]
482 [63A-4-101.5](#).

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

484 **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

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

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

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

491 (4) The corporation shall:

492 (a) manage, supervise, and control:

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

494 (ii) except as otherwise provided by statute, all state expositions, including setting the
495 time, place, and purpose of any state exposition;

496 (b) for public entertainment, displays, and exhibits or similar events:

497 (i) provide, sponsor, or arrange the events;

498 (ii) publicize and promote the events; and

499 (iii) secure funds to cover the cost of the exhibits from:

500 (A) private contributions;

501 (B) public appropriations;

502 (C) admission charges; and

503 (D) other lawful means;

504 (c) acquire and designate exposition sites;

505 (d) use generally accepted accounting principles in accounting for the corporation's

506 assets, liabilities, and operations;

507 (e) seek corporate sponsorships for the state fair park or for individual buildings or
508 facilities within the fair park;

509 (f) work with county and municipal governments, the Salt Lake Convention and
510 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote
511 expositions and the use of the state fair park;

512 (g) develop and maintain a marketing program to promote expositions and the use of
513 the state fair park;

514 (h) in accordance with provisions of this part, operate and maintain the state fair park,
515 including the physical appearance and structural integrity of the state fair park and the
516 buildings located at the state fair park;

517 (i) prepare an economic development plan for the state fair park;

518 (j) hold an annual exhibition that:

519 (i) is called the state fair or a similar name;

520 (ii) promotes and highlights agriculture throughout the state;

521 (iii) includes expositions of livestock, poultry, agricultural, domestic science,
522 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic
523 animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and
524 educational pursuits and the sharing of talents among the people of Utah;

525 (iv) includes the award of premiums for the best specimens of the exhibited articles
526 and animals;

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

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

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

531 and

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

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

539 (6) The corporation may:

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

542 (b) (i) participate in the state's Risk Management Fund created under Section
543 [63A-4-201](#) or any captive insurance company created by the risk manager; or

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

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

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

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

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

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

557 (h) sponsor events as approved by the board; and

558 (i) enter into one or more agreements to develop the state fair park.

559 (7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the
560 corporation is exempt from:

561 (i) Title 51, Chapter 5, Funds Consolidation Act;

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

590 (i) execute the proposed sublease; or

591 (ii) reject the proposed sublease.