

**Senator Kirk A. Cullimore** proposes the following substitute bill:

**COURT AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brady Brammer**

Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

This bill amends provisions related to courts.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions related to a district court;
- ▶ amends provisions related to court venue;
- ▶ addresses the effect of the consolidation of counties on actions, proceedings, and matters pending in the juvenile court;
- ▶ addresses actions pending in the juvenile court for a new county;
- ▶ clarifies the role and duties of a constable;
- ▶ clarifies the jurisdiction of the district court;
- ▶ amends the definition of a public official in Title 63G, Chapter 23, Property

Donated to State by Public Official, to address a judge of a juvenile court or the Business and Chancery Court;

- ▶ allows the presiding officer of the Judicial Council to establish a pool of two district court judges to preside over actions in the Business and Chancery Court when there are fewer than three judges for the Business and Chancery Court and a Business and Chancery Court judge is unable to preside over an action due to recusal or



- 26 disqualification;
- 27       ▶ amends the jurisdiction of the district court to address a district court judge
- 28 presiding over an action in the Business and Chancery Court;
- 29       ▶ amends the definitions related to the Business and Chancery Court;
- 30       ▶ amends the jurisdiction of the Business and Chancery Court;
- 31       ▶ allows the Business and Chancery Court to resolve all claims for which the
- 32 Business and Chancery Court has jurisdiction and any request for a provisional
- 33 remedy related to a claim that is being transferred to another court due to a lack of
- 34 jurisdiction or a demand for a jury trial;
- 35       ▶ clarifies that the Business and Chancery Court is required to transfer an action or
- 36 claim to the district court if a party demands a trial by jury in accordance with the
- 37 Utah Rules of Business and Chancery Procedure and the Business and Chancery
- 38 Court finds that the party has a right to trial by jury on a claim in the action;
- 39       ▶ removes the requirement that the Business and Chancery Court is located in Salt
- 40 Lake City;
- 41       ▶ clarifies the jurisdiction of the juvenile court;
- 42       ▶ repeals statutes related to district court jurisdiction; and
- 43       ▶ makes technical and conforming changes.

**44 Money Appropriated in this Bill:**

45       None

**46 Other Special Clauses:**

47       This bill provides a special effective date.

48       This bill provides coordination clauses.

**49 Utah Code Sections Affected:**

50 AMENDS:

51       **4-32-112**, as renumbered and amended by Laws of Utah 2017, Chapter 345

52       **8-5-2**, as last amended by Laws of Utah 2002, Chapter 123

53       **10-2-710**, as enacted by Laws of Utah 1981, Chapter 55

54       **10-3-208**, as last amended by Laws of Utah 2023, Chapter 45

55       **10-7-32**, as last amended by Laws of Utah 2010, Chapter 378

56       **10-7-66**, as last amended by Laws of Utah 1996, Chapter 198

57 [10-11-3](#), as last amended by Laws of Utah 2022, Chapter 432  
58 [11-13-309](#), as last amended by Laws of Utah 2010, Chapter 378  
59 [13-11-6](#), as last amended by Laws of Utah 2012, Chapter 152  
60 [13-11a-4](#), as enacted by Laws of Utah 1989, Chapter 205  
61 [13-11a-6](#), as enacted by Laws of Utah 2009, Chapter 133  
62 [13-12-7](#), as last amended by Laws of Utah 2010, Chapter 378  
63 [13-21-8](#), as last amended by Laws of Utah 2006, Chapter 47  
64 [13-22-3](#), as last amended by Laws of Utah 2008, Chapter 382  
65 [13-44-301](#), as last amended by Laws of Utah 2019, Chapter 348  
66 [13-45-401](#), as last amended by Laws of Utah 2019, Chapter 348  
67 [13-63-301](#), as enacted by Laws of Utah 2023, Chapter 498  
68 [13-63-501](#), as enacted by Laws of Utah 2023, Chapter 477  
69 [16-10a-809](#), as last amended by Laws of Utah 2008, Chapter 364  
70 [17-2-106](#), as renumbered and amended by Laws of Utah 2009, Chapter 350  
71 [17-3-7](#), as Utah Code Annotated 1953  
72 [17-16-6.5](#), as last amended by Laws of Utah 2023, Chapter 45  
73 [17-25-1](#), as last amended by Laws of Utah 2003, Chapter 204  
74 [17-50-103](#), as last amended by Laws of Utah 2023, Chapter 15  
75 [17B-1-313](#), as last amended by Laws of Utah 2023, Chapters 15, 435  
76 [17C-1-102](#), as last amended by Laws of Utah 2023, Chapter 15  
77 [17C-2-304](#), as last amended by Laws of Utah 2019, Chapter 376  
78 [17C-5-406](#), as last amended by Laws of Utah 2019, Chapter 376  
79 [17D-1-212](#), as enacted by Laws of Utah 2008, Chapter 360  
80 [17D-2-602](#), as last amended by Laws of Utah 2012, Chapter 369  
81 [17D-4-305](#), as renumbered and amended by Laws of Utah 2021, Chapter 314  
82 [18-1-4](#), as enacted by Laws of Utah 2014, Chapter 32  
83 [19-4-109](#), as last amended by Laws of Utah 2020, Chapter 256  
84 [19-4-113](#), as last amended by Laws of Utah 2023, Chapter 255  
85 [19-5-115](#), as last amended by Laws of Utah 2021, Chapter 139  
86 [19-6-115](#), as renumbered and amended by Laws of Utah 1991, Chapter 112  
87 [19-6-206](#), as renumbered and amended by Laws of Utah 1991, Chapter 112

- 88 [19-6-306](#), as last amended by Laws of Utah 1995, Chapter 324
- 89 [19-6-309](#), as last amended by Laws of Utah 1992, Chapter 30
- 90 [19-6-310](#), as last amended by Laws of Utah 2009, Chapter 356
- 91 [19-6-316](#), as last amended by Laws of Utah 2010, Chapter 324
- 92 [19-6-318](#), as last amended by Laws of Utah 2010, Chapter 324
- 93 [19-6-325](#), as last amended by Laws of Utah 2010, Chapter 324
- 94 [19-6-424.5](#), as last amended by Laws of Utah 2012, Chapter 360
- 95 [19-6-425](#), as last amended by Laws of Utah 2012, Chapter 360
- 96 [19-6-804](#), as last amended by Laws of Utah 2020, Chapter 27
- 97 [19-8-119](#), as last amended by Laws of Utah 2021, Chapter 202
- 98 [23A-13-201](#), as renumbered and amended by Laws of Utah 2023, Chapter 103
- 99 [26B-3-1110](#), as renumbered and amended by Laws of Utah 2023, Chapter 306
- 100 [26B-3-1114](#), as renumbered and amended by Laws of Utah 2023, Chapter 306
- 101 [26B-3-1115](#), as renumbered and amended by Laws of Utah 2023, Chapter 306
- 102 [31A-22-305](#), as last amended by Laws of Utah 2023, Chapters 69, 185 and 327
- 103 [31A-22-305.3](#), as last amended by Laws of Utah 2023, Chapters 69, 327
- 104 [31A-22-321](#), as last amended by Laws of Utah 2015, Chapter 345
- 105 [32B-4-205](#), as enacted by Laws of Utah 2010, Chapter 276
- 106 [34-20-10](#), as last amended by Laws of Utah 2008, Chapter 382
- 107 [34-20-11](#), as last amended by Laws of Utah 1997, Chapter 296
- 108 [34-28-9.5](#), as enacted by Laws of Utah 2017, Chapter 85
- 109 [34A-1-407](#), as last amended by Laws of Utah 2001, Chapter 291
- 110 [34A-5-102](#), as last amended by Laws of Utah 2016, Chapters 330, 370
- 111 [34A-6-202](#), as last amended by Laws of Utah 2013, Chapter 413
- 112 [38-1a-308](#), as last amended by Laws of Utah 2015, Chapter 303
- 113 [38-1a-804](#), as last amended by Laws of Utah 2020, Chapter 115
- 114 [38-1a-805](#), as enacted by Laws of Utah 2015, Chapter 303
- 115 [38-2-4](#), as last amended by Laws of Utah 1996, Chapter 198
- 116 [38-9-204](#), as renumbered and amended by Laws of Utah 2014, Chapter 114
- 117 [38-9-205](#), as renumbered and amended by Laws of Utah 2014, Chapter 114
- 118 [38-9-303](#), as enacted by Laws of Utah 2014, Chapter 114

119 [38-9a-201](#), as last amended by Laws of Utah 2008, Chapter 223  
120 [38-9a-202](#), as enacted by Laws of Utah 2005, Chapter 93  
121 [38-9a-205](#), as enacted by Laws of Utah 2005, Chapter 93  
122 [38-11-110](#), as last amended by Laws of Utah 2010, Chapter 31  
123 [40-8-9](#), as last amended by Laws of Utah 2007, Chapter 322  
124 [40-8-9.1](#), as enacted by Laws of Utah 2002, Chapter 194  
125 [40-10-14](#), as last amended by Laws of Utah 2008, Chapter 382  
126 [40-10-20](#), as last amended by Laws of Utah 1997, Chapter 99  
127 [40-10-21](#), as last amended by Laws of Utah 2008, Chapter 382  
128 [40-10-22](#), as last amended by Laws of Utah 2008, Chapter 3  
129 [41-6a-1622](#), as renumbered and amended by Laws of Utah 2005, Chapter 2  
130 [51-2a-401](#), as last amended by Laws of Utah 2018, Chapter 256  
131 [51-7-22.5](#), as enacted by Laws of Utah 2004, Chapter 248  
132 [53-2d-605 \(Effective 07/01/04\)](#), as renumbered and amended by Laws of Utah 2023,  
133 Chapters 307, 310  
134 [53-7-406](#), as last amended by Laws of Utah 2013, Chapter 394  
135 [53B-28-506](#), as last amended by Laws of Utah 2023, Chapter 381  
136 [53E-9-310](#), as last amended by Laws of Utah 2019, Chapter 186  
137 [53G-5-501](#), as last amended by Laws of Utah 2023, Chapter 54  
138 [54-4-27](#), as last amended by Laws of Utah 2009, Chapter 388  
139 [54-5-3](#), as last amended by Laws of Utah 1993, Chapter 214  
140 [54-8a-12](#), as enacted by Laws of Utah 2008, Chapter 344  
141 [54-8b-13](#), as last amended by Laws of Utah 2010, Chapter 324  
142 [54-13-7](#), as last amended by Laws of Utah 2011, Chapter 340  
143 [54-13-8](#), as last amended by Laws of Utah 2015, Chapter 102  
144 [54-14-308](#), as enacted by Laws of Utah 1997, Chapter 197  
145 [54-22-205](#), as enacted by Laws of Utah 2018, Chapter 230  
146 [57-11-11](#), as last amended by Laws of Utah 2023, Chapter 435  
147 [57-11-13](#), as last amended by Laws of Utah 2008, Chapter 382  
148 [57-11-18](#), as enacted by Laws of Utah 1973, Chapter 158  
149 [58-37-11](#), as enacted by Laws of Utah 1971, Chapter 145

150 [63A-3-507](#), as last amended by Laws of Utah 2021, Chapters 145, 260  
151 [63G-4-403](#), as renumbered and amended by Laws of Utah 2008, Chapter 382  
152 [63G-7-501](#), as renumbered and amended by Laws of Utah 2008, Chapter 382  
153 [63G-7-502](#), as last amended by Laws of Utah 2016, Chapter 33  
154 [63G-20-204](#), as enacted by Laws of Utah 2015, Chapter 46  
155 [63G-20-302](#), as enacted by Laws of Utah 2015, Chapter 46  
156 [63G-23-102](#), as last amended by Laws of Utah 2022, Chapter 125  
157 [63H-1-601](#), as last amended by Laws of Utah 2022, Chapter 207  
158 [63L-5-301](#), as renumbered and amended by Laws of Utah 2008, Chapter 382  
159 [63L-8-304](#), as last amended by Laws of Utah 2023, Chapter 34  
160 [65A-8a-104](#), as last amended by Laws of Utah 2010, Chapter 40  
161 [67-3-1](#), as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480  
162 [67-3-3](#), as last amended by Laws of Utah 2018, Chapter 256  
163 [70A-2-807](#), as enacted by Laws of Utah 1997, Chapter 166  
164 [70C-8-105](#), as enacted by Laws of Utah 1985, Chapter 159  
165 [70D-2-504](#), as renumbered and amended by Laws of Utah 2009, Chapter 72  
166 [72-10-106](#), as last amended by Laws of Utah 2019, Chapter 431  
167 [72-16-401](#), as last amended by Laws of Utah 2020, Chapter 423  
168 [75-2-105](#), as last amended by Laws of Utah 2019, Chapter 264  
169 [75-2-801](#), as last amended by Laws of Utah 2011, Chapter 366  
170 [75-2a-120](#), as enacted by Laws of Utah 2007, Chapter 31  
171 [75-5a-102](#), as enacted by Laws of Utah 1990, Chapter 272  
172 [75-7-105](#), as last amended by Laws of Utah 2019, Chapter 153  
173 [75-7-203](#), as repealed and reenacted by Laws of Utah 2004, Chapter 89  
174 [75-7-205](#), as repealed and reenacted by Laws of Utah 2004, Chapter 89  
175 [75-11-102](#), as enacted by Laws of Utah 2017, Chapter 16  
176 [76-10-1605](#), as last amended by Laws of Utah 2008, Chapter 3  
177 [78A-1-103.5 \(Effective 07/01/24\)](#), as enacted by Laws of Utah 2023, Chapter 394  
178 [78A-5-102](#), as last amended by Laws of Utah 2022, Chapters 155, 318  
179 [78A-5a-101 \(Effective 07/01/24\)](#), as enacted by Laws of Utah 2023, Chapter 394  
180 [78A-5a-103 \(Effective 10/01/24\)](#), as enacted by Laws of Utah 2023, Chapter 394

- 181 **78A-5a-104 (Effective 07/01/24)**, as enacted by Laws of Utah 2023, Chapter 394
- 182 **78A-5a-204 (Effective 07/01/24)**, as enacted by Laws of Utah 2023, Chapter 394
- 183 **78A-6-103**, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330
- 184 **78A-7-106**, as last amended by Laws of Utah 2023, Chapter 34
- 185 **78B-6-105**, as last amended by Laws of Utah 2023, Chapter 115
- 186 **78B-6-112**, as last amended by Laws of Utah 2021, Chapter 262
- 187 **78B-6-401**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 188 **78B-6-408**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 189 **78B-6-1238**, as renumbered and amended by Laws of Utah 2008, Chapter 3

190 REPEALS:

- 191 **17D-3-104**, as enacted by Laws of Utah 2008, Chapter 360
- 192 **78B-12-103**, as renumbered and amended by Laws of Utah 2008, Chapter 3

193 **Utah Code Sections Affected By Coordination Clause:**

- 194 **13-63-301**, as enacted by Laws of Utah 2023, Chapter 498
- 195 **78B-12-103**, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330



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

198 Section 1. Section **4-32-112** is amended to read:

199 **4-32-112. Judicial review of orders enforcing chapter.**

200 (1) Any party aggrieved by an order issued under Subsection **4-32-109**(4) or under  
201 Subsection **4-32-110**(1), (2), or (3) may obtain judicial review.

202 ~~[(2) The district courts have jurisdiction to enforce this chapter, and to prevent and~~  
203 ~~restrain violations of this chapter, and have jurisdiction in all other kinds of cases arising under~~  
204 ~~this chapter.]~~

205 ~~[(3)]~~ (2) All proceedings for the enforcement of this chapter, or to restrain violations of  
206 this chapter, shall be by and in the name of this state.

207 Section 2. Section **8-5-2** is amended to read:

208 **8-5-2. Action in court for title to lots.**

209 (1) If ~~[either]~~ the grantee, or person claiming through the grantee, fails to comply with  
210 the demand or notice, the municipality or cemetery maintenance district may bring an action in  
211 ~~[the district court of the county in which the cemetery is located]~~ a court with jurisdiction under

212 Title 78A, Judiciary and Judicial Administration, against all parties who have not responded to  
213 the notice for the purpose of terminating the rights of the parties in the lots or parcels and  
214 restoring the lots or parcels to the municipality or cemetery maintenance district free of any  
215 right, title, or interest of the grantee, persons claiming through the grantee, their heirs, or  
216 assigns.

217 (2) Any action to reclaim title to grave sites, parcels, or lots shall be brought and  
218 determined in the same manner as actions concerning other real property.

219 (3) The portion of any grave site, lot, or parcel in which a body is buried may not be  
220 included in any action to revest title to the lot, site, or parcel in the municipality or cemetery  
221 maintenance district, and the grave site in which a body is interred shall remain undisturbed  
222 together with any adjoining property so as to allow the proper approach to the grave site.

223 Section 3. Section **10-2-710** is amended to read:

224 **10-2-710. Limitation on jurisdiction of court to consider disincorporation**  
225 **petition.**

226 [~~No district court has jurisdiction to~~] A court may not consider a petition seeking  
227 disincorporation of a municipality or to order an election based upon the submission of such a  
228 petition if:

229 (1) the disincorporation petition is filed with the court less than two years after the  
230 official date of incorporation of the municipality which the petition seeks to dissolve; or

231 (2) the disincorporation petition is filed with the court less than two years after the date  
232 of an election held to decide the question of dissolution of the municipality which the petition  
233 seeks to dissolve.

234 Section 4. Section **10-3-208** is amended to read:

235 **10-3-208. Campaign finance disclosure in municipal election.**

236 (1) Unless a municipality adopts by ordinance more stringent definitions, the following  
237 are defined terms for purposes of this section:

238 (a) "Agent of a candidate" means:

239 (i) a person acting on behalf of a candidate at the direction of the reporting entity;

240 (ii) a person employed by a candidate in the candidate's capacity as a candidate;

241 (iii) the personal campaign committee of a candidate;

242 (iv) a member of the personal campaign committee of a candidate in the member's



- 243 capacity as a member of the personal campaign committee of the candidate; or
- 244 (v) a political consultant of a candidate.
- 245 (b) "Anonymous contribution limit" means for each calendar year:
- 246 (i) \$50; or
- 247 (ii) an amount less than \$50 that is specified in an ordinance of the municipality.
- 248 (c) (i) "Candidate" means a person who:
- 249 (A) files a declaration of candidacy for municipal office; or
- 250 (B) receives contributions, makes expenditures, or gives consent for any other person
- 251 to receive contributions or make expenditures to bring about the person's nomination or
- 252 election to a municipal office.
- 253 (ii) "Candidate" does not mean a person who files for the office of judge.
- 254 (d) (i) "Contribution" means any of the following when done for political purposes:
- 255 (A) a gift, subscription, donation, loan, advance, or deposit of money or anything of
- 256 value given to a candidate;
- 257 (B) an express, legally enforceable contract, promise, or agreement to make a gift,
- 258 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or
- 259 anything of value to the candidate;
- 260 (C) any transfer of funds from another reporting entity to the candidate;
- 261 (D) compensation paid by any person or reporting entity other than the candidate for
- 262 personal services provided without charge to the candidate;
- 263 (E) a loan made by a candidate deposited to the candidate's own campaign; and
- 264 (F) an in-kind contribution.
- 265 (ii) "Contribution" does not include:
- 266 (A) services provided by an individual volunteering a portion or all of the individual's
- 267 time on behalf of the candidate if the services are provided without compensation by the
- 268 candidate or any other person;
- 269 (B) money lent to the candidate by a financial institution in the ordinary course of
- 270 business; or
- 271 (C) goods or services provided for the benefit of a candidate at less than fair market
- 272 value that are not authorized by or coordinated with the candidate.
- 273 (e) "Coordinated with" means that goods or services provided for the benefit of a

274 candidate are provided:

275 (i) with the candidate's prior knowledge, if the candidate does not object;

276 (ii) by agreement with the candidate;

277 (iii) in coordination with the candidate; or

278 (iv) using official logos, slogans, and similar elements belonging to a candidate.

279 (f) (i) "Expenditure" means any of the following made by a candidate or an agent of the  
280 candidate on behalf of the candidate:

281 (A) any disbursement from contributions, receipts, or from an account described in  
282 Subsection (3)(a);

283 (B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,  
284 or anything of value made for political purposes;

285 (C) an express, legally enforceable contract, promise, or agreement to make any  
286 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of  
287 value for a political purpose;

288 (D) compensation paid by a candidate for personal services rendered by a person  
289 without charge to a reporting entity;

290 (E) a transfer of funds between the candidate and a candidate's personal campaign  
291 committee as defined in Section [20A-11-101](#); or

292 (F) goods or services provided by a reporting entity to or for the benefit of the  
293 candidate for political purposes at less than fair market value.

294 (ii) "Expenditure" does not include:

295 (A) services provided without compensation by an individual volunteering a portion or  
296 all of the individual's time on behalf of a candidate; or

297 (B) money lent to a candidate by a financial institution in the ordinary course of  
298 business.

299 (g) "In-kind contribution" means anything of value other than money, that is accepted  
300 by or coordinated with a candidate.

301 (h) (i) "Political consultant" means a person who is paid by a candidate, or paid by  
302 another person on behalf of and with the knowledge of the candidate, to provide political  
303 advice to the candidate.

304 (ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i),

305 where the person:

306 (A) has already been paid, with money or other consideration;

307 (B) expects to be paid in the future, with money or other consideration; or

308 (C) understands that the person may, in the discretion of the candidate or another  
309 person on behalf of and with the knowledge of the candidate, be paid in the future, with money  
310 or other consideration.

311 (i) "Political purposes" means an act done with the intent or in a way to influence or  
312 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or  
313 against any candidate or a person seeking a municipal office at any caucus, political  
314 convention, or election.

315 (j) "Reporting entity" means:

316 (i) a candidate;

317 (ii) a committee appointed by a candidate to act for the candidate;

318 (iii) a person who holds an elected municipal office;

319 (iv) a party committee as defined in Section 20A-11-101;

320 (v) a political action committee as defined in Section 20A-11-101;

321 (vi) a political issues committee as defined in Section 20A-11-101;

322 (vii) a corporation as defined in Section 20A-11-101; or

323 (viii) a labor organization as defined in Section 20A-11-1501.

324 (2) (a) A municipality may adopt an ordinance establishing campaign finance  
325 disclosure requirements for a candidate that are more stringent than the requirements provided  
326 in Subsections (3) through (7).

327 (b) The municipality may adopt definitions that are more stringent than those provided  
328 in Subsection (1).

329 (c) If a municipality fails to adopt a campaign finance disclosure ordinance described  
330 in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained  
331 in Subsections (3) through (7).

332 (3) Each candidate:

333 (a) shall deposit a contribution in a separate campaign account in a financial institution;  
334 and

335 (b) may not deposit or mingle any campaign contributions received into a personal or

336 business account.

337 (4) (a) In a year in which a municipal primary is held, each candidate who will  
338 participate in the municipal primary shall file a campaign finance statement with the municipal  
339 clerk or recorder no later than seven days before the day described in Subsection  
340 20A-1-201.5(2).

341 (b) Each candidate who is not eliminated at a municipal primary election shall file a  
342 campaign finance statement with the municipal clerk or recorder no later than:

- 343 (i) 28 days before the day on which the municipal general election is held;
- 344 (ii) seven days before the day on which the municipal general election is held; and
- 345 (iii) 30 days after the day on which the municipal general election is held.

346 (c) Each candidate for municipal office who is eliminated at a municipal primary  
347 election shall file with the municipal clerk or recorder a campaign finance statement within 30  
348 days after the day on which the municipal primary election is held.

349 (5) If a municipality does not conduct a primary election for a race, each candidate who  
350 will participate in that race shall file a campaign finance statement with the municipal clerk or  
351 recorder no later than:

- 352 (a) 28 days before the day on which the municipal general election is held;
- 353 (b) seven days before the day on which the municipal general election is held; and
- 354 (c) 30 days after the day on which the municipal general election is held.

355 (6) Each campaign finance statement described in Subsection (4) or (5) shall:

356 (a) except as provided in Subsection (6)(b):

357 (i) report all of the candidate's itemized and total:

358 (A) contributions, including in-kind and other nonmonetary contributions, received up  
359 to and including five days before the campaign finance statement is due, excluding a  
360 contribution previously reported; and

361 (B) expenditures made up to and including five days before the campaign finance  
362 statement is due, excluding an expenditure previously reported; and

363 (ii) identify:

364 (A) for each contribution, the amount of the contribution and the name of the donor, if  
365 known; and

366 (B) for each expenditure, the amount of the expenditure and the name of the recipient

367 of the expenditure; or

368 (b) report the total amount of all contributions and expenditures if the candidate  
369 receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.

370 (7) Within 30 days after receiving a contribution that is cash or a negotiable  
371 instrument, exceeds the anonymous contribution limit, and is from a donor whose name is  
372 unknown, a candidate shall disburse the amount of the contribution to:

373 (a) the treasurer of the state or a political subdivision for deposit into the state's or  
374 political subdivision's general fund; or

375 (b) an organization that is exempt from federal income taxation under Section  
376 501(c)(3), Internal Revenue Code.

377 (8) (a) A municipality may, by ordinance:

378 (i) provide an anonymous contribution limit less than \$50;

379 (ii) require greater disclosure of contributions or expenditures than is required in this  
380 section; and

381 (iii) impose additional penalties on candidates who fail to comply with the applicable  
382 requirements beyond those imposed by this section.

383 (b) A candidate is subject to the provisions of this section and not the provisions of an  
384 ordinance adopted by the municipality under Subsection (8)(a) if:

385 (i) the municipal ordinance establishes requirements or penalties that differ from those  
386 established in this section; and

387 (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the  
388 ordinance as required in Subsection (9).

389 (9) Each municipal clerk or recorder shall, at the time the candidate for municipal  
390 office files a declaration of candidacy, and again 35 days before each municipal general  
391 election, notify the candidate in writing of:

392 (a) the provisions of statute or municipal ordinance governing the disclosure of  
393 contributions and expenditures;

394 (b) the dates when the candidate's campaign finance statement is required to be filed;  
395 and

396 (c) the penalties that apply for failure to file a timely campaign finance statement,  
397 including the statutory provision that requires removal of the candidate's name from the ballot

398 for failure to file the required campaign finance statement when required.

399 (10) Notwithstanding any provision of Title 63G, Chapter 2, Government Records  
400 Access and Management Act, the municipal clerk or recorder shall:

401 (a) make each campaign finance statement filed by a candidate available for public  
402 inspection and copying no later than one business day after the statement is filed; and

403 (b) make the campaign finance statement filed by a candidate available for public  
404 inspection by:

405 (i) (A) posting an electronic copy or the contents of the statement on the municipality's  
406 website no later than seven business days after the statement is filed; and

407 (B) verifying that the address of the municipality's website has been provided to the  
408 lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

409 (ii) submitting a copy of the statement to the lieutenant governor for posting on the  
410 website established by the lieutenant governor under Section 20A-11-103 no later than two  
411 business days after the statement is filed.

412 (11) (a) If a candidate fails to timely file a campaign finance statement required under  
413 Subsection (4) or (5), the municipal clerk or recorder:

414 (i) may send an electronic notice to the candidate that states:

415 (A) that the candidate failed to timely file the campaign finance statement; and

416 (B) that, if the candidate fails to file the report within 24 hours after the deadline for  
417 filing the report, the candidate will be disqualified; and

418 (ii) may impose a fine of \$50 on the candidate.

419 (b) The municipal clerk or recorder shall disqualify a candidate and inform the  
420 appropriate election official that the candidate is disqualified if the candidate fails to file a  
421 campaign finance statement described in Subsection (4) or (5) within 24 hours after the  
422 deadline for filing the report.

423 (c) If a candidate is disqualified under Subsection (11)(b), the election official:

424 (i) shall:

425 (A) notify every opposing candidate for the municipal office that the candidate is  
426 disqualified;

427 (B) send an email notification to each voter who is eligible to vote in the municipal  
428 election office race for whom the election official has an email address informing the voter that

429 the candidate is disqualified and that votes cast for the candidate will not be counted;

430 (C) post notice of the disqualification on a public website; and

431 (D) if practicable, remove the candidate's name from the ballot by blacking out the  
432 candidate's name before the ballots are delivered to voters; and

433 (ii) may not count any votes for that candidate.

434 (12) An election official may fulfill the requirements described in Subsection (11)(c)(i)  
435 in relation to a mailed ballot, including a military overseas ballot, by including with the ballot a  
436 written notice:

437 (a) informing the voter that the candidate is disqualified; or

438 (b) directing the voter to a public website to inform the voter whether a candidate on  
439 the ballot is disqualified.

440 (13) Notwithstanding Subsection (11)(b), a candidate who timely files each campaign  
441 finance statement required under Subsection (4) or (5) is not disqualified if:

442 (a) the statement details accurately and completely the information required under  
443 Subsection (6), except for inadvertent omissions or insignificant errors or inaccuracies; and

444 (b) the omissions, errors, or inaccuracies are corrected in an amended report or in the  
445 next scheduled report.

446 (14) A candidate for municipal office who is disqualified under Subsection (11)(b)  
447 shall file with the municipal clerk or recorder a complete and accurate campaign finance  
448 statement within 30 days after the day on which the candidate is disqualified.

449 (15) A campaign finance statement required under this section is considered filed if it  
450 is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

451 (16) (a) A private party in interest may bring a civil action in [~~district court~~] a court  
452 with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the  
453 provisions of this section or an ordinance adopted under this section.

454 (b) In a civil action under Subsection (16)(a), the court may award costs and attorney  
455 fees to the prevailing party.

456 Section 5. Section **10-7-32** is amended to read:

457 **10-7-32. Actions to recover taxes.**

458 (1) It shall also be competent for any municipality to bring a civil action against any  
459 party owning or operating any such railway liable to pay such taxes to recover the amount

460 thereof, or any part thereof, delinquent and unpaid, in any court having jurisdiction of the  
461 amount, and obtain judgment and have execution therefor, and no property, real or personal,  
462 shall be exempt from any such execution; provided, that real estate may not be levied upon by  
463 execution except by execution out of the [district] court on judgment therein, or transcript of  
464 judgment filed therein, as is now or hereafter may be provided by law.

465 (2) No defense shall be allowed in any such civil action except such as goes to the  
466 groundwork, equity and justice of the tax, and the burden of proof shall rest upon the party  
467 assailing the tax.

468 (3) In case part of such special tax shall be shown to be invalid, unjust or inequitable,  
469 judgment shall be rendered for such amount as is just and equitable.

470 Section 6. Section 10-7-66 is amended to read:

471 **10-7-66. Fines and forfeitures to be paid to treasurer -- Exceptions.**

472 Except where otherwise provided by law in relation to fines, fees, and forfeitures  
473 imposed or received by [district courts] a court of this state, all fines and forfeitures for the  
474 violation of ordinances shall be paid into the treasury of the corporation at such times and in  
475 such manner as may be prescribed by ordinance.

476 Section 7. Section 10-11-3 is amended to read:

477 **10-11-3. Neglect of property owners -- Removal or abatement by municipality --**  
478 **Costs of removal or abatement -- Notice -- File action or lien -- Property owner objection.**

479 (1) (a) If an owner of, occupant of, or other person responsible for real property  
480 described in the notice delivered in accordance with Section 10-11-2 fails to comply with  
481 Section 10-11-2, a municipal inspector may:

482 (i) at the expense of the municipality, employ necessary assistance to enter the property  
483 and destroy, remove, or abate one or more items or conditions identified in a written notice  
484 described in Section 10-11-2; and

485 (ii) (A) prepare an itemized statement in accordance with Subsection (1)(b); and

486 (B) mail to the owner of record according to the records of the county recorder a copy  
487 of the statement demanding payment within 30 days after the day on which the statement is  
488 post-marked.

489 (b) The statement described in Subsection (1)(a)(ii)(A) shall:

490 (i) include:



- 491 (A) the address of the property described in Subsection (1)(a);
- 492 (B) an itemized list of and demand for payment for all expenses, including
- 493 administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and
- 494 (C) the address of the municipal treasurer where payment may be made for the
- 495 expenses; and
- 496 (ii) notify the property owner:
- 497 (A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a
- 498 lien on the property in accordance with Section 10-11-4;
- 499 (B) that the owner may file a written objection to all or part of the statement within 20
- 500 days after the day of the statement post-mark; and
- 501 (C) where the owner may file the objection, including the municipal office and address.
- 502 (c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed
- 503 by certified mail addressed to the property owner's of record last-known address according to
- 504 the records of the county recorder.
- 505 (d) (i) A municipality may file a notice of a lien, including a copy of the statement
- 506 described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the
- 507 county recorder of the county in which the property is located.
- 508 (ii) If a municipality files a notice of a lien indicating that the municipality intends to
- 509 certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section
- 510 10-11-4, the municipality shall file for record in the county recorder's office a release of the lien
- 511 after all amounts owing are paid.
- 512 (2) (a) If an owner fails to file a timely written objection as described in Subsection
- 513 (1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the
- 514 municipality may:
- 515 (i) file an action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary
- 516 and Judicial Administration; or
- 517 (ii) certify the past due costs and expenses to the county treasurer of the county in
- 518 which the property is located in accordance with Section 10-11-4.
- 519 (b) If a municipality pursues collection of the costs in accordance with Subsection
- 520 (2)(a)(i) or (4)(a), the municipality may:
- 521 (i) sue for and receive judgment for all removal and destruction costs, including

522 administrative costs, and reasonable attorney fees, interest, and court costs; and

523 (ii) execute on the judgment in the manner provided by law.

524 (3) (a) If a property owner files an objection in accordance with Subsection (1)(b)(ii),  
525 the municipality shall:

526 (i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings  
527 Act; and

528 (ii) mail or deliver notice of the hearing date and time to the property owner.

529 (b) At the hearing described in Subsection (3)(a)(i), the municipality shall review and  
530 determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i).

531 (c) The property owner shall pay any actual cost due after a decision by the  
532 municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within  
533 30 days after the day on which the hearing is held.

534 (4) If the property owner fails to pay in accordance with Subsection (3)(c), the  
535 municipality may:

536 (a) file an action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary  
537 and Judicial Administration, for the actual cost determined under Subsection (3)(b); or

538 (b) certify the past due costs and expenses to the county treasurer of the county in  
539 which the property is located in accordance with Section 10-11-4.

540 (5) This section does not affect or limit:

541 (a) a municipal governing body's power to pass an ordinance as described in Section  
542 10-3-702; or

543 (b) a criminal or civil penalty imposed by a municipality in accordance with Section  
544 10-3-703.

545 Section 8. Section 11-13-309 is amended to read:

546 **11-13-309. Venue for civil action -- No trial de novo.**

547 [~~(1) Any~~]

548 (1) (a) A person may bring a civil action seeking to challenge, enforce, or otherwise  
549 have reviewed, any order of the board, or any alleviation contract[~~, shall be brought only in the~~  
550 ~~district court for the county within which is located the candidate to which the order or contract~~  
551 ~~pertains. If the candidate is the state of Utah, the action shall be brought in the district court for~~  
552 ~~Salt Lake County].~~

553           (2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if a person brings  
554 an action described in Subsection (1)(a) in the district court, the person shall bring the action  
555 in:

556           (a) the county in which the candidate, to which the order or contract pertains, is  
557 located; or

558           (b) Salt Lake County if the candidate is the state of Utah.

559           (3) Any action brought in any judicial district shall be ordered transferred to the court  
560 where venue is proper under this section.

561           ~~[(2)]~~ (4) In any civil action seeking to challenge, enforce, or otherwise review, any  
562 order of the board, a trial de novo may not be held.

563           (5) The matter shall be considered on the record compiled before the board, and the  
564 findings of fact made by the board may not be set aside by the [district] court unless the board  
565 clearly abused its discretion.

566           Section 9. Section **13-11-6** is amended to read:

567           **13-11-6. Service of process.**

568           (1) In addition to any other method provided by rule or statute, personal jurisdiction  
569 over a supplier may be acquired in a civil action or proceeding instituted in [~~the district court~~] a  
570 court of this state by the service of process as provided in Subsection (3).

571           (2) (a) A supplier that engages in any act or practice in this state governed by this  
572 chapter, or engages in a consumer transaction subject to this chapter, may designate an agent  
573 upon whom service of process may be made in the state.

574           (b) A designation of an agent under Subsection (2)(a) shall be in writing and filed with  
575 the Division of Corporations and Commercial Code.

576           (c) An agent designated under this Subsection (2) shall be a resident of or a corporation  
577 authorized to do business in the state.

578           (3) (a) Subject to Subsection (3)(b), process upon a supplier may be served as provided  
579 in Section **16-17-301** if:

580           (i) a designation is not made and filed under Subsection (2); or

581           (ii) process cannot be served in the state upon the designated agent.

582           (b) Service upon a supplier is not effective unless the plaintiff promptly mails a copy of  
583 the process and pleadings by registered or certified mail to the defendant at the defendant's last

584 reasonably ascertainable address.

585 (c) The plaintiff shall file an affidavit of compliance with this section:

586 (i) with the clerk of the court; and

587 (ii) on or before the return day of the process, if any, or within any future time the court  
588 allows.

589 Section 10. Section 13-11a-4 is amended to read:

590 **13-11a-4. Injunctive relief -- Damages -- Attorney fees -- Corrective advertising**  
591 **-- Notification required.**

592 [~~(1)~~ The district courts of this state have jurisdiction over any supplier as to any act or  
593 practice in this state governed by this chapter or as to any claim arising from a deceptive trade  
594 practice as defined in this chapter.]

595 [~~(2)~~] (1) (a) (i) Any person or the state may [~~maintain an action~~] bring an action in a  
596 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin a  
597 continuance of any act in violation of this chapter and, if injured by the act, for the recovery of  
598 damages.

599 (ii) If, in such action, the court finds that the defendant is violating or has violated any  
600 of the provisions of this chapter, it shall enjoin the defendant from continuance of the violation.

601 (iii) It is not necessary that actual damages be proven.

602 (b) In addition to injunctive relief, the plaintiff is entitled to recover from the defendant  
603 the amount of actual damages sustained or \$2,000, whichever is greater.

604 (c) (i) Costs shall be allowed to the prevailing party unless the court otherwise directs.

605 (ii) The court shall award [~~attorneys'~~] attorney fees to the prevailing party.

606 [~~(3)~~] (2) The court may order the defendant to promulgate corrective advertising by the  
607 same media and with the same distribution and frequency as the advertising found to violate  
608 this chapter.

609 [~~(4)~~] (3) The remedies of this section are in addition to remedies otherwise available  
610 for the same conduct under state or local law.

611 [~~(5)~~] (4) (a) No action for injunctive relief may be brought for a violation of this  
612 chapter unless the complaining person first gives notice of the alleged violation to the  
613 prospective defendant and provides the prospective defendant an opportunity to promulgate a  
614 correction notice by the same media as the allegedly violating advertisement.

615 (b) If the prospective defendant does not promulgate a correction notice within 10 days  
616 of receipt of the notice, the complaining person may file a lawsuit under this chapter.

617 Section 11. Section 13-11a-6 is amended to read:

618 **13-11a-6. Truth in music advertising -- Exemptions -- Penalties.**

619 (1) A person may not advertise or conduct a live musical performance by a performing  
620 group by using a false, deceptive, or otherwise misleading affiliation between a performing  
621 group and a recording group of the same name.

622 (2) This section does not apply to:

623 (a) a performing group that is the registrant and owner of a registered federal service  
624 mark for the group name;

625 (b) a performance by a performing group that is clearly identified in all advertising and  
626 promotional materials as a salute or tribute;

627 (c) a performing group at least one member of which was a member of the recording  
628 group and has a legal right to use of the group name;

629 (d) the advertising does not relate to a live musical performance occurring in this state;  
630 or

631 (e) a performance authorized in writing by the recording group.

632 [~~(3)(a) This section may be enforced by bringing an action in the district court for any~~  
633 ~~county in which the live musical performance is advertised or conducted.]~~

634 (3) (a) A person may enforce this section by bringing an action in a court with  
635 jurisdiction under Title 78A, Judiciary and Judicial Administration.

636 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall  
637 bring an action described in Subsection (3)(a) in the county in which the live musical  
638 performance is advertised or conducted if the person brings the action in the district court.

639 [~~(b)~~] (c) A party injured by a violation of this section may obtain an injunction and  
640 recover actual damages.

641 [~~(c)~~] (d) The prevailing party in an action under Subsection (3)(a) may be awarded  
642 costs and attorney fees.

643 Section 12. Section 13-12-7 is amended to read:

644 **13-12-7. Equitable relief -- Attorney fees and costs -- Action for failure to renew**  
645 **-- Damages limited.**

646 [The district courts for the district wherein the dealer resides or wherein the dealership  
647 was to be established shall have jurisdiction over any action involving a violation of this act.]

648 (1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person may  
649 bring an action regarding a violation of this chapter in the county where the dealer resides or  
650 the dealership was to be established if the person brings the action in the district court.

651 (2) In addition to such relief as may be available at common law, the [courts] court  
652 may grant such equitable relief, both interim and final, as may be necessary to remedy those  
653 violations including declaratory judgments, injunctive relief, and punitive damages as well as  
654 actual damages.

655 (3) The prevailing party may, in the court's sole discretion, be awarded [attorney's]  
656 attorney fees and expert witness fees in addition to such other relief as the court may deem  
657 equitable.

658 (4) In any action for failure to renew an agreement, damages shall be limited to actual  
659 damages, including the value of the dealer's equity in the dealership, together with reasonable  
660 [attorney's] attorney fees and costs.

661 Section 13. Section **13-21-8** is amended to read:

662 **13-21-8. Burden of proving exception -- Penalties -- Court's criminal and**  
663 **equitable jurisdiction -- Prosecution.**

664 (1) (a) Any waiver by a buyer of any part of this chapter is void.

665 (b) Any attempt by a credit services organization to have a buyer waive rights given by  
666 this chapter is a violation of this chapter.

667 (2) In any proceeding involving this chapter, the burden of proving an exemption or an  
668 exception from a definition is upon the person claiming the exemption or exception.

669 (3) (a) Any person who violates this chapter is guilty of a class A misdemeanor.

670 (b) [~~Any district court of this state has jurisdiction to~~] A court with jurisdiction under  
671 Title 78A, Judiciary and Judicial Administration, may restrain and enjoin [the] a violation of  
672 this chapter.

673 (4) The attorney general, any county attorney, any district attorney, or any city attorney  
674 may prosecute misdemeanor actions or institute injunctive or civil proceedings, or both, under  
675 this chapter.

676 (5) The remedies, duties, prohibitions, and penalties of this chapter are not exclusive

677 and are in addition to all other causes of action, remedies, and penalties provided by law.

678 (6) (a) In addition to other penalties under this section, the division director may issue a  
679 cease and desist order and impose an administrative fine of up to \$2,500 for each violation of  
680 this chapter.

681 (b) All money received through administrative fines imposed under this section shall  
682 be deposited [in] into the Consumer Protection Education and Training Fund created by  
683 Section 13-2-8.

684 Section 14. Section 13-22-3 is amended to read:

685 **13-22-3. Investigative and enforcement powers -- Education.**

686 (1) The division may make any investigation it considers necessary to determine  
687 whether any person is violating, has violated, or is about to violate any provision of this chapter  
688 or any rule made or order issued under this chapter. As part of the investigation, the division  
689 may:

690 (a) require a person to file a statement in writing;

691 (b) administer oaths, subpoena witnesses and compel their attendance, take evidence,  
692 and examine under oath any person in connection with an investigation; and

693 (c) require the production of any books, papers, documents, merchandise, or other  
694 material relevant to the investigation.

695 (2) Whenever it appears to the director that substantial evidence exists that any person  
696 has engaged in, is engaging in, or is about to engage in any act or practice prohibited in this  
697 chapter or constituting a violation of this chapter or any rule made or order issued under this  
698 chapter, the director may do any of the following in addition to other specific duties under this  
699 chapter:

700 (a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the  
701 director may issue an order to cease and desist from engaging in the act or practice or from  
702 doing any act in furtherance of the activity; or

703 (b) the director may bring an action in [~~the appropriate district court of this state~~] a  
704 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin the  
705 acts or practices constituting the violation or to enforce compliance with this chapter or any  
706 rule made or order issued under this chapter.

707 (3) Whenever it appears to the director by a preponderance of the evidence that a

708 person has engaged in or is engaging in any act or practice prohibited in this chapter or  
709 constituting a violation of this chapter or any rule made or order issued under this chapter, the  
710 director may assess an administrative fine of up to \$500 per violation up to \$10,000 for any  
711 series of violations arising out of the same operative facts.

712 (4) Upon a proper showing, the court hearing an action brought under Subsection  
713 (2)(b) may:

- 714 (a) issue an injunction;
- 715 (b) enter a declaratory judgment;
- 716 (c) appoint a receiver for the defendant or the defendant's assets;
- 717 (d) order disgorgement of any money received in violation of this chapter;
- 718 (e) order rescission of agreements violating this chapter;
- 719 (f) impose a fine of not more than \$2,000 for each violation of this chapter; and
- 720 (g) impose a civil penalty, or any other relief the court considers just.

721 (5) (a) In assessing the amount of a fine or penalty under Subsection (3), (4)(f), or  
722 (4)(g), the director or court imposing the fine or penalty shall consider the gravity of the  
723 violation and the intent of the violator.

724 (b) If it does not appear by a preponderance of the evidence that the violator acted in  
725 bad faith or with intent to harm the public, the director or court shall excuse payment of the  
726 fine or penalty.

727 (6) The division may provide or contract to provide public education and voluntary  
728 education for applicants and registrants under this chapter. The education may be in the form  
729 of publications, advertisements, seminars, courses, or other appropriate means. The scope of  
730 the education may include:

- 731 (a) the requirements, prohibitions, and regulated practices under this chapter;
- 732 (b) suggestions for effective financial and organizational practices for charitable  
733 organizations;
- 734 (c) charitable giving and solicitation;
- 735 (d) potential problems with solicitations and fraudulent or deceptive practices; and
- 736 (e) any other matter relevant to the subject of this chapter.

737 Section 15. Section **13-44-301** is amended to read:

738 **13-44-301. Enforcement -- Confidentiality agreement -- Penalties.**



- 739 (1) The attorney general may enforce this chapter's provisions.
- 740 (2) (a) Nothing in this chapter creates a private right of action.
- 741 (b) Nothing in this chapter affects any private right of action existing under other law,  
742 including contract or tort.
- 743 (3) A person who violates this chapter's provisions is subject to a civil penalty of:
- 744 (a) no greater than \$2,500 for a violation or series of violations concerning a specific  
745 consumer; and
- 746 (b) no greater than \$100,000 in the aggregate for related violations concerning more  
747 than one consumer, unless:
- 748 (i) the violations concern:
- 749 (A) 10,000 or more consumers who are residents of the state; and
- 750 (B) 10,000 or more consumers who are residents of other states; or
- 751 (ii) the person agrees to settle for a greater amount.
- 752 (4) (a) In addition to the penalties provided in Subsection (3), the attorney general may  
753 seek, in an action brought under this chapter:
- 754 (i) injunctive relief to prevent future violations of this chapter; and
- 755 (ii) attorney fees and costs.
- 756 ~~[(b) The attorney general shall bring an action under this chapter in:]~~
- 757 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney  
758 general brings an action under this chapter in the district court, the attorney general shall bring  
759 the action in:
- 760 (i) ~~[the district court located in]~~ Salt Lake City; or
- 761 (ii) ~~[the district court for the district]~~ the county in which resides a consumer who is  
762 affected by the violation.
- 763 (5) The attorney general shall deposit any amount received under Subsection (3), (4),  
764 or (10) into the Attorney General Litigation Fund created in Section [76-10-3114](#).
- 765 (6) In enforcing this chapter, the attorney general may:
- 766 (a) investigate the actions of any person alleged to violate Section [13-44-201](#) or  
767 [13-44-202](#);
- 768 (b) subpoena a witness;
- 769 (c) subpoena a document or other evidence;

770 (d) require the production of books, papers, contracts, records, or other information  
771 relevant to an investigation;

772 (e) conduct an adjudication in accordance with Title 63G, Chapter 4, Administrative  
773 Procedures Act, to enforce a civil provision under this chapter; and

774 (f) enter into a confidentiality agreement in accordance with Subsection (7).

775 (7) (a) If the attorney general has reasonable cause to believe that an individual is in  
776 possession, custody, or control of information that is relevant to enforcing this chapter, the  
777 attorney general may enter into a confidentiality agreement with the individual.

778 (b) In a civil action brought under this chapter, a court may issue a confidentiality order  
779 that incorporates the confidentiality agreement described in Subsection (7)(a).

780 (c) A confidentiality agreement entered into under Subsection (7)(a) or a  
781 confidentiality order issued under Subsection (7)(b) may:

782 (i) address a procedure;

783 (ii) address testimony taken, a document produced, or material produced under this  
784 section;

785 (iii) provide whom may access testimony taken, a document produced, or material  
786 produced under this section;

787 (iv) provide for safeguarding testimony taken, a document produced, or material  
788 produced under this section; or

789 (v) require that the attorney general:

790 (A) return a document or material to an individual; or

791 (B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance  
792 with Section 63G-2-604, destroy the document or material at a designated time.

793 (8) A subpoena issued under Subsection (6) may be served by certified mail.

794 (9) A person's failure to respond to a request or subpoena from the attorney general  
795 under Subsection (6)(b), (c), or (d) is a violation of this chapter.

796 (10) (a) The attorney general may inspect and copy all records related to the business  
797 conducted by the person alleged to have violated this chapter, including records located outside  
798 the state.

799 (b) For records located outside of the state, the person who is found to have violated  
800 this chapter shall pay the attorney general's expenses to inspect the records, including travel

801 costs.

802 (c) Upon notification from the attorney general of the attorney general's intent to  
803 inspect records located outside of the state, the person who is found to have violated this  
804 chapter shall pay the attorney general \$500, or a higher amount if \$500 is estimated to be  
805 insufficient, to cover the attorney general's expenses to inspect the records.

806 (d) To the extent an amount paid to the attorney general by a person who is found to  
807 have violated this chapter is not expended by the attorney general, the amount shall be refunded  
808 to the person who is found to have violated this chapter.

809 (e) The Division of Corporations and Commercial Code or any other relevant entity  
810 shall revoke any authorization to do business in this state of a person who fails to pay any  
811 amount required under this Subsection (10).

812 (11) (a) Subject to Subsection (11)(c), the attorney general shall keep confidential a  
813 procedure agreed to, testimony taken, a document produced, or material produced under this  
814 section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the  
815 individual who agreed to the procedure, provided testimony, produced the document, or  
816 produced material waives confidentiality in writing.

817 (b) Subject to Subsections (11)(c) and (11)(d), the attorney general may use, in an  
818 enforcement action taken under this section, testimony taken, a document produced, or material  
819 produced under this section to the extent the use is not restricted or prohibited by a  
820 confidentiality agreement or a confidentiality order.

821 (c) The attorney general may use, in an enforcement action taken under this section,  
822 testimony taken, a document produced, or material produced under this section that is restricted  
823 or prohibited from use by a confidentiality agreement or a confidentiality order if the individual  
824 who provided testimony or produced the document or material waives the restriction or  
825 prohibition in writing.

826 (d) The attorney general may disclose testimony taken, a document produced, or  
827 material produced under this section, without consent of the individual who provided the  
828 testimony or produced the document or material, or the consent of an individual being  
829 investigated, to:

830 (i) a grand jury; or

831 (ii) a federal or state law enforcement officer, if the person from whom the information

832 was obtained is notified 20 days or greater before the day on which the information is  
833 disclosed, and the federal or state law enforcement officer certifies that the federal or state law  
834 enforcement officer will:

- 835 (A) maintain the confidentiality of the testimony, document, or material; and
- 836 (B) use the testimony, document, or material solely for an official law enforcement  
837 purpose.

838 (12) (a) An administrative action filed under this chapter shall be commenced no later  
839 than 10 years after the day on which the alleged breach of system security last occurred.

840 (b) A civil action under this chapter shall be commenced no later than five years after  
841 the day on which the alleged breach of system security last occurred.

842 Section 16. Section ~~13-45-401~~ is amended to read:

843 **13-45-401. Enforcement -- Confidentiality agreement -- Penalties.**

844 (1) The attorney general may enforce the provisions of this chapter.

845 (2) A person who violates a provision of this chapter is subject to a civil fine of:

846 (a) no greater than \$2,500 for a violation or series of violations concerning a specific  
847 consumer; and

848 (b) no greater than \$100,000 in the aggregate for related violations concerning more  
849 than one consumer, unless:

850 (i) the violations concern:

851 (A) 10,000 or more consumers who are residents of the state; and

852 (B) 10,000 or more consumers who are residents of other states; or

853 (ii) the person agrees to settle for a greater amount.

854 (3) (a) In addition to the penalties provided in Subsection (2), the attorney general may  
855 seek, in an action brought under this chapter:

856 (i) injunctive relief to prevent future violations of this chapter; and

857 (ii) attorney fees and costs.

858 [~~(b) The attorney general shall bring an action under this chapter in:~~]

859 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney  
860 general brings an action under this chapter in the district court, the attorney general shall bring  
861 the action in:

862 (i) [~~the district court located in~~] Salt Lake City; or

863 (ii) [~~the district court for the district~~] the county in which resides a consumer who is the  
864 subject of a credit report on which a violation occurs.

865 (4) The attorney general shall deposit any amount received under Subsection (2) or (3)  
866 into the Attorney General Litigation Fund created in Section [76-10-3114](#).

867 (5) (a) If the attorney general has reasonable cause to believe that an individual is in  
868 possession, custody, or control of information that is relevant to enforcing this chapter, the  
869 attorney general may enter into a confidentiality agreement with the individual.

870 (b) In a civil action brought under this chapter, a court may issue a confidentiality order  
871 that incorporates the confidentiality agreement described in Subsection (5)(a).

872 (c) A confidentiality agreement entered into under Subsection (5)(a) or a  
873 confidentiality order issued under Subsection (5)(b) may:

874 (i) address a procedure;

875 (ii) address testimony taken, a document produced, or material produced under this  
876 section;

877 (iii) provide whom may access testimony taken, a document produced, or material  
878 produced under this section;

879 (iv) provide for safeguarding testimony taken, a document produced, or material  
880 produced under this section; or

881 (v) require that the attorney general:

882 (A) return a document or material to an individual; or

883 (B) notwithstanding Section [63A-12-105](#) or a retention schedule created in accordance  
884 with Section [63G-2-604](#), destroy the document or material at a designated time.

885 (6) (a) Subject to Subsection (6)(c), the attorney general shall keep confidential a  
886 procedure agreed to, testimony taken, a document produced, or material produced under this  
887 section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the  
888 individual who agreed to the procedure, provided testimony, or produced the document or  
889 material waives confidentiality in writing.

890 (b) Subject to Subsections (6)(c) and (6)(d), the attorney general may use, in an  
891 enforcement action taken under this section, testimony taken, a document produced, or material  
892 produced under this section to the extent the use is not restricted or prohibited by a  
893 confidentiality agreement or a confidentiality order.

894 (c) The attorney general may use, in an enforcement action taken under this section,  
895 testimony taken, a document produced, or material produced under this section that is restricted  
896 or prohibited from use by a confidentiality agreement or a confidentiality order if the individual  
897 who provided testimony, produced the document, or produced the material waives the  
898 restriction or prohibition in writing.

899 (d) The attorney general may disclose testimony taken, a document produced, or  
900 material produced under this section, without consent of the individual who provided the  
901 testimony, produced the document, or produced the material, or without the consent of an  
902 individual being investigated, to:

903 (i) a grand jury; or

904 (ii) a federal or state law enforcement officer, if the person from whom the information  
905 was obtained is notified 20 days or greater before the day on which the information is  
906 disclosed, and the federal or state law enforcement officer certifies that the federal or state law  
907 enforcement officer will:

908 (A) maintain the confidentiality of the testimony, document, or material; and

909 (B) use the testimony, document, or material solely for an official law enforcement  
910 purpose.

911 (7) A civil action filed under this chapter shall be commenced no later than five years  
912 after the day on which the alleged violation last occurred.

913 *The following section is affected by a coordination clause at the end of this bill.*

914 Section 17. Section **13-63-301** is amended to read:

915 **13-63-301. Private right of action.**

916 (1) Beginning March 1, 2024, a person may bring an action in a court with jurisdiction  
917 under Title 78A, Judiciary and Judicial Administration, against a person that does not comply  
918 with a requirement of Part 1, General Requirements.

919 [~~(2) A suit filed under the authority of this section shall be filed in the district court for~~  
920 ~~the district in which a person bringing the action resides.]~~

921 (2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall  
922 bring an action described in Subsection (1) in the county in which the person bringing the  
923 action resides if the person brings the action in the district court.

924 (3) If a court finds that a person has violated a provision of Part 1, General

925 Requirements, the person who brings an action under this section is entitled to:

926 (a) an award of reasonable attorney fees and court costs; and

927 (b) an amount equal to the greater of:

928 (i) \$2,500 per each incident of violation; or

929 (ii) actual damages for financial, physical, and emotional harm incurred by the person  
930 bringing the action, if the court determines that the harm is a direct consequence of the  
931 violation or violations.

932 Section 18. Section 13-63-501 is amended to read:

933 **13-63-501. Private right of action for harm to a minor -- Rebuttable presumption**  
934 **of harm and causation.**

935 (1) Beginning March 1, 2024, a person may bring an action [~~under this section~~] in a  
936 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a social  
937 media company to recover damages incurred after March 1, 2024 by a Utah minor account  
938 holder for any addiction, financial, physical, or emotional harm suffered as a consequence of  
939 using or having an account on the social media company's social media platform.

940 [~~(2) A suit filed under the authority of this section shall be filed in the district court for~~  
941 ~~the district in which the Utah minor account holder resides.]~~

942 (2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall  
943 bring an action described in Subsection (1) in the county in which the Utah minor account  
944 holder resides if the person brings the action in the district court.

945 (3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder  
946 has been harmed as a consequence of using or having an account on the social media  
947 company's social media platform, the minor seeking relief under this section is entitled to:

948 (a) an award of reasonable attorney fees and court costs; and

949 (b) an amount equal to the greater of:

950 (i) \$2,500 per each incident of harm; or

951 (ii) actual damages for addiction, financial, physical, and emotional harm incurred by  
952 the person bringing the action, if the court determines that the harm is a direct consequence of  
953 the violation or violations.

954 (4) If a Utah minor account holder seeking recovery of damages under this section is  
955 under the age of 16, there shall be a rebuttable presumption that the harm actually occurred and

956 that the harm was a caused as a consequence of using or having an account on the social media  
957 company's social media platform.

958 Section 19. Section **16-10a-809** is amended to read:

959 **16-10a-809. Removal of directors by judicial proceeding.**

960 (1) [~~The district court of the county in this state where a corporation's principal office~~  
961 ~~is located or, if it has no principal office in this state, the district court for Salt Lake County]~~ A  
962 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may remove a  
963 director in a proceeding commenced [~~either~~] by the corporation or by [~~its~~] the corporation's  
964 shareholders holding at least 10% of the outstanding shares of any class if the court finds that:

965 (a) the director engaged in fraudulent or dishonest conduct or gross abuse of authority  
966 or discretion with respect to the corporation; and

967 (b) removal is in the best interest of the corporation.

968 (2) The court that removes a director may bar the director from reelection for a period  
969 prescribed by the court.

970 (3) If shareholders commence a proceeding under Subsection (1), they shall make the  
971 corporation a party defendant.

972 (4) A director who is removed pursuant to this section may deliver to the division for  
973 filing a statement to that effect pursuant to Section **16-10a-1608**.

974 Section 20. Section **17-2-106** is amended to read:

975 **17-2-106. Effect of consolidation.**

976 (1) All territory included within the boundaries of the originating county becomes,  
977 upon consolidation, the territory of the consolidating county.

978 (2) The precincts and school districts existing in the originating county continue and  
979 become precincts and school districts in the consolidating county and remain as then organized  
980 until changed in the manner provided by law, and the officers of those precincts and school  
981 districts hold their respective offices until the expiration of the applicable terms.

982 (3) The ownership of all property, both real and personal, held and owned by the  
983 originating county at the time of consolidation is vested in the consolidating county.

984 (4) The terms of all county officers in the originating county terminate and cease on the  
985 day the consolidation takes effect, and those officers shall immediately deliver to the  
986 corresponding officers of the consolidating county all books, records, and papers of the



987 originating county.

988 (5) Any person who is confined under lawful commitment in the county jail of the  
989 originating county, or otherwise lawfully held to answer for alleged violation of any of the  
990 criminal laws of this state, shall be immediately delivered to the sheriff of the consolidating  
991 county, and such person shall be confined in its county jail for the unexpired term of the  
992 sentence or held as specified in the commitment.

993 (6) (a) All criminal proceedings pending in the originating county shall be prosecuted  
994 to judgment and execution in the consolidating county.

995 (b) All offenses committed in the originating county before consolidation that have not  
996 been prosecuted shall be prosecuted in the consolidating county.

997 (7) All actions, proceedings, and matters pending in:

998 (a) the district court of the originating county may be proceeded with in the district  
999 court of the consolidating county[-]; and

1000 (b) the juvenile court of the originating county may be proceeded with in the juvenile  
1001 court of the consolidating county.

1002 (8) All indebtedness of the originating county are transferred to and become the  
1003 indebtedness of the consolidating county with the same effect as if it had been incurred by the  
1004 consolidating county.

1005 Section 21. Section **17-3-7** is amended to read:

1006 **17-3-7. Pending civil and criminal actions.**

1007 (1) All civil and criminal actions [~~which shall be~~] that are pending in the territory  
1008 embraced in [such] a new county shall be prosecuted to judgment and execution [therein, and  
1009 all] in the new county.

1010 (2) All actions pending in the district court or the juvenile court in any county shall be  
1011 prosecuted to judgment and execution in the county in which the same are pending, subject to  
1012 change of venue as provided by law.

1013 Section 22. Section **17-16-6.5** is amended to read:

1014 **17-16-6.5. Campaign financial disclosure in county elections.**

1015 (1) (a) A county shall adopt an ordinance establishing campaign finance disclosure  
1016 requirements for:

1017 (i) candidates for county office; and

- 1018 (ii) candidates for local school board office who reside in that county.
- 1019 (b) The ordinance required by Subsection (1)(a) shall include:
- 1020 (i) a requirement that each candidate for county office or local school board office
- 1021 report the candidate's itemized and total campaign contributions and expenditures at least once
- 1022 within the two weeks before the election and at least once within two months after the election;
- 1023 (ii) a definition of "contribution" and "expenditure" that requires reporting of
- 1024 nonmonetary contributions such as in-kind contributions and contributions of tangible things;
- 1025 (iii) a requirement that the financial reports identify:
- 1026 (A) for each contribution, the name of the donor of the contribution, if known, and the
- 1027 amount of the contribution; and
- 1028 (B) for each expenditure, the name of the recipient and the amount of the expenditure;
- 1029 (iv) a requirement that a candidate for county office or local school board office
- 1030 deposit a contribution in a separate campaign account ~~[in]~~ into a financial institution;
- 1031 (v) a prohibition against a candidate for county office or local school board office
- 1032 depositing or mingling any contributions received into a personal or business account; and
- 1033 (vi) a requirement that a candidate for county office who receives a contribution that is
- 1034 cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown,
- 1035 shall, within 30 days after receiving the contribution, disburse the amount of the contribution
- 1036 to:
- 1037 (A) the treasurer of the state or a political subdivision for deposit into the state's or
- 1038 political subdivision's general fund; or
- 1039 (B) an organization that is exempt from federal income taxation under Section
- 1040 501(c)(3), Internal Revenue Code.
- 1041 (c) (i) As used in this Subsection (1)(c), "account" means an account in a financial
- 1042 institution:
- 1043 (A) that is not described in Subsection (1)(b)(iv); and
- 1044 (B) into which or from which a person who, as a candidate for an office, other than a
- 1045 county office for which the person files a declaration of candidacy or federal office, or as a
- 1046 holder of an office, other than a county office for which the person files a declaration of
- 1047 candidacy or federal office, deposits a contribution or makes an expenditure.
- 1048 (ii) The ordinance required by Subsection (1)(a) shall include a requirement that a

1049 candidate for county office or local school board office include on a financial report filed in  
1050 accordance with the ordinance a contribution deposited in or an expenditure made from an  
1051 account:

1052 (A) since the last financial report was filed; or

1053 (B) that has not been reported under a statute or ordinance that governs the account.

1054 (2) If any county fails to adopt a campaign finance disclosure ordinance described in  
1055 Subsection (1), candidates for county office, other than community council office, and  
1056 candidates for local school board office shall comply with the financial reporting requirements  
1057 contained in Subsections (3) through (8).

1058 (3) A candidate for elective office in a county or local school board office:

1059 (a) shall deposit a contribution [~~in~~] into a separate campaign account in a financial  
1060 institution; and

1061 (b) may not deposit or mingle any contributions received into a personal or business  
1062 account.

1063 (4) Each candidate for elective office in any county who is not required to submit a  
1064 campaign financial statement to the lieutenant governor, and each candidate for local school  
1065 board office, shall file a signed campaign financial statement with the county clerk:

1066 (a) seven days before the date of the regular general election, reporting each  
1067 contribution and each expenditure as of 10 days before the date of the regular general election;  
1068 and

1069 (b) no later than 30 days after the date of the regular general election.

1070 (5) (a) The statement filed seven days before the regular general election shall include:

1071 (i) a list of each contribution received by the candidate, and the name of the donor, if  
1072 known; and

1073 (ii) a list of each expenditure for political purposes made during the campaign period,  
1074 and the recipient of each expenditure.

1075 (b) The statement filed 30 days after the regular general election shall include:

1076 (i) a list of each contribution received after the cutoff date for the statement filed seven  
1077 days before the election, and the name of the donor; and

1078 (ii) a list of all expenditures for political purposes made by the candidate after the  
1079 cutoff date for the statement filed seven days before the election, and the recipient of each

1080 expenditure.

1081 (6) (a) As used in this Subsection (6), "account" means an account in a financial  
1082 institution:

1083 (i) that is not described in Subsection (3)(a); and

1084 (ii) into which or from which a person who, as a candidate for an office, other than a  
1085 county office for which the person filed a declaration of candidacy or federal office, or as a  
1086 holder of an office, other than a county office for which the person filed a declaration of  
1087 candidacy or federal office, deposits a contribution or makes an expenditure.

1088 (b) A county office candidate and a local school board office candidate shall include on  
1089 any campaign financial statement filed in accordance with Subsection (4) or (5):

1090 (i) a contribution deposited [in] into an account:

1091 (A) since the last campaign finance statement was filed; or

1092 (B) that has not been reported under a statute or ordinance that governs the account; or

1093 (ii) an expenditure made from an account:

1094 (A) since the last campaign finance statement was filed; or

1095 (B) that has not been reported under a statute or ordinance that governs the account.

1096 (7) Within 30 days after receiving a contribution that is cash or a negotiable  
1097 instrument, exceeds \$50, and is from a donor whose name is unknown, a county office

1098 candidate shall disburse the amount of the contribution to:

1099 (a) the treasurer of the state or a political subdivision for deposit into the state's or  
1100 political subdivision's general fund; or

1101 (b) an organization that is exempt from federal income taxation under Section  
1102 501(c)(3), Internal Revenue Code.

1103 (8) Candidates for elective office in any county, and candidates for local school board  
1104 office, who are eliminated at a primary election shall file a signed campaign financial statement  
1105 containing the information required by this section not later than 30 days after the primary  
1106 election.

1107 (9) Any person who fails to comply with this section is guilty of an infraction.

1108 (10) (a) Counties may, by ordinance, enact requirements that:

1109 (i) require greater disclosure of campaign contributions and expenditures; and

1110 (ii) impose additional penalties.

1111 (b) The requirements described in Subsection (10)(a) apply to a local school board  
1112 office candidate who resides in that county.

1113 (11) If a candidate fails to file an interim report due before the election, the county  
1114 clerk:

1115 (a) may send an electronic notice to the candidate and the political party of which the  
1116 candidate is a member, if any, that states:

1117 (i) that the candidate failed to timely file the report; and

1118 (ii) that, if the candidate fails to file the report within 24 hours after the deadline for  
1119 filing the report, the candidate will be disqualified and the political party will not be permitted  
1120 to replace the candidate; and

1121 (b) impose a fine of \$100 on the candidate.

1122 (12) (a) The county clerk shall disqualify a candidate and inform the appropriate  
1123 election officials that the candidate is disqualified if the candidate fails to file an interim report  
1124 described in Subsection (11) within 24 hours after the deadline for filing the report.

1125 (b) The political party of a candidate who is disqualified under Subsection (12)(a) may  
1126 not replace the candidate.

1127 (c) A candidate who is disqualified under Subsection (12)(a) shall file with the county  
1128 clerk a complete and accurate campaign finance statement within 30 days after the day on  
1129 which the candidate is disqualified.

1130 (13) If a candidate is disqualified under Subsection (12)(a), the election official:

1131 (a) shall:

1132 (i) notify every opposing candidate for the county office that the candidate is  
1133 disqualified;

1134 (ii) send an email notification to each voter who is eligible to vote in the county  
1135 election office race for whom the election official has an email address informing the voter that  
1136 the candidate is disqualified and that votes cast for the candidate will not be counted;

1137 (iii) post notice of the disqualification on the county's website; and

1138 (iv) if practicable, remove the candidate's name from the ballot by blacking out the  
1139 candidate's name before the ballots are delivered to voters; and

1140 (b) may not count any votes for that candidate.

1141 (14) An election official may fulfill the requirement described in Subsection (13)(a) in

1142 relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a  
1143 written notice directing the voter to the county's website to inform the voter whether a  
1144 candidate on the ballot is disqualified.

1145 (15) A candidate is not disqualified if:

1146 (a) the candidate files the interim reports described in Subsection (11) no later than 24  
1147 hours after the applicable deadlines for filing the reports;

1148 (b) the reports are completed, detailing accurately and completely the information  
1149 required by this section except for inadvertent omissions or insignificant errors or inaccuracies;  
1150 and

1151 (c) the omissions, errors, or inaccuracies are corrected in an amended report or in the  
1152 next scheduled report.

1153 (16) (a) A report is considered timely filed if:

1154 (i) the report is received in the county clerk's office no later than midnight, Mountain  
1155 Time, at the end of the day on which the report is due;

1156 (ii) the report is received in the county clerk's office with a United States Postal Service  
1157 postmark three days or more before the date that the report was due; or

1158 (iii) the candidate has proof that the report was mailed, with appropriate postage and  
1159 addressing, three days before the report was due.

1160 (b) For a county clerk's office that is not open until midnight at the end of the day on  
1161 which a report is due, the county clerk shall permit a candidate to file the report via email or  
1162 another electronic means designated by the county clerk.

1163 (17) (a) Any private party in interest may bring [~~a civil action in district court~~] an  
1164 action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to  
1165 enforce the provisions of this section or any ordinance adopted under this section.

1166 (b) In a civil action filed under Subsection (17)(a), the court shall award costs and  
1167 attorney fees to the prevailing party.

1168 (18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records  
1169 Access and Management Act, the county clerk shall:

1170 (a) make each campaign finance statement filed by a candidate available for public  
1171 inspection and copying no later than one business day after the statement is filed; and

1172 (b) make the campaign finance statement filed by a candidate available for public

1173 inspection by:

1174 (i) (A) posting an electronic copy or the contents of the statement on the county's  
1175 website no later than seven business days after the statement is filed; and

1176 (B) verifying that the address of the county's website has been provided to the  
1177 lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

1178 (ii) submitting a copy of the statement to the lieutenant governor for posting on the  
1179 website established by the lieutenant governor under Section 20A-11-103 no later than two  
1180 business days after the statement is filed.

1181 Section 23. Section 17-25-1 is amended to read:

1182 **17-25-1. General powers and duties.**

1183 (1) ~~Every~~ A constable shall:

1184 (a) attend the justice courts within ~~his~~ the constable's city or county when required by  
1185 contract or court order; and

1186 (b) execute, serve, and return all process directed or delivered to ~~him~~ the constable by  
1187 a judge of the justice court serving the city or county, or by any competent authority within the  
1188 limits of this section.

1189 ~~[(2) Any constable may serve any process throughout the state.]~~

1190 (2) A constable may:

1191 (a) serve any process throughout the state; and

1192 (b) carry out all other functions associated with a constable.

1193 (3) A constable shall serve exclusively as an agent for:

1194 (a) the state, city, or county that has a contract with the constable; or

1195 (b) the court authorizing or directing the constable.

1196 (4) Except as otherwise provided in this part, a constable may not serve as an agent, or  
1197 be deemed to be serving as an agent, for a person that is not described in Subsection (3).

1198 Section 24. Section 17-50-103 is amended to read:

1199 **17-50-103. Use of "county" prohibited -- Legal action to compel compliance.**

1200 (1) For purposes of this section:

1201 (a) (i) "Existing local entity" means a special district, special service district, or other  
1202 political subdivision of the state created before May 1, 2000.

1203 (ii) "Existing local entity" does not include a county, city, town, or school district.

1204 (b) (i) "New local entity" means a city, town, school district, special district, special  
1205 service district, or other political subdivision of the state created on or after May 1, 2000.

1206 (ii) "New local entity" does not include a county.

1207 (c) (i) "Special district" means a special district under Title 17B, Limited Purpose  
1208 Local Government Entities - Special Districts, that:

1209 (A) by statute is a political and corporate entity separate from the county that created  
1210 the special district; and

1211 (B) by statute is not subject to the direction and control of the county that created the  
1212 special district.

1213 (ii) The county legislative body's statutory authority to appoint members to the  
1214 governing body of a special district does not alone make the special district subject to the  
1215 direction and control of that county.

1216 (2) (a) A new local entity may not use the word "county" in its name.

1217 (b) After January 1, 2005, an existing local entity may not use the word "county" in its  
1218 name unless the county whose name is used by the existing local entity gives its written  
1219 consent.

1220 (3) A county with a name similar to the name of a new local entity or existing local  
1221 entity in violation of this section may bring legal action in [~~district court~~] a court with  
1222 jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel compliance with  
1223 this section.

1224 Section 25. Section **17B-1-313** is amended to read:

1225 **17B-1-313. Publication of notice of board resolution or action -- Contest period --**  
1226 **No contest after contest period.**

1227 (1) After the board of trustees of a special district adopts a resolution or takes other  
1228 action on behalf of the district, the board may provide for the publication of a notice of the  
1229 resolution or other action.

1230 (2) Each notice under Subsection (1) shall:

1231 (a) include, as the case may be:

1232 (i) the language of the resolution or a summary of the resolution; or

1233 (ii) a description of the action taken by the board;

1234 (b) state that:



1235 (i) any person in interest may file an action in [~~district court~~] a court with jurisdiction  
1236 under Title 78A, Judiciary and Judicial Administration, to contest the regularity, formality, or  
1237 legality of the resolution or action within 30 days after the date of publication; and

1238 (ii) if the resolution or action is not contested by filing an action in [~~district court~~] a  
1239 court within the 30-day period, no one may contest the regularity, formality, or legality of the  
1240 resolution or action after the expiration of the 30-day period; and

1241 (c) be published for the special district, as a class A notice under Section [63G-30-102](#),  
1242 for at least 30 days.

1243 (3) For a period of 30 days after the date of the publication, any person in interest may  
1244 contest the regularity, formality, or legality of the resolution or other action by filing an action  
1245 in [~~district court~~] a court with jurisdiction under [Title 78A, Judiciary and Judicial](#)  
1246 Administration.

1247 (4) After the expiration of the 30-day period under Subsection (3), no one may contest  
1248 the regularity, formality, or legality of the resolution or action for any cause.

1249 Section 26. Section **17C-1-102** is amended to read:

1250 **17C-1-102. Definitions.**

1251 As used in this title:

1252 (1) "Active project area" means a project area that has not been dissolved in accordance  
1253 with Section [17C-1-702](#).

1254 (2) "Adjusted tax increment" means the percentage of tax increment, if less than  
1255 100%, that an agency is authorized to receive:

1256 (a) for a pre-July 1, 1993, project area plan, under Section [17C-1-403](#), excluding tax  
1257 increment under Subsection [17C-1-403](#)(3);

1258 (b) for a post-June 30, 1993, project area plan, under Section [17C-1-404](#), excluding tax  
1259 increment under Section [17C-1-406](#);

1260 (c) under a project area budget approved by a taxing entity committee; or

1261 (d) under an interlocal agreement that authorizes the agency to receive a taxing entity's  
1262 tax increment.

1263 (3) "Affordable housing" means housing owned or occupied by a low or moderate  
1264 income family, as determined by resolution of the agency.

1265 (4) "Agency" or "community reinvestment agency" means a separate body corporate

1266 and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community  
1267 development and renewal agency under previous law:

- 1268 (a) that is a political subdivision of the state;
- 1269 (b) that is created to undertake or promote project area development as provided in this  
1270 title; and
- 1271 (c) whose geographic boundaries are coterminous with:
  - 1272 (i) for an agency created by a county, the unincorporated area of the county; and
  - 1273 (ii) for an agency created by a municipality, the boundaries of the municipality.
- 1274 (5) "Agency funds" means money that an agency collects or receives for agency  
1275 operations, implementing a project area plan or an implementation plan as defined in Section  
1276 17C-1-1001, or other agency purposes, including:
  - 1277 (a) project area funds;
  - 1278 (b) income, proceeds, revenue, or property derived from or held in connection with the  
1279 agency's undertaking and implementation of project area development or agency-wide project  
1280 development as defined in Section 17C-1-1001;
  - 1281 (c) a contribution, loan, grant, or other financial assistance from any public or private  
1282 source;
  - 1283 (d) project area incremental revenue as defined in Section 17C-1-1001; or
  - 1284 (e) property tax revenue as defined in Section 17C-1-1001.
- 1285 (6) "Annual income" means the same as that term is defined in regulations of the  
1286 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as  
1287 amended or as superseded by replacement regulations.
- 1288 (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.
- 1289 (8) "Base taxable value" means, unless otherwise adjusted in accordance with  
1290 provisions of this title, a property's taxable value as shown upon the assessment roll last  
1291 equalized during the base year.
- 1292 (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year  
1293 during which the assessment roll is last equalized:
  - 1294 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,  
1295 before the project area plan's effective date;
  - 1296 (b) for a post-June 30, 1993, urban renewal or economic development project area

- 1297 plan, or a community reinvestment project area plan that is subject to a taxing entity  
1298 committee:
- 1299 (i) before the date on which the taxing entity committee approves the project area  
1300 budget; or
- 1301 (ii) if taxing entity committee approval is not required for the project area budget,  
1302 before the date on which the community legislative body adopts the project area plan;
- 1303 (c) for a project on an inactive airport site, after the later of:
- 1304 (i) the date on which the inactive airport site is sold for remediation and development;  
1305 or
- 1306 (ii) the date on which the airport that operated on the inactive airport site ceased  
1307 operations; or
- 1308 (d) for a community development project area plan or a community reinvestment  
1309 project area plan that is subject to an interlocal agreement, as described in the interlocal  
1310 agreement.
- 1311 (10) "Basic levy" means the portion of a school district's tax levy constituting the  
1312 minimum basic levy under Section [59-2-902](#).
- 1313 (11) "Board" means the governing body of an agency, as described in Section  
1314 [17C-1-203](#).
- 1315 (12) "Budget hearing" means the public hearing on a proposed project area budget  
1316 required under Subsection [17C-2-201\(2\)\(d\)](#) for an urban renewal project area budget,  
1317 Subsection [17C-3-201\(2\)\(d\)](#) for an economic development project area budget, or Subsection  
1318 [17C-5-302\(2\)\(e\)](#) for a community reinvestment project area budget.
- 1319 (13) "Closed military base" means land within a former military base that the Defense  
1320 Base Closure and Realignment Commission has voted to close or realign when that action has  
1321 been sustained by the president of the United States and Congress.
- 1322 (14) "Combined incremental value" means the combined total of all incremental values  
1323 from all project areas, except project areas that contain some or all of a military installation or  
1324 inactive industrial site, within the agency's boundaries under project area plans and project area  
1325 budgets at the time that a project area budget for a new project area is being considered.
- 1326 (15) "Community" means a county or municipality.
- 1327 (16) "Community development project area plan" means a project area plan adopted

1328 under Chapter 4, Part 1, Community Development Project Area Plan.

1329 (17) "Community legislative body" means the legislative body of the community that  
1330 created the agency.

1331 (18) "Community reinvestment project area plan" means a project area plan adopted  
1332 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

1333 (19) "Contest" means to file a written complaint in [~~the district court of the~~] a court  
1334 with jurisdiction under Title 78A, Judiciary and Judicial Administration, and in a county in  
1335 which the agency is located if the action is filed in the district court.

1336 (20) "Development impediment" means a condition of an area that meets the  
1337 requirements described in Section 17C-2-303 for an urban renewal project area or Section  
1338 17C-5-405 for a community reinvestment project area.

1339 (21) "Development impediment hearing" means a public hearing regarding whether a  
1340 development impediment exists within a proposed:

1341 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section  
1342 17C-2-302; or

1343 (b) community reinvestment project area under Section 17C-5-404.

1344 (22) "Development impediment study" means a study to determine whether a  
1345 development impediment exists within a survey area as described in Section 17C-2-301 for an  
1346 urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

1347 (23) "Economic development project area plan" means a project area plan adopted  
1348 under Chapter 3, Part 1, Economic Development Project Area Plan.

1349 (24) "Fair share ratio" means the ratio derived by:

1350 (a) for a municipality, comparing the percentage of all housing units within the  
1351 municipality that are publicly subsidized income targeted housing units to the percentage of all  
1352 housing units within the county in which the municipality is located that are publicly  
1353 subsidized income targeted housing units; or

1354 (b) for the unincorporated part of a county, comparing the percentage of all housing  
1355 units within the unincorporated county that are publicly subsidized income targeted housing  
1356 units to the percentage of all housing units within the whole county that are publicly subsidized  
1357 income targeted housing units.

1358 (25) "Family" means the same as that term is defined in regulations of the United

1359 States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended  
1360 or as superseded by replacement regulations.

1361 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

1362 (27) "Hazardous waste" means any substance defined, regulated, or listed as a  
1363 hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant,  
1364 or toxic substance, or identified as hazardous to human health or the environment, under state  
1365 or federal law or regulation.

1366 (28) "Housing allocation" means project area funds allocated for housing under Section  
1367 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

1368 (29) "Housing fund" means a fund created by an agency for purposes described in  
1369 Section 17C-1-411 or 17C-1-412 that is comprised of:

1370 (a) project area funds, project area incremental revenue as defined in Section  
1371 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the  
1372 purposes described in Section 17C-1-411; or

1373 (b) an agency's housing allocation.

1374 (30) (a) "Inactive airport site" means land that:

1375 (i) consists of at least 100 acres;

1376 (ii) is occupied by an airport:

1377 (A) (I) that is no longer in operation as an airport; or

1378 (II) (Aa) that is scheduled to be decommissioned; and

1379 (Bb) for which a replacement commercial service airport is under construction; and

1380 (B) that is owned or was formerly owned and operated by a public entity; and

1381 (iii) requires remediation because:

1382 (A) of the presence of hazardous waste or solid waste; or

1383 (B) the site lacks sufficient public infrastructure and facilities, including public roads,  
1384 electric service, water system, and sewer system, needed to support development of the site.

1385 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land  
1386 described in Subsection (30)(a).

1387 (31) (a) "Inactive industrial site" means land that:

1388 (i) consists of at least 1,000 acres;

1389 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial

1390 facility; and

1391 (iii) requires remediation because of the presence of hazardous waste or solid waste.

1392 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land  
1393 described in Subsection (31)(a).

1394 (32) "Income targeted housing" means housing that is owned or occupied by a family  
1395 whose annual income is at or below 80% of the median annual income for a family within the  
1396 county in which the housing is located.

1397 (33) "Incremental value" means a figure derived by multiplying the marginal value of  
1398 the property located within a project area on which tax increment is collected by a number that  
1399 represents the adjusted tax increment from that project area that is paid to the agency.

1400 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,  
1401 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

1402 (35) (a) "Local government building" means a building owned and operated by a  
1403 community for the primary purpose of providing one or more primary community functions,  
1404 including:

1405 (i) a fire station;

1406 (ii) a police station;

1407 (iii) a city hall; or

1408 (iv) a court or other judicial building.

1409 (b) "Local government building" does not include a building the primary purpose of  
1410 which is cultural or recreational in nature.

1411 (36) "Major transit investment corridor" means the same as that term is defined in  
1412 Section [10-9a-103](#).

1413 (37) "Marginal value" means the difference between actual taxable value and base  
1414 taxable value.

1415 (38) "Military installation project area" means a project area or a portion of a project  
1416 area located within a federal military installation ordered closed by the federal Defense Base  
1417 Realignment and Closure Commission.

1418 (39) "Municipality" means a city, town, or metro township as defined in Section  
1419 [10-2a-403](#).

1420 (40) "Participant" means one or more persons that enter into a participation agreement

1421 with an agency.

1422 (41) "Participation agreement" means a written agreement between a person and an  
1423 agency that:

1424 (a) includes a description of:

1425 (i) the project area development that the person will undertake;

1426 (ii) the amount of project area funds the person may receive; and

1427 (iii) the terms and conditions under which the person may receive project area funds;

1428 and

1429 (b) is approved by resolution of the board.

1430 (42) "Plan hearing" means the public hearing on a proposed project area plan required  
1431 under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection  
1432 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d)  
1433 for a community development project area plan, or Subsection 17C-5-104(3)(e) for a  
1434 community reinvestment project area plan.

1435 (43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or  
1436 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project  
1437 area plan's adoption.

1438 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July  
1439 1, 1993, whether or not amended subsequent to the project area plan's adoption.

1440 (45) "Private," with respect to real property, means property not owned by a public  
1441 entity or any other governmental entity.

1442 (46) "Project area" means the geographic area described in a project area plan within  
1443 which the project area development described in the project area plan takes place or is  
1444 proposed to take place.

1445 (47) "Project area budget" means a multiyear projection of annual or cumulative  
1446 revenues and expenses and other fiscal matters pertaining to a project area prepared in  
1447 accordance with:

1448 (a) for an urban renewal project area, Section 17C-2-201;

1449 (b) for an economic development project area, Section 17C-3-201;

1450 (c) for a community development project area, Section 17C-4-204; or

1451 (d) for a community reinvestment project area, Section 17C-5-302.

1452 (48) "Project area development" means activity within a project area that, as  
1453 determined by the board, encourages, promotes, or provides development or redevelopment for  
1454 the purpose of implementing a project area plan, including:

1455 (a) promoting, creating, or retaining public or private jobs within the state or a  
1456 community;

1457 (b) providing office, manufacturing, warehousing, distribution, parking, or other  
1458 facilities or improvements;

1459 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or  
1460 remediating environmental issues;

1461 (d) providing residential, commercial, industrial, public, or other structures or spaces,  
1462 including recreational and other facilities incidental or appurtenant to the structures or spaces;

1463 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating  
1464 existing structures;

1465 (f) providing open space, including streets or other public grounds or space around  
1466 buildings;

1467 (g) providing public or private buildings, infrastructure, structures, or improvements;

1468 (h) relocating a business;

1469 (i) improving public or private recreation areas or other public grounds;

1470 (j) eliminating a development impediment or the causes of a development impediment;

1471 (k) redevelopment as defined under the law in effect before May 1, 2006; or

1472 (l) any activity described in this Subsection (48) outside of a project area that the board  
1473 determines to be a benefit to the project area.

1474 (49) "Project area funds" means tax increment or sales and use tax revenue that an  
1475 agency receives under a project area budget adopted by a taxing entity committee or an  
1476 interlocal agreement.

1477 (50) "Project area funds collection period" means the period of time that:

1478 (a) begins the day on which the first payment of project area funds is distributed to an  
1479 agency under a project area budget approved by a taxing entity committee or an interlocal  
1480 agreement; and

1481 (b) ends the day on which the last payment of project area funds is distributed to an  
1482 agency under a project area budget approved by a taxing entity committee or an interlocal



1483 agreement.

1484 (51) "Project area plan" means an urban renewal project area plan, an economic  
1485 development project area plan, a community development project area plan, or a community  
1486 reinvestment project area plan that, after the project area plan's effective date, guides and  
1487 controls the project area development.

1488 (52) (a) "Property tax" means each levy on an ad valorem basis on tangible or  
1489 intangible personal or real property.

1490 (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege  
1491 Tax.

1492 (53) "Public entity" means:

1493 (a) the United States, including an agency of the United States;

1494 (b) the state, including any of the state's departments or agencies; or

1495 (c) a political subdivision of the state, including a county, municipality, school district,  
1496 special district, special service district, community reinvestment agency, or interlocal  
1497 cooperation entity.

1498 (54) "Publicly owned infrastructure and improvements" means water, sewer, storm  
1499 drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets,  
1500 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or  
1501 other facilities, infrastructure, and improvements benefitting the public and to be publicly  
1502 owned or publicly maintained or operated.

1503 (55) "Record property owner" or "record owner of property" means the owner of real  
1504 property, as shown on the records of the county in which the property is located, to whom the  
1505 property's tax notice is sent.

1506 (56) "Sales and use tax revenue" means revenue that is:

1507 (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;  
1508 and

1509 (b) distributed to a taxing entity in accordance with Sections [59-12-204](#) and [59-12-205](#).

1510 (57) "Superfund site":

1511 (a) means an area included in the National Priorities List under the Comprehensive  
1512 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

1513 (b) includes an area formerly included in the National Priorities List, as described in

1514 Subsection (57)(a), but removed from the list following remediation that leaves on site the  
1515 waste that caused the area to be included in the National Priorities List.

1516 (58) "Survey area" means a geographic area designated for study by a survey area  
1517 resolution to determine whether:

1518 (a) one or more project areas within the survey area are feasible; or

1519 (b) a development impediment exists within the survey area.

1520 (59) "Survey area resolution" means a resolution adopted by a board that designates a  
1521 survey area.

1522 (60) "Taxable value" means:

1523 (a) the taxable value of all real property a county assessor assesses in accordance with  
1524 Title 59, Chapter 2, Part 3, County Assessment, for the current year;

1525 (b) the taxable value of all real and personal property the commission assesses in  
1526 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

1527 (c) the year end taxable value of all personal property a county assessor assesses in  
1528 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's  
1529 tax rolls of the taxing entity.

1530 (61) (a) "Tax increment" means the difference between:

1531 (i) the amount of property tax revenue generated each tax year by a taxing entity from  
1532 the area within a project area designated in the project area plan as the area from which tax  
1533 increment is to be collected, using the current assessed value of the property and each taxing  
1534 entity's current certified tax rate as defined in Section 59-2-924; and

1535 (ii) the amount of property tax revenue that would be generated from that same area  
1536 using the base taxable value of the property and each taxing entity's current certified tax rate as  
1537 defined in Section 59-2-924.

1538 (b) "Tax increment" does not include taxes levied and collected under Section  
1539 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

1540 (i) the project area plan was adopted before May 4, 1993, whether or not the project  
1541 area plan was subsequently amended; and

1542 (ii) the taxes were pledged to support bond indebtedness or other contractual  
1543 obligations of the agency.

1544 (62) "Taxing entity" means a public entity that:

1545 (a) levies a tax on property located within a project area; or

1546 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

1547 (63) "Taxing entity committee" means a committee representing the interests of taxing  
1548 entities, created in accordance with Section 17C-1-402.

1549 (64) "Unincorporated" means not within a municipality.

1550 (65) "Urban renewal project area plan" means a project area plan adopted under  
1551 Chapter 2, Part 1, Urban Renewal Project Area Plan.

1552 Section 27. Section 17C-2-304 is amended to read:

1553 **17C-2-304. Challenging a development impediment determination -- Time limit --**  
1554 **De novo review.**

1555 (1) If the board makes a development impediment determination under Subsection  
1556 17C-2-102(1)(a)(ii)(B) and that determination is approved by resolution adopted by the taxing  
1557 entity committee, a record owner of property located within the proposed urban renewal project  
1558 area may challenge the determination by ~~[filing an action with the district court for the county~~  
1559 ~~in which the property is located]~~ bringing an action in a court with jurisdiction under Title 78A,  
1560 Judiciary and Judicial Administration.

1561 (2) A person shall file a challenge under Subsection (1) within 30 days after the taxing  
1562 entity committee approves the board's development impediment determination.

1563 (3) In each action under this section, the ~~[district]~~ court shall review the development  
1564 impediment determination under the standards of review provided in Subsection 10-9a-801(3).

1565 Section 28. Section 17C-5-406 is amended to read:

1566 **17C-5-406. Challenging a finding of development impediment determination --**  
1567 **Time limit -- Standards governing court review.**

1568 (1) If a board makes a development impediment determination under Subsection  
1569 17C-5-402(2)(c)(ii), a record owner of property located within the survey area may challenge  
1570 the determination by ~~[filing an action in the district court in the county in which the property is~~  
1571 ~~located]~~ bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial  
1572 Administration, no later than 30 days after the day on which the board makes the  
1573 determination.

1574 (2) In an action under this section:

1575 (a) the agency shall transmit to the ~~[district]~~ court the record of the agency's

1576 proceedings, including any minutes, findings, determinations, orders, or transcripts of the  
1577 agency's proceedings;

1578 (b) the [district] court shall review the development impediment determination under  
1579 the standards of review provided in Subsection 10-9a-801(3); and

1580 (c) (i) if there is a record:

1581 (A) the [district] court's review is limited to the record provided by the agency; and

1582 (B) the [district] court may not accept or consider any evidence outside the record of  
1583 the agency, unless the evidence was offered to the agency and the district court determines that  
1584 the agency improperly excluded the evidence; or

1585 (ii) if there is no record, the [district] court may call witnesses and take evidence.

1586 Section 29. Section 17D-1-212 is amended to read:

1587 **17D-1-212. Action to challenge the creation of a special service district or a**  
1588 **service to be provided.**

1589 (1) A person may ~~file an action in district court~~ bring an action in a court with  
1590 jurisdiction under Title 78A, Judiciary and Judicial Administration, challenging the creation of  
1591 a special service district or a service that a special service district is proposed to provide if:

1592 (a) the person filed a written protest under Section 17D-1-206;

1593 (b) the person:

1594 (i) (A) is a registered voter within the special service district; and

1595 (B) alleges in the action that the procedures used to create the special service district  
1596 violated applicable law; or

1597 (ii) (A) is an owner of property included within the boundary of the special service  
1598 district; and

1599 (B) alleges in the action that:

1600 (I) the person's property will not be benefitted by a service that the special service  
1601 district is proposed to provide; or

1602 (II) the procedures used to create the special service district violated applicable law;  
1603 and

1604 (c) the action is filed within 30 days after the date that the legislative body adopts a  
1605 resolution or ordinance creating the special service district.

1606 (2) If an action is not filed within the time specified under Subsection (1), a registered

1607 voter or an owner of property located within the special service district may not contest the  
 1608 creation of the special service district or a service that the special service district is proposed to  
 1609 provide.

1610 Section 30. Section **17D-2-602** is amended to read:

1611 **17D-2-602. Contesting the legality of a resolution or other proceeding -- No cause**  
 1612 **of action after contest period.**

1613 (1) For a period of 30 days after publication of a resolution or other proceeding under  
 1614 Subsection **17D-2-601**(1) or a notice under Subsection **17D-2-601**(2), any person in interest  
 1615 may [~~file an action in district court~~] bring an action in a court with jurisdiction under Title 78A,  
 1616 Judiciary and Judicial Administration, contesting the regularity, formality, or legality of:

1617 (a) a resolution or other proceeding;

1618 (b) any bonds or a lease agreement authorized by a resolution or other proceeding; or

1619 (c) any provision made for the security or payment of local building authority bonds or  
 1620 lease agreement.

1621 (2) After the period referred to in Subsection (1), no one may have a cause of action to  
 1622 contest for any reason the regularity, formality, or legality of any of the matters listed in  
 1623 Subsection (1).

1624 Section 31. Section **17D-4-305** is amended to read:

1625 **17D-4-305. Action to contest tax, fee, or proceeding -- Requirements -- Exclusive**  
 1626 **remedy -- Bonds, taxes, and fees incontestable.**

1627 (1) A person who contests a tax or fee or any proceeding to create a public  
 1628 infrastructure district, levy a tax, or impose a fee may bring a civil action against the public  
 1629 infrastructure district or the creating entity to:

1630 (a) set aside the proceeding; or

1631 (b) enjoin the levy, imposition, or collection of a tax or fee.

1632 (2) The person bringing an action described in Subsection (1):

1633 (a) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, shall bring the  
 1634 action in [~~the district court with jurisdiction~~] in the county in which the public infrastructure  
 1635 district is located if the person brings the action in the district court; and

1636 (b) may not bring the action against or serve a summons relating to the action on the  
 1637 public infrastructure district more than 30 days after the effective date of the:

1638 (i) creation of the public infrastructure district, if the challenge is to the creation of the  
1639 public infrastructure district; or

1640 (ii) tax or fee, if the challenge is to a tax or fee.

1641 (3) An action under Subsection (1) is the exclusive remedy of a person who:

1642 (a) claims an error or irregularity in a tax or fee or in any proceeding to create a public  
1643 infrastructure district, levy a tax, or impose a fee; or

1644 (b) challenges a bondholder's right to repayment.

1645 (4) After the expiration of the 30-day period described in Subsection (2)(b):

1646 (a) a bond issued or to be issued with respect to a public infrastructure district and any  
1647 tax levied or fee imposed becomes incontestable against any person who has not brought an  
1648 action and served a summons in accordance with this section;

1649 (b) a person may not bring a suit to:

1650 (i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or  
1651 enforcement of a tax or fee; or

1652 (ii) attack or question in any way the legality of a bond, tax, or fee; and

1653 (c) a court may not inquire into the matters described in Subsection (4)(b).

1654 (5) (a) This section does not insulate a public infrastructure district from a claim of  
1655 misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

1656 (b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus  
1657 is the sole form of relief available to a party challenging the misuse of funds.

1658 (ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal  
1659 charges against or the prosecution of a party for the misuse of funds.

1660 Section 32. Section **18-1-4** is amended to read:

1661 **18-1-4. Use of arbitration in personal injury from dog attack cases.**

1662 (1) A person injured as a result of a dog attack may elect to submit all third party  
1663 bodily injury claims to arbitration by filing a notice of the submission of the claim to binding  
1664 arbitration in a [district] court if:

1665 (a) the claimant or the claimant's representative has:

1666 (i) previously and timely filed a complaint in a [district] court that includes a third  
1667 party bodily injury claim; and

1668 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint

1669 has been answered; and

1670 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under  
1671 Subsection (1)(a)(i) is still pending.

1672 (2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the  
1673 party submitting the claim or the party's representative is limited to an arbitration award that  
1674 may not exceed \$50,000 in addition to any medical premise benefits and any claim for property  
1675 damage.

1676 (b) A party who elects to proceed against a defendant under this section:

1677 (i) waives the right to obtain a judgment against the personal assets of the defendant;  
1678 and

1679 (ii) is limited to recovery only against available limits of insurance coverage.

1680 (3) A claim for punitive damages may not be made in an arbitration proceeding under  
1681 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial  
1682 de novo under Subsection (11).

1683 (4) (a) A party who has elected arbitration under this section may rescind the party's  
1684 election if the rescission is made within:

1685 (i) 90 days after the election to arbitrate; and

1686 (ii) no less than 30 days before any scheduled arbitration hearing.

1687 (b) A party seeking to rescind an election to arbitrate under this Subsection (4) shall:

1688 (i) file a notice of the rescission of the election to arbitrate with the [district] court in  
1689 which the matter was filed; and

1690 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel  
1691 of record to the action.

1692 (c) All discovery completed in anticipation of the arbitration hearing shall be available  
1693 for use by the parties as allowed by the Utah Rules of Civil Procedure and the Utah Rules of  
1694 Evidence.

1695 (d) A party who has elected to arbitrate under this section and then rescinded the  
1696 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this  
1697 section again.

1698 (5) (a) Unless otherwise agreed to by the parties or by order of the court, an arbitration  
1699 process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.

1700 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be  
1701 completed within 150 days after the date arbitration is elected under this section or the date the  
1702 answer is filed, whichever is longer.

1703 (6) (a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
1704 arbitration under this section shall be resolved by a single arbitrator.

1705 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall  
1706 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of  
1707 the defendant.

1708 (c) If the parties are unable to agree on a single arbitrator as required under Subsection  
1709 (6)(b), the parties shall select a panel of three arbitrators.

1710 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):

1711 (i) each side shall select one arbitrator; and

1712 (ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional  
1713 arbitrator to be included in the panel.

1714 (7) Unless otherwise agreed to in writing:

1715 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected  
1716 under Subsection (6)(a); and

1717 (b) if an arbitration panel is selected under Subsection (6)(d):

1718 (i) each party shall pay the fees and costs of the arbitrator selected by that party's side;  
1719 and

1720 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected  
1721 under Subsection (6)(d)(ii).

1722 (8) Except as otherwise provided in this section and unless otherwise agreed to in  
1723 writing by the parties, an arbitration proceeding conducted under this section shall be governed  
1724 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

1725 (9) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and  
1726 the Utah Rules of Evidence apply to the arbitration proceeding.

1727 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied  
1728 liberally with the intent of concluding the claim in a timely and cost-efficient manner.

1729 (c) Discovery shall be conducted in accordance with the Utah Rules of Civil Procedure  
1730 and shall be subject to the jurisdiction of the [district] court in which the matter is filed.



1731 (d) Dispositive motions shall be filed, heard, and decided by the [district] court prior to  
1732 the arbitration proceeding in accordance with the court's scheduling order.

1733 (10) A written decision by a single arbitrator or by a majority of the arbitration panel  
1734 shall constitute a final decision.

1735 (11) An arbitration award issued under this section shall be the final resolution of all  
1736 bodily injury claims between the parties and may be reduced to judgment by the court upon  
1737 motion and notice unless:

1738 (a) either party, within 20 days after service of the arbitration award:

1739 (i) files a notice requesting a trial de novo in the [district] court; and

1740 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo  
1741 under Subsection (11)(a)(i); or

1742 (b) the arbitration award has been satisfied.

1743 (12) (a) Upon filing a notice requesting a trial de novo under Subsection (11):

1744 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90  
1745 days shall be allowed for further discovery;

1746 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice  
1747 of appeal; and

1748 (iii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil  
1749 Procedure and the Utah Rules of Evidence in the [district] court.

1750 (b) In accordance with the Utah Rules of Civil Procedure, either party may request a  
1751 jury trial with a request for trial de novo filed under Subsection (11).

1752 (13) (a) If the plaintiff, as the moving party in a trial de novo requested under  
1753 Subsection (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than  
1754 the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.

1755 (b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall  
1756 include:

1757 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

1758 (ii) the costs of expert witnesses and depositions.

1759 (c) An award of costs under this Subsection (13) may not exceed \$6,000.

1760 (14) (a) If a defendant, as the moving party in a trial de novo requested under  
1761 Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award,

1762 the defendant is responsible for all of the nonmoving party's costs.

1763 (b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall  
1764 include:

1765 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

1766 (ii) the costs of expert witnesses and depositions.

1767 (c) An award of costs under this Subsection (14) may not exceed \$6,000.

1768 (15) For purposes of determining whether a party's verdict is greater or less than the  
1769 arbitration award under Subsections (13) and (14), a court may not consider any recovery or  
1770 other relief granted on a claim for damages if the claim for damages was not disclosed in:

1771 (a) writing prior to the arbitration proceeding; or

1772 (b) response to discovery contrary to the Utah Rules of Civil Procedure.

1773 (16) If a [district] court determines, upon a motion of the nonmoving party, that the  
1774 moving party's use of the trial de novo process was filed in bad faith, as described in Section  
1775 78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving party.

1776 (17) Nothing in this section is intended to affect or prevent any first party claim from  
1777 later being brought under any first party insurance policy under which the injured person is a  
1778 covered person.

1779 (18) (a) If a defendant requests a trial de novo under Subsection (11), the total verdict  
1780 at trial may not exceed \$15,000 above any available limits of insurance coverage and the total  
1781 verdict may not exceed \$65,000.

1782 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may  
1783 not exceed \$50,000.

1784 (19) All arbitration awards issued under this section shall bear postjudgment interest  
1785 pursuant to Section 15-1-4.

1786 Section 33. Section 19-4-109 is amended to read:

1787 **19-4-109. Violations -- Penalties -- Reimbursement for expenses.**

1788 (1) As used in this section, "criminal negligence" means the same as that term is  
1789 defined in Section 76-2-103.

1790 (2) (a) A person who violates this chapter, a rule or order issued under the authority of  
1791 this chapter, or the terms of a permit or other administrative authorization issued under the  
1792 authority of this chapter is subject to an administrative penalty:

- 1793 (i) not to exceed \$1,000 per day per violation, with respect to a public water system  
1794 serving a population of less than 10,000 individuals; or
- 1795 (ii) exactly \$1,000 per day per violation, with respect to a public water system serving  
1796 a population of more than 10,000 individuals.
- 1797 (b) In all cases, each day of violation is considered a separate violation.
- 1798 (3) The director may assess and make a demand for payment of an administrative  
1799 penalty under this section and may compromise or settle that penalty.
- 1800 (4) To make a demand for payment of an administrative penalty assessed under this  
1801 section, the director shall issue a notice of agency action, specifying, in addition to the  
1802 requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative  
1803 Procedures Act:
- 1804 (a) the date, facts, and nature of each act or omission charged;
- 1805 (b) the provision of the statute, rule, order, permit, or administrative authorization that  
1806 is alleged to have been violated;
- 1807 (c) each penalty that the director proposes to assess, together with the amount and date  
1808 of effect of that penalty; and
- 1809 (d) that failure to pay the penalty or respond may result in a civil action for collection.
- 1810 (5) A person notified according to Subsection (4) may request an adjudicative  
1811 proceeding.
- 1812 (6) Upon request by the director, the attorney general may institute a civil action to  
1813 collect a penalty assessed under this section.
- 1814 (7) (a) A person who, with criminal negligence, violates any rule or order made or  
1815 issued pursuant to this chapter, or with criminal negligence fails to take corrective action  
1816 required by an order, is guilty of a class B misdemeanor and subject to a fine of not more than  
1817 \$5,000 per day for each day of violation.
- 1818 (b) In addition, the person is subject, in a civil proceeding, to a penalty of not more  
1819 than \$5,000 per day for each day of violation.
- 1820 (8) (a) The director may bring a civil action for appropriate relief, including a  
1821 permanent or temporary injunction, for a violation for which the director is authorized to issue  
1822 a compliance order under Section [19-4-107](#).
- 1823 (b) [~~The~~] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director

1824 shall bring an action under this Subsection (8) in the [~~district court~~] county where the violation  
1825 occurs if the director brings the action in a district court.

1826 (9) (a) The attorney general is the legal advisor for the board and the director and shall  
1827 defend them in an action or proceeding brought against the board or director.

1828 (b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or  
1829 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or  
1830 criminal, requested by the director, to abate a condition that exists in violation of, or to  
1831 prosecute for the violation of, or to enforce the laws or the standards, orders, and rules of the  
1832 board or the director issued under this chapter.

1833 (c) The director may initiate action under this section and be represented by the  
1834 attorney general.

1835 (10) If a person fails to comply with a cease and desist order that is not subject to a stay  
1836 pending administrative or judicial review, the director may initiate an action for and be entitled  
1837 to injunctive relief to prevent further or continued violation of the order.

1838 (11) A bond may not be required for injunctive relief under this chapter.

1839 (12) (a) Except as provided in Subsection (12)(b), a penalty assessed and collected  
1840 under the authority of this section shall be deposited into the General Fund.

1841 (b) The department may reimburse itself and local governments from money collected  
1842 from civil penalties for extraordinary expenses incurred in environmental enforcement  
1843 activities.

1844 (c) The department shall regulate reimbursements by making rules that define:

1845 (i) qualifying environmental enforcement activities; and

1846 (ii) qualifying extraordinary expenses.

1847 Section 34. Section 19-4-113 is amended to read:

1848 **19-4-113. Water source protection ordinance .**

1849 (1) As used in this section, "municipality" means the same as that term is defined in  
1850 Section 10-1-104.

1851 (2) (a) Before May 3, 2010, a first or second class county shall:

1852 (i) adopt an ordinance in compliance with this section after:

1853 (A) considering the rules established by the board to protect a watershed or water  
1854 source used by a public water system;

1855 (B) consulting with a wholesale water supplier or retail water supplier whose drinking  
1856 water source is within the county's jurisdiction;

1857 (C) considering the effect of the proposed ordinance on:

1858 (I) agriculture production within an agricultural protection area created under Title 17,  
1859 Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas; and

1860 (II) a manufacturing, industrial, or mining operation within the county's jurisdiction;

1861 and

1862 (D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public  
1863 Meetings Act; and

1864 (ii) file a copy of the ordinance with the board.

1865 (b) A municipality in a first or second class county may adopt an ordinance that a first  
1866 or second class county is required to adopt by this section by following the procedures and  
1867 requirements of this section.

1868 (3) (a) A county ordinance adopted in accordance with this section applies to the  
1869 incorporated and unincorporated areas of the county unless a municipality adopts an ordinance  
1870 in accordance with this section.

1871 (b) A municipal ordinance adopted in accordance with this section supercedes, within  
1872 the municipality's jurisdiction, a county ordinance adopted in accordance with this section.

1873 (4) An ordinance required or authorized by this section at a minimum shall:

1874 (a) designate a drinking water source protection zone in accordance with Subsection

1875 (5) for a groundwater source that is:

1876 (i) used by a public water system; and

1877 (ii) located within the county's or municipality's jurisdiction;

1878 (b) contain a zoning provision regulating the storage, handling, use, or production of a  
1879 hazardous or toxic substance within a drinking water source protection zone designated under  
1880 Subsection (4)(a); and

1881 (c) authorize a retail water supplier or wholesale water supplier to seek enforcement of  
1882 the ordinance provision required by Subsections (4)(a) and (b) in a [~~district court located within~~  
1883 ~~the county or municipality~~] court with jurisdiction under Title 78A, Judiciary and Judicial  
1884 Administration, if the county or municipality:

1885 (i) notifies the retail water supplier or wholesale water supplier within 10 days of

1886 receiving notice of a violation of the ordinance that the county or municipality will not seek  
1887 enforcement of the ordinance; or

1888 (ii) does not seek enforcement within two days of a notice of violation of the ordinance  
1889 when the violation may cause irreparable harm to the groundwater source.

1890 (5) A county shall designate a drinking water source protection zone required by  
1891 Subsection (4)(a) within:

1892 (a) a 100 foot radius from the groundwater source; and

1893 (b) a 250 day groundwater time of travel to the groundwater source if the supplier  
1894 calculates the time of travel in the public water system's drinking water source protection plan  
1895 in accordance with board rules.

1896 (6) A zoning provision required by Subsection (4)(b) is not subject to Subsection  
1897 17-41-402(3).

1898 (7) An ordinance authorized by Section 10-8-15 supercedes an ordinance required or  
1899 authorized by this section to the extent that the ordinances conflict.

1900 (8) The board shall provide information, guidelines, and technical resources to a county  
1901 or municipality preparing and implementing an ordinance in accordance with this section.

1902 (9) A third, fourth, fifth, or sixth class county or a municipality located within a third,  
1903 fourth, fifth, or sixth class county may adopt an ordinance in accordance with this section to  
1904 establish a drinking water source protection zone and take any other action allowed under this  
1905 section.

1906 Section 35. Section 19-5-115 is amended to read:

1907 **19-5-115. Violations -- Penalties -- Civil actions by director -- Ordinances and**  
1908 **rules of political subdivisions -- Acts of individuals.**

1909 (1) As used in this section:

1910 (a) "Criminal negligence" means the same as that term is defined in Section 76-2-103.

1911 (b) "Knowingly" means the same as that term is defined in Section 76-2-103.

1912 (c) "Organization" means a legal entity, other than a government, established or  
1913 organized for any purpose, and includes a corporation, company, association, firm, partnership,  
1914 joint stock company, foundation, institution, trust, society, union, or any other association of  
1915 persons.

1916 (d) "Serious bodily injury" means bodily injury that involves a substantial risk of death,

1917 unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted  
1918 loss or impairment of the function of a bodily member, organ, or mental faculty.

1919 (e) "Willfully" means the same as that term is defined in Section 76-2-103.

1920 (2) A person who violates this chapter, or any permit, rule, or order adopted under this  
1921 chapter, upon a showing that the violation occurred, is subject in a civil proceeding to a civil  
1922 penalty not to exceed \$10,000 per day of violation.

1923 (3) (a) A person is guilty of a class A misdemeanor and is subject to imprisonment  
1924 under Section 76-3-204 and a fine not exceeding \$25,000 per day who, with criminal  
1925 negligence:

1926 (i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any  
1927 condition or limitation included in a permit issued under Subsection 19-5-107(3);

1928 (ii) violates Section 19-5-113;

1929 (iii) violates a pretreatment standard or toxic effluent standard for publicly owned  
1930 treatment works; or

1931 (iv) manages sewage sludge in violation of this chapter or rules adopted under this  
1932 chapter.

1933 (b) A person is guilty of a third degree felony and is subject to imprisonment under  
1934 Section 76-3-203 and a fine not to exceed \$50,000 per day of violation who knowingly:

1935 (i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any  
1936 condition or limitation included in a permit issued under Subsection 19-5-107(3);

1937 (ii) violates Section 19-5-113;

1938 (iii) violates a pretreatment standard or toxic effluent standard for publicly owned  
1939 treatment works; or

1940 (iv) manages sewage sludge in violation of this chapter or rules adopted under this  
1941 chapter.

1942 (4) A person is guilty of a third degree felony and subject to imprisonment under  
1943 Section 76-3-203 and shall be punished by a fine not exceeding \$10,000 per day of violation if  
1944 that person knowingly:

1945 (a) makes a false material statement, representation, or certification in any application,  
1946 record, report, plan, or other document filed or required to be maintained under this chapter, or  
1947 by any permit, rule, or order issued under this chapter; or

1948 (b) falsifies, tampers with, or knowingly renders inaccurate a monitoring device or  
1949 method required to be maintained under this chapter.

1950 (5) (a) A person is guilty of a second degree felony and, upon conviction, is subject to  
1951 imprisonment under Section 76-3-203 and a fine of not more than \$250,000 if that person:

1952 (i) knowingly violates this chapter, or any permit, rule, or order adopted under this  
1953 chapter; and

1954 (ii) knows at that time that the person is placing another person in imminent danger of  
1955 death or serious bodily injury.

1956 (b) If a person is an organization, the organization shall, upon conviction of violating  
1957 Subsection (5)(a), be subject to a fine of not more than \$1,000,000.

1958 (c) (i) A defendant who is an individual is considered to have acted knowingly if:

1959 (A) the defendant's conduct placed another person in imminent danger of death or  
1960 serious bodily injury; and

1961 (B) the defendant was aware of or believed that there was an imminent danger of death  
1962 or serious bodily injury to another person.

1963 (ii) Knowledge possessed by a person other than the defendant may not be attributed to  
1964 the defendant.

1965 (iii) Circumstantial evidence may be used to prove that the defendant possessed actual  
1966 knowledge, including evidence that the defendant took affirmative steps to be shielded from  
1967 receiving relevant information.

1968 (d) (i) It is an affirmative defense to prosecution under this Subsection (5) that the  
1969 conduct charged was consented to by the person endangered and that the danger and conduct  
1970 charged were reasonably foreseeable hazards of:

1971 (A) an occupation, a business, or a profession; or

1972 (B) medical treatment or medical or scientific experimentation conducted by  
1973 professionally approved methods and the other person was aware of the risks involved before  
1974 giving consent.

1975 (ii) The defendant has the burden of proof to establish an affirmative defense under this  
1976 Subsection (5)(d) and shall prove that defense by a preponderance of the evidence.

1977 (6) For purposes of Subsections (3) through (5), a single operational upset that leads to  
1978 simultaneous violations of more than one pollutant parameter shall be treated as a single



1979 violation.

1980 (7) (a) The director may ~~begin~~ bring a civil action for appropriate relief, including a  
1981 permanent or temporary injunction, for any violation or threatened violation for which the  
1982 director is authorized to issue a compliance order under Section [19-5-111](#).

1983 (b) ~~The~~ Notwithstanding Title 78A, Chapter 3a, Venue for Civil Actions, the director  
1984 shall bring a civil action in the district court where the violation or threatened violation occurs  
1985 if the director brings the action in a district court.

1986 (8) (a) The attorney general is the legal advisor for the board and the director and shall  
1987 defend the board or director in an action or proceeding brought against the board or director.

1988 (b) The county attorney or district attorney, as appropriate under Section [17-18a-202](#) or  
1989 [17-18a-203](#), in the county in which a cause of action arises, shall bring an action, civil or  
1990 criminal, requested by the director, to abate a condition that exists in violation of, or to  
1991 prosecute for the violation of, or to enforce, the laws or the standards, orders, and rules of the  
1992 board or the director issued under this chapter.

1993 (c) The director may initiate an action under this section and be represented by the  
1994 attorney general.

1995 (9) If a person fails to comply with a cease and desist order that is not subject to a stay  
1996 pending administrative or judicial review, the director may initiate an action for and be entitled  
1997 to injunctive relief to prevent any further or continued violation of the order.

1998 (10) A political subdivision of the state may enact and enforce ordinances or rules for  
1999 the implementation of this chapter that are not inconsistent with this chapter.

2000 (11) (a) Except as provided in Subsection (11)(b), penalties assessed and collected  
2001 under the authority of this section shall be deposited into the General Fund.

2002 (b) The department may reimburse itself and local governments from money collected  
2003 from civil penalties for extraordinary expenses incurred in environmental enforcement  
2004 activities.

2005 (c) The department shall regulate reimbursements by making rules, in accordance with  
2006 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

2007 (i) define qualifying environmental enforcement activities; and

2008 (ii) define qualifying extraordinary expenses.

2009 (12) (a) For purposes of this section or an ordinance or rule enacted by a political

2010 subdivision under Subsection (10), an act performed by an individual wholly within the scope  
2011 of the individual's employment with an organization, is attributed to the organization.

2012 (b) Notwithstanding the other provisions of this section, an action may not be brought  
2013 against an individual acting wholly within the scope of the individual's employment with an  
2014 organization if the action is brought under:

2015 (i) this section;

2016 (ii) an ordinance or rule issued by a political subdivision under Subsection (10); or

2017 (iii) any local law or ordinance governing discharge.

2018 Section 36. Section **19-6-115** is amended to read:

2019 **19-6-115. Imminent danger to health or environment -- Authority of executive**  
2020 **director to initiate action to restrain.**

2021 Notwithstanding any other provision of this part, upon receipt of evidence that the  
2022 handling, transportation, treatment, storage, or disposal of any solid or hazardous waste, or a  
2023 release from an underground storage tank, is presenting an imminent and substantial danger to  
2024 health or the environment, the executive director may bring suit on behalf of this state in [~~the~~  
2025 ~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration,  
2026 to immediately restrain any person contributing, or who has contributed, to that action to stop  
2027 the handling, storage, treatment, transportation, or disposal or to take other action as  
2028 appropriate.

2029 Section 37. Section **19-6-206** is amended to read:

2030 **19-6-206. Exclusive remedy for devaluation of property caused by approved**  
2031 **facility.**

2032 (1) (a) Before construction of a hazardous waste management facility, but in no case  
2033 later than nine months after approval of a plan for a hazardous waste treatment, storage, or  
2034 disposal facility, any owner or user of property adversely affected by approval may bring an  
2035 action in [~~a district court of competent jurisdiction~~] a court with jurisdiction under Title 78A,  
2036 Judiciary and Judicial Administration, against the owner of the proposed facility.

2037 (b) If the court determines that the planned construction and operation of the hazardous  
2038 waste management facility will result in the devaluation of the plaintiff's property or will  
2039 otherwise interfere with the plaintiff's rights in the property, [~~it~~] the court shall order the owner  
2040 to compensate the plaintiff in an amount equal to the value of the plaintiff's loss.

2041 (2) The remedy provided in Subsection (1) is the exclusive remedy for owners or users  
2042 aggrieved by the proposed construction and operation of a hazardous waste treatment, disposal,  
2043 or storage facility, and no court has jurisdiction to enjoin the construction or operation of any  
2044 facility located at a site included in the siting plan adopted by the board.

2045 (3) (a) Nothing in this part prevents an owner or user of property aggrieved by the  
2046 construction and operation of a facility from seeking damages that result from a subsequent  
2047 modification of the design or operation of a facility but damages are limited to the incremental  
2048 damage that results from the modification.

2049 (b) Any action for damages from a modification shall be brought within nine months  
2050 after the plans for modification of the design or operation of the facility are approved.

2051 (4) For the purpose of assessing damages, the value of the rights affected is fixed at the  
2052 date the facility plan is approved and the actual value of the right at that date is the basis for the  
2053 determination of the amount of damage suffered, and no improvements to the property  
2054 subsequent to the date of approval of the plans shall be included in the assessment of damages.  
2055 Similarly, for any subsequent modification of a facility, value is fixed at the date of approval of  
2056 the amended facility plan.

2057 (5) (a) The owner or operator of a proposed facility may, at any time before an award  
2058 of damages, abandon the construction or operation of the facility or any modification and cause  
2059 the action to be dismissed.

2060 (b) As a condition of dismissal, however, the owner or operator shall compensate the  
2061 plaintiff for any actual damage sustained as a result of construction or operation of the facility  
2062 before abandonment together with court costs and a reasonable attorney's fee.

2063 (6) Nothing in this part prevents a court from enjoining any activity at a hazardous  
2064 waste facility that is outside of, or not in compliance with, the terms and conditions of an  
2065 approved hazardous waste operations plan.

2066 Section 38. Section **19-6-306** is amended to read:

2067 **19-6-306. Penalties -- Lawsuits.**

2068 (1) Any person who violates any final order or rule issued or made under this part is  
2069 subject in a civil proceeding to a penalty of not more than \$10,000 per day for each day of  
2070 violation.

2071 (2) Any person who violates the terms of any agreement made under authority of this

2072 part is subject in a civil proceeding to pay:

2073 (a) any penalties stipulated in the agreement; or

2074 (b) if no penalties are stipulated in the agreement, a penalty of not more than \$10,000  
2075 per day for each day of violation.

2076 (3) The executive director shall deposit all civil penalties collected under the authority  
2077 of this section into the General Fund.

2078 (4) (a) The executive director may enforce any orders issued under authority of this  
2079 part by bringing a suit to enforce the order in [~~the district court in Salt Lake County or in the~~  
2080 ~~district court in the county where the hazardous substances release occurred~~] a court with  
2081 jurisdiction under Title 78A, Judiciary and Judicial Administration.

2082 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the executive  
2083 director brings a suit described in Subsection (4)(a) in the district court, the executive director  
2084 shall bring the suit in:

2085 (i) Salt Lake County; or

2086 (ii) the county where the hazardous substances release occurred.

2087 [~~(b)~~] (c) After a remedial investigation has been completed, the executive director may  
2088 bring a suit in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial  
2089 Administration, against all responsible parties, asking the court for injunctive relief and to  
2090 apportion liability among the responsible parties for performance of remedial action.

2091 Section 39. Section **19-6-309** is amended to read:

2092 **19-6-309. Emergency provisions.**

2093 (1) (a) If the executive director has reason to believe any hazardous materials release  
2094 that occurred after March 18, 1985, is presenting a direct and immediate threat to public health  
2095 or the environment, the executive director may:

2096 (i) issue an order requiring the owner or operator of the facility to take abatement  
2097 action within the time specified in the order; or

2098 (ii) bring suit on behalf of the state in [~~the district court~~] a court with jurisdiction under  
2099 Title 78A, Judiciary and Judicial Administration, to require the owner or operator to take  
2100 immediate abatement action.

2101 (b) If the executive director determines the owner or operator cannot be located or is  
2102 unwilling or unable to take abatement action, the executive director may:

2103 (i) reach an agreement with one or more potentially responsible parties to take  
2104 abatement action; or  
2105 (ii) use fund money to investigate the release and take abatement action.  
2106 (2) The executive director may use money from the fund created in Section 19-6-307:  
2107 (a) for abatement action even if an adjudicative proceeding or judicial review  
2108 challenging an order or a decision to take abatement action is pending; and  
2109 (b) to investigate a suspected hazardous materials release if he has reason to believe the  
2110 release may present a direct and immediate threat to public health.  
2111 (3) This section takes precedence over any conflicting provision in this part.  
2112 Section 40. Section 19-6-310 is amended to read:  
2113 **19-6-310. Apportionment of liability -- Liability agreements -- Legal remedies.**  
2114 (1) The executive director may recover only the proportionate share of costs of any  
2115 investigation and abatement performed under Section 19-6-309 and this section from each  
2116 responsible party, as provided in this section.  
2117 (2) (a) In apportioning responsibility for the investigation and abatement, or liability  
2118 for the costs of the investigation and abatement, in any administrative proceeding or judicial  
2119 action, the following standards apply:  
2120 (i) liability shall be apportioned in proportion to each responsible party's respective  
2121 contribution to the release; and  
2122 (ii) the apportionment of liability shall be based on equitable factors, including the  
2123 quantity, mobility, persistence, and toxicity of hazardous materials contributed by a responsible  
2124 party, and the comparative behavior of a responsible party in contributing to the release,  
2125 relative to other responsible parties.  
2126 (b) Liability may not be apportioned against a current or previous owner or operator  
2127 who acquired or became the operator of the facility before March 18, 1985, who may otherwise  
2128 be a responsible party but who did not know that any hazardous material which is the subject of  
2129 a release was on, in, or at the facility prior to acquisition or operation of the facility, and the  
2130 release is not the result of an act or omission of the current or previous owner or operator.  
2131 (c) Liability may not be apportioned against a current or previous owner or operator  
2132 who acquired or became the operator of the facility on or after March 18, 1985, who may  
2133 otherwise be a responsible party but who did not know and had no reason to know, after having

2134 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent  
2135 with good commercial or customary practice at the time of the purchase, that any hazardous  
2136 material which is the subject of a release was on, in, or at the facility prior to acquisition or  
2137 operation of the facility, and the release is not the result of an act or omission of the current or  
2138 previous owner or operator.

2139 (d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be  
2140 considered to have contributed to the release and may be liable for a proportionate share of  
2141 costs as provided under this section either by affirmatively causing a release or by failing to  
2142 take action to prevent or abate a release which has originated at or from the facility. A person  
2143 whose property is contaminated by migration from an offsite release is not considered to have  
2144 contributed to the release unless the person takes actions which exacerbate the release.

2145 (e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person  
2146 who is not considered to have contributed to a release under Subsection (2)(d) is not considered  
2147 to have contributed to a release solely by failing to take abatement or remedial action pursuant  
2148 to an administrative order.

2149 (f) (i) The burden of proving proportionate contribution shall be borne by each  
2150 responsible party.

2151 (ii) If a responsible party does not prove his proportionate contribution, the court or the  
2152 executive director shall apportion liability to the party based solely on available evidence and  
2153 the standards of Subsection (2)(a).

2154 (iii) The ability of a responsible party to pay is not a factor in the apportionment of  
2155 liability.

2156 (g) The court may not impose joint and several liability.

2157 (h) Each responsible party is strictly liable solely for his proportionate share of  
2158 investigation and abatement costs.

2159 (3) The failure of the executive director to name all responsible parties is not a defense  
2160 to an action under this section.

2161 (4) (a) Any party who incurs costs under Section 19-6-309 and this section in excess of  
2162 [his] the party's liability may seek contribution from any other party who is or may be liable  
2163 under Section 19-6-309 and this section for the excess costs in ~~[the district court]~~ a court with  
2164 jurisdiction under Title 78A, Judiciary and Judicial Administration.

2165 (b) In resolving claims made under Subsection (4)(a), the court shall allocate costs  
2166 using the standards set forth in Subsection (2).

2167 (5) (a) A party who has resolved his liability in an agreement under Section 19-6-309  
2168 and this section is not liable for claims for contribution regarding matters addressed in the  
2169 settlement.

2170 (b) (i) An agreement does not discharge any of the liability of responsible parties who  
2171 are not parties to the agreement, unless the terms of the agreement provide otherwise.

2172 (ii) An agreement made under this subsection reduces the potential liability of other  
2173 responsible parties by the amount of the agreement.

2174 (6) (a) If the executive director obtains less than complete relief from a party who has  
2175 resolved his liability in an agreement under Section 19-6-309 and this section, the executive  
2176 director may bring an action against any party who has not resolved his liability in an  
2177 agreement.

2178 (b) In apportioning liability, the standards of Subsection (2) apply.

2179 (c) A party who resolved his liability for some or all of the costs in an agreement under  
2180 Section 19-6-309 and this section may seek contribution from any person who is not party to an  
2181 agreement under Section 19-6-309 and this section.

2182 (7) (a) An agreement made under Section 19-6-309 and this section may provide that  
2183 the executive director will pay for costs of actions that the parties have agreed to perform, but  
2184 which the executive director has agreed to finance, under the agreement.

2185 (b) If the executive director makes payments from the fund, he may recover the amount  
2186 paid using the authority of Section 19-6-309 and this section or any other applicable authority.

2187 (8) (a) The executive director may not recover costs of any investigation performed  
2188 under the authority of Subsection 19-6-309(2)(b) if the investigation does not confirm that a  
2189 release presenting a direct and immediate threat to public health has occurred.

2190 (b) This subsection takes precedence over any conflicting provision of this section  
2191 regarding cost recovery.

2192 Section 41. Section 19-6-316 is amended to read:

2193 **19-6-316. Liability for costs of remedial investigations -- Liability agreements.**

2194 (1) The executive director may recover only a proportionate share of costs of any  
2195 remedial investigation performed under Sections 19-6-314 and 19-6-315 from each responsible

2196 party, as provided in this section.

2197 (2) (a) In apportioning responsibility for the remedial investigation, or liability for the  
2198 costs of the remedial investigation, in any administrative proceeding or judicial action, the  
2199 following standards apply:

2200 (i) liability shall be apportioned in proportion to each responsible party's respective  
2201 contribution to the release;

2202 (ii) the apportionment of liability shall be based on equitable factors, including the  
2203 quantity, mobility, persistence, and toxicity of hazardous substances contributed by a  
2204 responsible party, and the comparative behavior of a responsible party in contributing to the  
2205 release, relative to other responsible parties.

2206 (b) Liability may not be apportioned against a current or previous owner or operator  
2207 who acquired or became the operator of the facility before March 18, 1985, who may otherwise  
2208 be a responsible party but who did not know that any hazardous material which is the subject of  
2209 a release was on, in, or at the facility prior to acquisition or operation of the facility, and the  
2210 release is not the result of an act or omission of the current or previous owner or operator.

2211 (c) Liability may not be apportioned against a current or previous owner or operator  
2212 who acquired or became the operator of the facility on or after March 18, 1985, who may  
2213 otherwise be a responsible party but who did not know and had no reason to know, after having  
2214 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent  
2215 with good commercial or customary practice at the time of the purchase, that any hazardous  
2216 material which is the subject of a release was on, in, or at the facility prior to acquisition or  
2217 operation of the facility, and the release is not the result of an act or omission of the current or  
2218 previous owner or operator.

2219 (d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be  
2220 considered to have contributed to the release and may be liable for a proportionate share of  
2221 costs as provided under this section either by affirmatively causing a release or by failing to  
2222 take action to prevent or abate a release which has originated at or from the facility. A person  
2223 whose property is contaminated by migration from an offsite release is not considered to have  
2224 contributed to the release unless the person takes actions which exacerbate the release.

2225 (e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person  
2226 who is not considered to have contributed to a release under Subsection (2)(d) is not considered



2227 to have contributed to a release solely by failing to take abatement or remedial action pursuant  
2228 to an administrative order.

2229 (f) (i) The burden of proving proportionate contribution shall be borne by each  
2230 responsible party.

2231 (ii) If a responsible party does not prove his proportionate contribution, the court or the  
2232 executive director shall apportion liability to the party based solely on available evidence and  
2233 the standards of Subsection (2)(a).

2234 (iii) The ability of a responsible party to pay is not a factor in the apportionment of  
2235 liability.

2236 (g) The court may not impose joint and several liability.

2237 (h) Each responsible party is strictly liable solely for his proportionate share of  
2238 investigation costs.

2239 (3) The failure of the executive director to name all responsible parties is not a defense  
2240 to an action under this section.

2241 (4) (a) Any party who incurs costs under this part in excess of his liability may seek  
2242 contribution from any other party who is or may be liable under this part for the excess costs in  
2243 [~~district court~~] a court with jurisdiction under [Title 78A, Judiciary and Judicial Administration](#).

2244 (b) In resolving claims made under Subsection (4)(a), the court shall allocate costs  
2245 using the standards set forth in Subsection (2).

2246 (5) (a) A party who has resolved his liability in an agreement under Sections [19-6-314](#)  
2247 through this section is not liable for claims for contribution regarding matters addressed in the  
2248 settlement.

2249 (b) (i) An agreement does not discharge any of the liability of responsible parties who  
2250 are not parties to the agreement, unless the terms of the agreement provide otherwise.

2251 (ii) An agreement made under this Subsection (5)(b) reduces the potential liability of  
2252 other responsible parties by the amount of the agreement.

2253 (6) (a) If the executive director obtains less than complete relief from a party who has  
2254 resolved his liability in an agreement under Sections [19-6-314](#) through this section, the  
2255 executive director may bring an action against any party who has not resolved his liability in an  
2256 agreement.

2257 (b) In apportioning liability, the standards of Subsection (2) apply.

2258 (c) A party who resolved his liability for some or all of the costs in an agreement under  
2259 Sections 19-6-314 through this section may seek contribution from any person who is not party  
2260 to an agreement under Sections 19-6-314 through this section.

2261 (7) (a) An agreement made under Sections 19-6-314 through this section may provide  
2262 that the executive director will pay for costs of actions that the parties have agreed to perform,  
2263 but which the executive director has agreed to finance, under the agreement.

2264 (b) If the executive director makes payments from the fund, he may recover the amount  
2265 paid using the authority of Sections 19-6-314 through this section or any other applicable  
2266 authority.

2267 Section 42. Section 19-6-318 is amended to read:

2268 **19-6-318. Remedial action liability -- Liability agreements.**

2269 (1) (a) In apportioning responsibility for the remedial action in any administrative  
2270 proceeding or judicial action under Sections 19-6-317 and 19-6-319, the following standards  
2271 apply:

2272 (i) liability shall be apportioned in proportion to each responsible party's respective  
2273 contribution to the release;

2274 (ii) the apportionment of liability shall be based on equitable factors, including the  
2275 quantity, mobility, persistence, and toxicity of hazardous substances contributed by a  
2276 responsible party, and the comparative behavior of a responsible party in contributing to the  
2277 release, relative to other responsible parties.

2278 (b) Liability may not be apportioned against a current or previous owner or operator  
2279 who acquired or became the operator of the facility before March 18, 1985, who may otherwise  
2280 be a responsible party but who did not know that any hazardous material which is the subject of  
2281 a release was on, in, or at the facility prior to acquisition or operation of the facility, and the  
2282 release is not the result of an act or omission of the current or previous owner or operator.

2283 (c) Liability may not be apportioned against a current or previous owner or operator  
2284 who acquired or became the operator of the facility on or after March 18, 1985, who may  
2285 otherwise be a responsible party but who did not know and had no reason to know, after having  
2286 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent  
2287 with good commercial or customary practice at the time of the purchase, that any hazardous  
2288 material which is the subject of a release was on, in, or at the facility prior to acquisition or

2289 operation of the facility, and the release is not the result of an act or omission of the current or  
2290 previous owner or operator.

2291 (d) A responsible party who is not exempt under Subsection (1)(b) or (c) may be  
2292 considered to have contributed to the release and may be liable for a proportionate share of  
2293 costs as provided under this section either by affirmatively causing a release or by failing to  
2294 take action to prevent or abate a release which has originated at or from the facility. A person  
2295 whose property is contaminated by migration from an offsite release is not considered to have  
2296 contributed to the release unless the person takes actions which exacerbate the release.

2297 (e) A responsible party who meets the criteria in Subsection (1)(b) or (c) or a person  
2298 who is not considered to have contributed to a release under Subsection (1)(d) is not considered  
2299 to have contributed to a release solely by failing to take abatement or remedial action pursuant  
2300 to an administrative order.

2301 (f) (i) The burden of proving proportionate contribution shall be borne by each  
2302 responsible party.

2303 (ii) If a responsible party does not prove his proportionate contribution, the court or the  
2304 director shall apportion liability to the party solely based on available evidence and the  
2305 standards of Subsection (1)(a).

2306 (iii) The ability of a responsible party to pay is not a factor in the apportionment of  
2307 liability.

2308 (g) The court may not impose joint and several liability.

2309 (h) Each responsible party is strictly liable solely for his proportionate share of  
2310 remedial action costs.

2311 (2) The failure of the executive director to name all responsible parties is not a defense  
2312 to an action under this section.

2313 (3) (a) Any party who incurs costs under Sections 19-6-317 through 19-6-320 in excess  
2314 of his liability may seek contribution from any other party who is or may be liable under  
2315 Sections 19-6-317 through 19-6-320 for the excess costs in [~~district court~~] a court with  
2316 jurisdiction under Title 78A, Judiciary and Judicial Administration.

2317 (b) In resolving claims made under Subsection (3)(a), the court shall allocate costs  
2318 using the standards set forth in Subsection (1).

2319 (4) (a) A party who has resolved his liability in an agreement under Sections 19-6-317

2320 through 19-6-320 is not liable for claims for contribution regarding matters addressed in the  
2321 settlement.

2322 (b) (i) An agreement does not discharge any of the liability of responsible parties who  
2323 are not parties to the agreement, unless the terms of the agreement provide otherwise.

2324 (ii) An agreement made under this Subsection (4)(b) reduces the potential liability of  
2325 other responsible parties by the amount of the agreement.

2326 (5) (a) If the executive director obtains less than complete relief from a party who has  
2327 resolved his liability in an agreement under Sections 19-6-317 through 19-6-320, the executive  
2328 director may bring an action against any party who has not resolved his liability in an  
2329 agreement.

2330 (b) In apportioning liability, the standards of Subsection (1) apply.

2331 (c) A party who resolved his liability for some or all of the costs in an agreement under  
2332 Sections 19-6-317 through 19-6-320 may seek contribution from any person who is not party to  
2333 an agreement under Sections 19-6-317 through 19-6-320.

2334 (6) (a) An agreement made under Sections 19-6-317 through 19-6-320 may provide  
2335 that the executive director will pay for costs of actions that the parties have agreed to perform,  
2336 but which the executive director has agreed to finance, under the agreement.

2337 (b) If the executive director makes payments, he may recover the amount using the  
2338 authority of Sections 19-6-317 through 19-6-320 or any other applicable authority.

2339 Section 43. Section 19-6-325 is amended to read:

2340 **19-6-325. Voluntary agreements -- Parties -- Funds -- Enforcement.**

2341 (1) (a) Under this part, and subject to Subsection (1)(b), the executive director may  
2342 enter into a voluntary agreement with a responsible party providing for the responsible party to  
2343 conduct an investigation or a cleanup action on sites that contain hazardous materials.

2344 (b) The executive director and a responsible party may not enter into a voluntary  
2345 agreement under this part unless all known potentially responsible parties:

2346 (i) have been notified by either the executive director or the responsible party of the  
2347 proposed agreement; and

2348 (ii) have been given an opportunity to comment on the proposed agreement prior to the  
2349 parties' entering into the agreement.

2350 (2) (a) The executive director may receive funds from any responsible party that signs a

2351 voluntary agreement allowing the executive director to:

2352 (i) review any proposals outlining how the investigation or cleanup action is to be  
2353 performed; and

2354 (ii) oversee the investigation or cleanup action.

2355 (b) Funds received by the executive director under this section shall be deposited in the  
2356 fund and used by the executive director as provided in the voluntary agreement.

2357 (3) If a responsible party fails to perform as required under a voluntary agreement  
2358 entered into under this part, the executive director may take action and seek penalties to enforce  
2359 the agreement as provided in the agreement.

2360 (4) The executive director may not use the provisions of Section 19-6-310, 19-6-316,  
2361 or 19-6-318 to recover costs received or expended pursuant to a voluntary agreement from any  
2362 person not a party to that agreement.

2363 (5) (a) Any party who incurs costs under a voluntary agreement in excess of his  
2364 liability may seek contribution from any other party who is or may be liable under this part for  
2365 the excess costs in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and  
2366 Judicial Administration.

2367 (b) In resolving claims made under Subsection (5)(a), the court shall allocate costs  
2368 using the standards in Subsection 19-6-310(2).

2369 (6) This section takes precedence over conflicting provisions in this chapter regarding  
2370 agreements with responsible parties to conduct an investigation or cleanup action.

2371 Section 44. Section 19-6-424.5 is amended to read:

2372 **19-6-424.5. Apportionment of liability -- Liability agreements -- Legal remedies --**  
2373 **Amounts recovered.**

2374 (1) After providing notice and opportunity for comment to responsible parties  
2375 identified and named under Section 19-6-420, the director may:

2376 (a) issue written orders determining responsible parties;

2377 (b) issue written orders apportioning liability among responsible parties; and

2378 (c) take action, including legal action or issuing written orders, to recover costs from  
2379 responsible parties, including costs of any investigation, abatement, and corrective action  
2380 performed under this part.

2381 (2) (a) In any apportionment of liability, whether made by the director or made in any

2382 administrative proceeding or judicial action, the following standards apply:

2383 (i) liability shall be apportioned among responsible parties in proportion to their  
2384 respective contributions to the release; and

2385 (ii) the apportionment of liability shall be based on equitable factors, including the  
2386 quantity, mobility, persistence, and toxicity of regulated substances contributed by a  
2387 responsible party, and the comparative behavior of a responsible party in contributing to the  
2388 release, relative to other responsible parties.

2389 (b) (i) The burden of proving proportionate contribution shall be borne by each  
2390 responsible party.

2391 (ii) If a responsible party does not prove the responsible party's proportionate  
2392 contribution, the court or the director shall apportion liability to the party based on available  
2393 evidence and the standards of Subsection (2)(a).

2394 (c) The court, the board, or the director may not impose joint and several liability.

2395 (d) Each responsible party is strictly liable for his share of costs.

2396 (3) The failure of the director to name all responsible parties is not a defense to an  
2397 action under this section.

2398 (4) The director may enter into an agreement with any responsible party regarding that  
2399 party's proportionate share of liability or any action to be taken by that party.

2400 (5) The director and a responsible party may not enter into an agreement under this part  
2401 unless all responsible parties named and identified under Subsection 19-6-420(1)(a):

2402 (a) have been notified in writing by either the director or the responsible party of the  
2403 proposed agreement; and

2404 (b) have been given an opportunity to comment on the proposed agreement prior to the  
2405 parties' entering into the agreement.

2406 (6) (a) Any party who incurs costs under this part in excess of ~~[his]~~ the party's liability  
2407 may seek contribution from any other party who is or may be liable under this part for the  
2408 excess costs in ~~[the district court]~~ a court with jurisdiction under Title 78A, Judiciary and  
2409 Judicial Administration.

2410 (b) In resolving claims made under Subsection (6)(a), the court shall allocate costs  
2411 using the standards in Subsection (2).

2412 (7) (a) A party who has resolved his liability under this part is not liable for claims for

2413 contribution regarding matters addressed in the agreement or order.

2414 (b) (i) An agreement or order determining liability under this part does not discharge  
2415 any of the liability of responsible parties who are not parties to the agreement or order, unless  
2416 the terms of the agreement or order expressly provide otherwise.

2417 (ii) An agreement or order determining liability made under this subsection reduces the  
2418 potential liability of other responsible parties by the amount of the agreement or order.

2419 (8) (a) If the director obtains less than complete relief from a party who has resolved  
2420 his liability under this section, the director may bring an action against any party who has not  
2421 resolved his liability as determined in an order.

2422 (b) In apportioning liability, the standards of Subsection (2) apply.

2423 (c) A party who resolved his liability for some or all of the costs under this part may  
2424 seek contribution from any person who is not a party to the agreement or order.

2425 (9) (a) An agreement or order determining liability under this part may provide that the  
2426 director will pay for costs of actions that the parties have agreed to perform, but which the  
2427 director has agreed to finance, under the terms of the agreement or order.

2428 (b) If the director makes payments from the fund or state cleanup appropriation, he  
2429 may recover the amount paid using the authority of Section 19-6-420 and this section or any  
2430 other applicable authority.

2431 (c) Any amounts recovered under this section shall be deposited [in] into the Petroleum  
2432 Storage Tank Cleanup Fund created under Section 19-6-405.7.

2433 Section 45. Section 19-6-425 is amended to read:

2434 **19-6-425. Violation of part -- Civil penalty -- Civil action.**

2435 (1) Except as provided in Section 19-6-407, any person who violates any requirement  
2436 of this part or any order issued or rule made under the authority of this part is subject to a civil  
2437 penalty of not more than \$10,000 per day for each day of violation.

2438 (2) (a) The director may enforce any requirement, rule, agreement, or order issued  
2439 under this part by bringing [~~a suit in the district court~~] an action in a court with jurisdiction  
2440 under Title 78A, Judiciary and Judicial Administration.

2441 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall  
2442 bring an action in the county where the underground storage tank or petroleum storage tank is  
2443 located if the director brings the action in the district court.



2444 (3) The department shall deposit the penalties collected under this part in the  
2445 Petroleum Storage Tank Restricted Account created under Section 19-6-405.5.

2446 Section 46. Section 19-6-804 is amended to read:

2447 **19-6-804. Restrictions on disposal and transfer of tires -- Penalties.**

2448 (1) (a) An individual, including a waste tire transporter, may not transfer for temporary  
2449 storage more than 12 whole tires at one time to a landfill or other location in the state  
2450 authorized by the director to receive waste tires, except for purposes authorized by board rule.

2451 (b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter  
2452 greater than 24.5 inches.

2453 (c) A person, including a waste tire transporter, may not dispose of waste tires or store  
2454 waste tires in any manner not allowed under this part or rules made under this part.

2455 (2) The operator of the landfill or other authorized location shall direct that the waste  
2456 tires be stored in a designated area to facilitate retrieval if a market becomes available for the  
2457 disposed waste tires or material derived from waste tires.

2458 (3) An individual, including a waste tire transporter, may dispose of shredded waste  
2459 tires in a landfill in accordance with Section 19-6-812, and may also, without reimbursement,  
2460 dispose in a landfill materials derived from waste tires that do not qualify for reimbursement  
2461 under Section 19-6-812, but the landfill shall dispose of the material in accordance with  
2462 Section 19-6-812.

2463 (4) A tire retailer may only transfer ownership of a waste tire described in Subsection  
2464 19-6-803(28)(b) to:

2465 (a) a person who purchases it for the person's own use and not for resale; or

2466 (b) a waste tire transporter that:

2467 (i) is registered in accordance with Section 19-6-806; and

2468 (ii) agrees to transport the tire to:

2469 (A) a tire retailer that sells the tire wholesale or retail; or

2470 (B) a recycler.

2471 (5) (a) (i) An individual, including a waste tire transporter, violating this section is  
2472 subject to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or  
2473 per passenger tire equivalent disposed of in violation of this section.

2474 (ii) A warning notice may be issued before taking further enforcement action under this



2475 Subsection (5).

2476 ~~[(b) A civil proceeding to enforce this section and collect penalties under this section~~  
2477 ~~may be brought in the district court where the violation occurred by the director, the local~~  
2478 ~~health department, or the county attorney having jurisdiction over the location where the tires~~  
2479 ~~were disposed in violation of this section.]~~

2480 (b) The director, the local health department, or the county attorney with jurisdiction  
2481 over the location where the tires were disposed in violation of this section, may bring an action  
2482 to enforce this section and collect penalties in a court with jurisdiction under Title 78A,  
2483 Judiciary and Judicial Administration.

2484 (c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director, local  
2485 health department, or county attorney shall bring an action described in Subsection (5)(b) in the  
2486 county where the violation occurred if the action is brought in the district court.

2487 ~~[(c)]~~ (d) Penalties collected under this section shall be deposited ~~[in]~~ into the fund.  
2488 Section 47. Section **19-8-119** is amended to read:

2489 **19-8-119. Apportionment or contribution.**

2490 (1) Any party who incurs costs under a voluntary agreement entered into under this part  
2491 in excess of the party's liability may seek contribution in an action in ~~[district court]~~ a court  
2492 with jurisdiction under Title 78A, Judiciary and Judicial Administration, from any other party  
2493 who is or may be liable under Subsection **19-6-302(21)** or **19-6-402(27)** for the excess costs  
2494 after providing written notice to any other party that the party bringing the action has entered  
2495 into a voluntary agreement and will incur costs.

2496 (2) In resolving claims made under Subsection (1), the court shall allocate costs using  
2497 the standards in Subsection **19-6-310(2)**.

2498 Section 48. Section **23A-13-201** is amended to read:

2499 **23A-13-201. Creation of a migratory bird production area.**

2500 (1) (a) On or before July 1, 2022, an owner or owners of at least 500 contiguous acres  
2501 of land in an unincorporated area may dedicate the land as a migratory bird production area by  
2502 filing a notice of dedication with the county recorder of the county in which the land is located.

2503 (b) The notice of dedication shall contain:

2504 (i) the legal description of the land included within the migratory bird production area;

2505 (ii) the name of the owner or owners of the land included within the migratory bird

2506 production area; and

2507 (iii) an affidavit signed by each landowner that all of the land, except as provided by  
2508 Subsection (2), within the migratory bird production area is:

2509 (A) actively managed for migratory bird:

2510 (I) production;

2511 (II) habitat; or

2512 (III) hunting; and

2513 (B) used for a purpose compatible with the purposes described in Subsection

2514 (1)(b)(iii)(A).

2515 (c) A person who files a notice of dedication under this section shall give a copy of the  
2516 notice of dedication within 10 days of its filing to the legislative body of the county in which  
2517 the migratory bird production area is located.

2518 (2) (a) The notice of dedication may designate land, the amount of which is less than  
2519 1% of the total acreage within a migratory bird production area, upon which the landowner  
2520 may build a structure described in Subsection 23A-13-302(1)(c).

2521 (b) (i) An owner may build or maintain a road, dike, or water control structure within  
2522 the migratory bird production area.

2523 (ii) A road, dike, or water control structure is not considered a structure for purposes of  
2524 Subsection (2)(a).

2525 (3) (a) Within 30 days of the day on which the county legislative body receives a copy  
2526 of the notice of dedication under Subsection (1)(c), the county legislative body may bring an  
2527 action in [~~district court~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial  
2528 Administration, to cancel or revise a migratory bird production area on the basis that an  
2529 affidavit filed as part of the notice of dedication under Subsection (1)(b)(iii) is inaccurate.

2530 (b) In bringing the action, the county legislative body shall specify the portion of the  
2531 migratory bird production area and the affidavit subject to the action.

2532 (c) In an action brought under this Subsection (3), the person who files an affidavit  
2533 described in Subsection (3)(a) has the burden to prove by a preponderance of the evidence that  
2534 the affidavit is accurate.

2535 (d) If the court cancels or revises a migratory bird production area, the person who filed  
2536 the original notice of dedication shall file a revision notice with the county recorder reflecting

2537 the court's order.

2538 (4) In accordance with Section 23A-13-202, a person may at any time add land to a  
2539 migratory bird production area created under this section.

2540 Section 49. Section 26B-3-1110 is amended to read:

2541 **26B-3-1110. Revocation of license of assisted living facility -- Appointment of**  
2542 **receiver.**

2543 (1) (a) If the license of an assisted living facility is revoked for violation of this part,  
2544 the county attorney may [~~file a petition with the district court for the county in which the~~  
2545 ~~facility is located~~] bring a petition in a court with jurisdiction under Title 78A, Judiciary and  
2546 Judicial Administration, for the appointment of a receiver.

2547 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall  
2548 bring the petition in the county in which the facility is located if the person brings the petition  
2549 in the district court.

2550 (2) The [~~district~~] court shall issue an order to show cause why a receiver should not be  
2551 appointed returnable within five days after the filing of the petition.

2552 (3) (a) If the court finds that the facts warrant the granting of the petition, the court  
2553 shall appoint a receiver to take charge of the facility.

2554 (b) The court may determine fair compensation for the receiver.

2555 (4) A receiver appointed pursuant to this section shall have the powers and duties  
2556 prescribed by the court.

2557 Section 50. Section 26B-3-1114 is amended to read:

2558 **26B-3-1114. Investigations -- Civil investigative demands.**

2559 (1) The attorney general may take investigative action under Subsection (2) if the  
2560 attorney general has reason to believe that:

2561 (a) a person has information or custody or control of documentary material relevant to  
2562 the subject matter of an investigation of an alleged violation of this part;

2563 (b) a person is committing, has committed, or is about to commit a violation of this  
2564 part; or

2565 (c) it is in the public interest to conduct an investigation to ascertain whether or not a  
2566 person is committing, has committed, or is about to commit a violation of this part.

2567 (2) In taking investigative action, the attorney general may:

2568 (a) require the person to file on a prescribed form a statement in writing, under oath or  
2569 affirmation describing:

2570 (i) the facts and circumstances concerning the alleged violation of this part; and

2571 (ii) other information considered necessary by the attorney general;

2572 (b) examine under oath a person in connection with the alleged violation of this part;

2573 and

2574 (c) in accordance with Subsections (7) through (18), execute in writing, and serve on

2575 the person, a civil investigative demand requiring the person to produce the documentary

2576 material and permit inspection and copying of the material.

2577 (3) The attorney general may not release or disclose information that is obtained under

2578 Subsection (2)(a) or (b), or any documentary material or other record derived from the

2579 information obtained under Subsection (2)(a) or (b), except:

2580 (a) by court order for good cause shown;

2581 (b) with the consent of the person who provided the information;

2582 (c) to an employee of the attorney general or the department;

2583 (d) to an agency of this state, the United States, or another state;

2584 (e) to a special assistant attorney general representing the state in a civil action;

2585 (f) to a political subdivision of this state; or

2586 (g) to a person authorized by the attorney general to receive the information.

2587 (4) The attorney general may use documentary material derived from information

2588 obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general

2589 determines necessary in the enforcement of this part, including presentation before a court.

2590 (5) (a) If a person fails to file a statement as required by Subsection (2)(a) or fails to

2591 submit to an examination as required by Subsection (2)(b), the attorney general may [~~file in~~

2592 ~~district court~~] bring in a court with jurisdiction under Title 78A, Judiciary and Judicial

2593 Administration, a complaint for an order to compel the person to within a period stated by

2594 court order:

2595 (i) file the statement required by Subsection (2)(a); or

2596 (ii) submit to the examination required by Subsection (2)(b).

2597 (b) Failure to comply with an order entered under Subsection (5)(a) is punishable as

2598 contempt.

- 2599 (6) A civil investigative demand shall:
- 2600 (a) state the rule or statute under which the alleged violation of this part is being
- 2601 investigated;
- 2602 (b) describe the:
- 2603 (i) general subject matter of the investigation; and
- 2604 (ii) class or classes of documentary material to be produced with reasonable specificity
- 2605 to fairly indicate the documentary material demanded;
- 2606 (c) designate a date within which the documentary material is to be produced; and
- 2607 (d) identify an authorized employee of the attorney general to whom the documentary
- 2608 material is to be made available for inspection and copying.
- 2609 (7) A civil investigative demand may require disclosure of any documentary material
- 2610 that is discoverable under the Utah Rules of Civil Procedure.
- 2611 (8) Service of a civil investigative demand may be made by:
- 2612 (a) delivering an executed copy of the demand to the person to be served or to a
- 2613 partner, an officer, or an agent authorized by appointment or by law to receive service of
- 2614 process on behalf of that person;
- 2615 (b) delivering an executed copy of the demand to the principal place of business in this
- 2616 state of the person to be served; or
- 2617 (c) mailing by registered or certified mail an executed copy of the demand addressed to
- 2618 the person to be served:
- 2619 (i) at the person's principal place of business in this state; or
- 2620 (ii) if the person has no place of business in this state, to the person's principal office or
- 2621 place of business.
- 2622 (9) Documentary material demanded in a civil investigative demand shall be produced
- 2623 for inspection and copying during normal business hours at the office of the attorney general or
- 2624 as agreed by the person served and the attorney general.
- 2625 (10) The attorney general may not produce for inspection or copying or otherwise
- 2626 disclose the contents of documentary material obtained pursuant to a civil investigative demand
- 2627 except:
- 2628 (a) by court order for good cause shown;
- 2629 (b) with the consent of the person who produced the information;

2630 (c) to an employee of the attorney general or the department;  
2631 (d) to an agency of this state, the United States, or another state;  
2632 (e) to a special assistant attorney general representing the state in a civil action;  
2633 (f) to a political subdivision of this state; or  
2634 (g) to a person authorized by the attorney general to receive the information.

2635 (11) (a) With respect to documentary material obtained pursuant to a civil investigative  
2636 demand, the attorney general shall prescribe reasonable terms and conditions allowing such  
2637 documentary material to be available for inspection and copying by the person who produced  
2638 the material or by an authorized representative of that person.

2639 (b) The attorney general may use such documentary material or copies of it as the  
2640 attorney general determines necessary in the enforcement of this part, including presentation  
2641 before a court.

2642 (12) (a) A person may file a complaint, stating good cause, to extend the return date for  
2643 the demand or to modify or set aside the demand.

2644 (b) A complaint under this Subsection (12) shall be filed in ~~[district]~~ court before the  
2645 earlier of:

2646 (i) the return date specified in the demand; or  
2647 (ii) the 20th day after the date the demand is served.

2648 (13) Except as provided by court order, a person who has been served with a civil  
2649 investigative demand shall comply with the terms of the demand.

2650 (14) (a) A person who has committed a violation of this part in relation to the Medicaid  
2651 program in this state or to any other medical benefit program administered by the state has  
2652 submitted to the jurisdiction of this state.

2653 (b) Personal service of a civil investigative demand under this section may be made on  
2654 the person described in Subsection (14)(a) outside of this state.

2655 (15) This section does not limit the authority of the attorney general to conduct  
2656 investigations or to access a person's documentary materials or other information under another  
2657 state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

2658 (16) The attorney general may ~~[file a complaint in district court]~~ bring a complaint in a  
2659 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order to  
2660 enforce the civil investigative demand if:

- 2661 (a) a person fails to comply with a civil investigative demand; or  
2662 (b) copying and reproduction of the documentary material demanded:  
2663 (i) cannot be satisfactorily accomplished; and  
2664 (ii) the person refuses to surrender the documentary material.
- 2665 (17) If a complaint is filed under Subsection (16), the court may determine the matter  
2666 presented and may enter an order to enforce the civil investigative demand.
- 2667 (18) Failure to comply with a final order entered under Subsection (17) is punishable  
2668 by contempt.
- 2669 Section 51. Section **26B-3-1115** is amended to read:
- 2670 **26B-3-1115. Limitation of actions -- Civil acts antedating this section -- Civil**  
2671 **burden of proof -- Estoppel -- Joint civil liability -- Venue.**
- 2672 (1) An action under this part may not be brought after the later of:  
2673 (a) six years after the date on which the violation was committed; or  
2674 (b) three years after the date an official of the state charged with responsibility to act in  
2675 the circumstances discovers the violation, but in no event more than 10 years after the date on  
2676 which the violation was committed.
- 2677 (2) A civil action brought under this part may be brought for acts occurring prior to the  
2678 effective date of this section if the limitations period set forth in Subsection (1) has not lapsed.
- 2679 (3) In any civil action brought under this part the state shall be required to prove by a  
2680 preponderance of evidence, all essential elements of the cause of action including damages.
- 2681 (4) Notwithstanding any other provision of law, a final judgment rendered in favor of  
2682 the state in any criminal proceeding under this part, whether upon a verdict after trial or upon a  
2683 plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements  
2684 of the offense in any civil action under this part which involves the same transaction.
- 2685 (5) Civil liability under this part shall be joint and several for a violation committed by  
2686 two or more persons.
- 2687 (6) A person shall bring an action under this part:  
2688 (a) in Salt Lake County; or  
2689 (b) in accordance with Title 78A, Chapter 3a, Venue for Civil Actions.
- 2690 [~~(6) Any action brought by the state under this part shall be brought in district court in~~  
2691 ~~Salt Lake County or in any county where the defendant resides or does business.]]~~

2692 Section 52. Section 31A-22-305 is amended to read:

2693 **31A-22-305. Uninsured motorist coverage.**

2694 (1) As used in this section, "covered persons" includes:

2695 (a) the named insured;

2696 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor  
2697 children;

2698 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,  
2699 who are residents of the named insured's household, including those who usually make their  
2700 home in the same household but temporarily live elsewhere;

2701 (d) any person occupying or using a motor vehicle:

2702 (i) referred to in the policy; or

2703 (ii) owned by a self-insured; and

2704 (e) any person who is entitled to recover damages against the owner or operator of the  
2705 uninsured or underinsured motor vehicle because of bodily injury to or death of persons under  
2706 Subsection (1)(a), (b), (c), or (d).

2707 (2) As used in this section, "uninsured motor vehicle" includes:

2708 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered  
2709 under a liability policy at the time of an injury-causing occurrence; or

2710 (ii) (A) a motor vehicle covered with lower liability limits than required by Section  
2711 31A-22-304; and

2712 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of  
2713 the deficiency;

2714 (b) an unidentified motor vehicle that left the scene of an accident proximately caused  
2715 by the motor vehicle operator;

2716 (c) a motor vehicle covered by a liability policy, but coverage for an accident is  
2717 disputed by the liability insurer for more than 60 days or continues to be disputed for more than  
2718 60 days; or

2719 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of  
2720 the motor vehicle is declared insolvent by a court of competent jurisdiction; and

2721 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent  
2722 that the claim against the insolvent insurer is not paid by a guaranty association or fund.



2723 (3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides  
2724 coverage for covered persons who are legally entitled to recover damages from owners or  
2725 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

2726 (4) (a) For new policies written on or after January 1, 2001, the limits of uninsured  
2727 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle  
2728 liability coverage or the maximum uninsured motorist coverage limits available by the insurer  
2729 under the named insured's motor vehicle policy, unless a named insured rejects or purchases  
2730 coverage in a lesser amount by signing an acknowledgment form that:

2731 (i) is filed with the department;

2732 (ii) is provided by the insurer;

2733 (iii) waives the higher coverage;

2734 (iv) need only state in this or similar language that uninsured motorist coverage  
2735 provides benefits or protection to you and other covered persons for bodily injury resulting  
2736 from an accident caused by the fault of another party where the other party has no liability  
2737 insurance; and

2738 (v) discloses the additional premiums required to purchase uninsured motorist  
2739 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle  
2740 liability coverage or the maximum uninsured motorist coverage limits available by the insurer  
2741 under the named insured's motor vehicle policy.

2742 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the  
2743 liability coverage until the insured requests, in writing, a change of uninsured motorist  
2744 coverage from that liability insurer.

2745 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after  
2746 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for  
2747 arbitration or filed a complaint in a court of competent jurisdiction.

2748 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)  
2749 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

2750 (d) For purposes of this Subsection (4), "new policy" means:

2751 (i) any policy that is issued which does not include a renewal or reinstatement of an  
2752 existing policy; or

2753 (ii) a change to an existing policy that results in:

- 2754 (A) a named insured being added to or deleted from the policy; or
- 2755 (B) a change in the limits of the named insured's motor vehicle liability coverage.
- 2756 (e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
- 2757 that increases the total number of vehicles insured by the policy, and does not include
- 2758 replacement, substitute, or temporary vehicles.
- 2759 (ii) The adding of an additional motor vehicle to an existing personal lines or
- 2760 commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).
- 2761 (iii) If an additional motor vehicle is added to a personal lines policy where uninsured
- 2762 motorist coverage has been rejected, or where uninsured motorist limits are lower than the
- 2763 named insured's motor vehicle liability limits, the insurer shall provide a notice to a named
- 2764 insured within 30 days that:
  - 2765 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of
  - 2766 uninsured motorist coverage; and
  - 2767 (B) encourages the named insured to contact the insurance company or insurance
  - 2768 producer for quotes as to the additional premiums required to purchase uninsured motorist
  - 2769 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
  - 2770 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
  - 2771 under the named insured's motor vehicle policy.
- 2772 (f) A change in policy number resulting from any policy change not identified under
- 2773 Subsection (4)(d)(ii) does not constitute a new policy.
- 2774 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,
- 2775 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration
- 2776 or filed a complaint in a court of competent jurisdiction.
- 2777 (ii) The Legislature finds that the retroactive application of Subsection (4):
  - 2778 (A) does not enlarge, eliminate, or destroy vested rights; and
  - 2779 (B) clarifies legislative intent.
- 2780 (h) A self-insured, including a governmental entity, may elect to provide uninsured
- 2781 motorist coverage in an amount that is less than its maximum self-insured retention under
- 2782 Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from
- 2783 the chief financial officer or chief risk officer that declares the:
  - 2784 (i) self-insured entity's coverage level; and

2785 (ii) process for filing an uninsured motorist claim.

2786 (i) Uninsured motorist coverage may not be sold with limits that are less than the  
2787 minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

2788 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the  
2789 uninsured motorist coverage until the named insured requests, in writing, different uninsured  
2790 motorist coverage from the insurer.

2791 (k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for  
2792 policies existing on that date, the insurer shall disclose in the same medium as the premium  
2793 renewal notice, an explanation of:

2794 (A) the purpose of uninsured motorist coverage in the same manner as described in  
2795 Subsection (4)(a)(iv); and

2796 (B) a disclosure of the additional premiums required to purchase uninsured motorist  
2797 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle  
2798 liability coverage or the maximum uninsured motorist coverage limits available by the insurer  
2799 under the named insured's motor vehicle policy.

2800 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named  
2801 insureds that carry uninsured motorist coverage limits in an amount less than the named  
2802 insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage  
2803 limits available by the insurer under the named insured's motor vehicle policy.

2804 (l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in  
2805 a household constitutes notice or disclosure to all insureds within the household.

2806 (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject  
2807 uninsured motorist coverage by an express writing to the insurer that provides liability  
2808 coverage under Subsection 31A-22-302(1)(a).

2809 (ii) This rejection shall be on a form provided by the insurer that includes a reasonable  
2810 explanation of the purpose of uninsured motorist coverage.

2811 (iii) This rejection continues for that issuer of the liability coverage until the insured in  
2812 writing requests uninsured motorist coverage from that liability insurer.

2813 (b) (i) All persons, including governmental entities, that are engaged in the business of,  
2814 or that accept payment for, transporting natural persons by motor vehicle, and all school  
2815 districts that provide transportation services for their students, shall provide coverage for all

2816 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,  
2817 uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

2818 (ii) This coverage is secondary to any other insurance covering an injured covered  
2819 person.

2820 (c) Uninsured motorist coverage:

2821 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'  
2822 Compensation Act, except that the covered person is credited an amount described in  
2823 Subsection 34A-2-106(5);

2824 (ii) may not be subrogated by the workers' compensation insurance carrier, workers'  
2825 compensation insurance, uninsured employer, the Uninsured Employers Fund created in  
2826 Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

2827 (iii) may not be reduced by any benefits provided by workers' compensation insurance,  
2828 uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the  
2829 Employers' Reinsurance Fund created in Section 34A-2-702;

2830 (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health insurance  
2831 subrogation only after the covered person has been made whole;

2832 (v) may not be collected for bodily injury or death sustained by a person:

2833 (A) while committing a violation of Section 41-1a-1314;

2834 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated  
2835 in violation of Section 41-1a-1314; or

2836 (C) while committing a felony; and

2837 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:

2838 (A) for a person under 18 years old who is injured within the scope of Subsection  
2839 (5)(c)(v) but limited to medical and funeral expenses; or

2840 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured  
2841 within the course and scope of the law enforcement officer's duties.

2842 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under  
2843 Section 41-1a-102.

2844 (6) When a covered person alleges that an uninsured motor vehicle under Subsection  
2845 (2)(b) proximately caused an accident without touching the covered person or the motor  
2846 vehicle occupied by the covered person, the covered person shall show the existence of the

2847 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered  
2848 person's testimony.

2849 (7) (a) The limit of liability for uninsured motorist coverage for two or more motor  
2850 vehicles may not be added together, combined, or stacked to determine the limit of insurance  
2851 coverage available to an injured person for any one accident.

2852 (b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under  
2853 Subsection (8)(b).

2854 (ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest  
2855 limits of uninsured motorist coverage afforded for any one motor vehicle that the covered  
2856 person is the named insured or an insured family member.

2857 (iii) This coverage shall be in addition to the coverage on the motor vehicle the covered  
2858 person is occupying.

2859 (iv) Neither the primary nor the secondary coverage may be set off against the other.

2860 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary  
2861 coverage, and the coverage elected by a person described under Subsections (1)(a) through (c)  
2862 shall be secondary coverage.

2863 (8) (a) Uninsured motorist coverage under this section applies to bodily injury,  
2864 sickness, disease, or death of covered persons while occupying or using a motor vehicle only if  
2865 the motor vehicle is described in the policy under which a claim is made, or if the motor  
2866 vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.  
2867 Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a  
2868 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to  
2869 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy  
2870 under which the person is a covered person.

2871 (b) Each of the following persons may also recover uninsured motorist benefits under  
2872 any one other policy in which they are described as a "covered person" as defined in Subsection  
2873 (1):

2874 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

2875 (ii) except as provided in Subsection (8)(c), a covered person injured while occupying  
2876 or using a motor vehicle that is not owned, leased, or furnished:

2877 (A) to the covered person;

2878 (B) to the covered person's spouse; or  
2879 (C) to the covered person's resident parent or resident sibling.  
2880 (c) (i) A covered person may recover benefits from no more than two additional  
2881 policies, one additional policy from each parent's household if the covered person is:  
2882 (A) a dependent minor of parents who reside in separate households; and  
2883 (B) injured while occupying or using a motor vehicle that is not owned, leased, or  
2884 furnished:  
2885 (I) to the covered person;  
2886 (II) to the covered person's resident parent; or  
2887 (III) to the covered person's resident sibling.  
2888 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of  
2889 the damages that the limit of liability of each parent's policy of uninsured motorist coverage  
2890 bears to the total of both parents' uninsured coverage applicable to the accident.  
2891 (d) A covered person's recovery under any available policies may not exceed the full  
2892 amount of damages.  
2893 (e) A covered person in Subsection (8)(b) is not barred against making subsequent  
2894 elections if recovery is unavailable under previous elections.  
2895 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a  
2896 single incident of loss under more than one insurance policy.  
2897 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),  
2898 interpolicy stacking is prohibited for uninsured motorist coverage.  
2899 (9) (a) When a claim is brought by a named insured or a person described in  
2900 Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the  
2901 claimant may elect to resolve the claim:  
2902 (i) by submitting the claim to binding arbitration; or  
2903 (ii) through litigation.  
2904 (b) Unless otherwise provided in the policy under which uninsured benefits are  
2905 claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that  
2906 if the policy under which insured benefits are claimed provides that either an insured or the  
2907 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to  
2908 arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

2909 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),  
2910 the claimant may not elect to resolve the claim through binding arbitration under this section  
2911 without the written consent of the uninsured motorist carrier.

2912 (d) For purposes of the statute of limitations applicable to a claim described in  
2913 Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the  
2914 claim is considered filed when the claimant submits the claim to binding arbitration in  
2915 accordance with this Subsection (9).

2916 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
2917 binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

2918 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

2919 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection  
2920 (9)(e)(ii), the parties shall select a panel of three arbitrators.

2921 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

2922 (i) each side shall select one arbitrator; and

2923 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional  
2924 arbitrator to be included in the panel.

2925 (g) Unless otherwise agreed to in writing:

2926 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected  
2927 under Subsection (9)(e)(i); or

2928 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

2929 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

2930 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected  
2931 under Subsection (9)(f)(ii).

2932 (h) Except as otherwise provided in this section or unless otherwise agreed to in  
2933 writing by the parties, an arbitration proceeding conducted under this section shall be governed  
2934 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

2935 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),  
2936 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of  
2937 Subsections (10)(a) through (c) are satisfied.

2938 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure  
2939 shall be determined based on the claimant's specific monetary amount in the written demand

2940 for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

2941 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to  
2942 arbitration claims under this part.

2943 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

2944 (k) A written decision by a single arbitrator or by a majority of the arbitration panel  
2945 shall constitute a final decision.

2946 (l) (i) Except as provided in Subsection (10), the amount of an arbitration award may  
2947 not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies,  
2948 including applicable uninsured motorist umbrella policies.

2949 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all  
2950 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount  
2951 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist  
2952 policies.

2953 (m) The arbitrator or arbitration panel may not decide the issues of coverage or  
2954 extra-contractual damages, including:

2955 (i) whether the claimant is a covered person;

2956 (ii) whether the policy extends coverage to the loss; or

2957 (iii) any allegations or claims asserting consequential damages or bad faith liability.

2958 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or  
2959 class-representative basis.

2960 (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued,  
2961 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees  
2962 and costs against the party that failed to bring, pursue, or defend the claim in good faith.

2963 (p) An arbitration award issued under this section shall be the final resolution of all  
2964 claims not excluded by Subsection (9)(m) between the parties unless:

2965 (i) the award was procured by corruption, fraud, or other undue means; and

2966 (ii) ~~[either party,]~~ within 20 days after service of the arbitration award, a party:

2967 (A) files a complaint requesting a trial de novo in ~~[the district court]~~ a court with  
2968 jurisdiction under Title 78A, Judiciary and Judicial Administration; and

2969 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo  
2970 under Subsection (9)(p)(ii)(A).



2971 (q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim  
2972 shall proceed through litigation [~~pursuant to~~] in accordance with the Utah Rules of Civil  
2973 Procedure and Utah Rules of Evidence [~~in the district court~~].

2974 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, [~~either~~] a party may  
2975 request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

2976 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection  
2977 (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the  
2978 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

2979 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested  
2980 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration  
2981 award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

2982 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)  
2983 shall include:

2984 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

2985 (B) the costs of expert witnesses and depositions.

2986 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless  
2987 Subsection (10)(h)(iii) applies.

2988 (s) For purposes of determining whether a party's verdict is greater or less than the  
2989 arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief  
2990 granted on a claim for damages if the claim for damages:

2991 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

2992 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil  
2993 Procedure.

2994 (t) If a [~~district~~] court determines, upon a motion of the nonmoving party, that the  
2995 moving party's use of the trial de novo process was filed in bad faith in accordance with  
2996 Section [78B-5-825](#), the [~~district~~] court may award reasonable attorney fees to the nonmoving  
2997 party.

2998 (u) Nothing in this section is intended to limit any claim under any other portion of an  
2999 applicable insurance policy.

3000 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the  
3001 claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist

3002 carriers.

3003 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured  
3004 motorist benefits to binding arbitration or files litigation, the covered person shall provide to  
3005 the uninsured motorist carrier:

3006 (i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

3007 (A) subject to Subsection (10)(l), the specific monetary amount of the demand,  
3008 including a computation of the covered person's claimed past medical expenses, claimed past  
3009 lost wages, and the other claimed past economic damages; and

3010 (B) the factual and legal basis and any supporting documentation for the demand;

3011 (ii) a written statement under oath disclosing:

3012 (A) (I) the names and last known addresses of all health care providers who have  
3013 rendered health care services to the covered person that are material to the claims for which  
3014 uninsured motorist benefits are sought for a period of five years preceding the date of the event  
3015 giving rise to the claim for uninsured motorist benefits up to the time the election for  
3016 arbitration or litigation has been exercised; and

3017 (II) the names and last known addresses of the health care providers who have rendered  
3018 health care services to the covered person, which the covered person claims are immaterial to  
3019 the claims for which uninsured motorist benefits are sought, for a period of five years  
3020 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the  
3021 time the election for arbitration or litigation has been exercised that have not been disclosed  
3022 under Subsection (10)(a)(ii)(A)(I);

3023 (B) (I) the names and last known addresses of all health insurers or other entities to  
3024 whom the covered person has submitted claims for health care services or benefits material to  
3025 the claims for which uninsured motorist benefits are sought, for a period of five years  
3026 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the  
3027 time the election for arbitration or litigation has been exercised; and

3028 (II) the names and last known addresses of the health insurers or other entities to whom  
3029 the covered person has submitted claims for health care services or benefits, which the covered  
3030 person claims are immaterial to the claims for which uninsured motorist benefits are sought,  
3031 for a period of five years preceding the date of the event giving rise to the claim for uninsured  
3032 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

3033 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all  
3034 employers of the covered person for a period of five years preceding the date of the event  
3035 giving rise to the claim for uninsured motorist benefits up to the time the election for  
3036 arbitration or litigation has been exercised;

3037 (D) other documents to reasonably support the claims being asserted; and

3038 (E) all state and federal statutory lienholders including a statement as to whether the  
3039 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health  
3040 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health  
3041 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

3042 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain records  
3043 and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I),  
3044 (B)(I), and (C).

3045 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed  
3046 health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably  
3047 necessary, the uninsured motorist carrier may:

3048 (A) make a request for the disclosure of the identity of the health care providers or  
3049 health care insurers; and

3050 (B) make a request for authorizations to allow the uninsured motorist carrier to only  
3051 obtain records and billings from the individuals or entities not disclosed.

3052 (ii) If the covered person does not provide the requested information within 10 days:

3053 (A) the covered person shall disclose, in writing, the legal or factual basis for the  
3054 failure to disclose the health care providers or health care insurers; and

3055 (B) either the covered person or the uninsured motorist carrier may request the  
3056 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be  
3057 provided if the covered person has elected arbitration.

3058 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of  
3059 the dispute concerning the disclosure and production of records of the health care providers or  
3060 health care insurers.

3061 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice  
3062 of filing litigation and the demand for payment of uninsured motorist benefits under Subsection  
3063 (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and

3064 receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

3065 (A) provide a written response to the written demand for payment provided for in  
3066 Subsection (10)(a)(i);

3067 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the  
3068 uninsured motorist carrier's determination of the amount owed to the covered person; and

3069 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah  
3070 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah  
3071 Children's Health Insurance Program, or if the claim is subject to any other state or federal  
3072 statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of  
3073 the amount owed to the covered person less:

3074 (I) if the amount of the state or federal statutory lien is established, the amount of the  
3075 lien; or

3076 (II) if the amount of the state or federal statutory lien is not established, two times the  
3077 amount of the medical expenses subject to the state or federal statutory lien until such time as  
3078 the amount of the state or federal statutory lien is established.

3079 (ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i)  
3080 is the total amount of the uninsured motorist policy limits, the tendered amount shall be  
3081 accepted by the covered person.

3082 (d) A covered person who receives a written response from an uninsured motorist  
3083 carrier as provided for in Subsection (10)(c)(i), may:

3084 (i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all  
3085 uninsured motorist claims; or

3086 (ii) elect to:

3087 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all  
3088 uninsured motorist claims; and

3089 (B) continue to litigate or arbitrate the remaining claim in accordance with the election  
3090 made under Subsections (9)(a) through (c).

3091 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)  
3092 as partial payment of all uninsured motorist claims, the final award obtained through  
3093 arbitration, litigation, or later settlement shall be reduced by any payment made by the  
3094 uninsured motorist carrier under Subsection (10)(c)(i).

3095 (f) In an arbitration proceeding on the remaining uninsured claims:  
3096 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid  
3097 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and  
3098 (ii) the parties may not disclose the amount of the limits of uninsured motorist benefits  
3099 provided by the policy.

3100 (g) If the final award obtained through arbitration or litigation is greater than the  
3101 average of the covered person's initial written demand for payment provided for in Subsection  
3102 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in  
3103 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

3104 (i) the final award obtained through arbitration or litigation, except that if the award  
3105 exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the  
3106 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and  
3107 (ii) any of the following applicable costs:  
3108 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;  
3109 (B) the arbitrator or arbitration panel's fee; and  
3110 (C) the reasonable costs of expert witnesses and depositions used in the presentation of  
3111 evidence during arbitration or litigation.

3112 (h) (i) The covered person shall provide an affidavit of costs within five days of an  
3113 arbitration award.  
3114 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to  
3115 which the uninsured motorist carrier objects.  
3116 (B) The objection shall be resolved by the arbitrator or arbitration panel.  
3117 (iii) The award of costs by the arbitrator or arbitration panel under Subsection  
3118 (10)(g)(ii) may not exceed \$5,000.

3119 (i) (i) A covered person shall disclose all material information, other than rebuttal  
3120 evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist  
3121 coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).  
3122 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person  
3123 may not recover costs or any amounts in excess of the policy under Subsection (10)(g).  
3124 (j) This Subsection (10) does not limit any other cause of action that arose or may arise  
3125 against the uninsured motorist carrier from the same dispute.

3126 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that  
3127 occur on or after March 30, 2010.

3128 (l) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect  
3129 the covered person's requirement to provide a computation of any other economic damages  
3130 claimed, and the one or more respondents shall have a reasonable time after the receipt of the  
3131 computation of any other economic damages claimed to conduct fact and expert discovery as to  
3132 any additional damages claimed.

3133 (B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and  
3134 Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a  
3135 claim submitted to binding arbitration or through litigation on or after May 13, 2014.

3136 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter  
3137 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to  
3138 binding arbitration or through litigation on or after May 13, 2014.

3139 (11) (a) A person shall commence an action on a written policy or contract for  
3140 uninsured motorist coverage within four years after the inception of loss.

3141 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by  
3142 Subsection [31A-21-313\(1\)\(a\)](#) as of May 14, 2019.

3143 Section 53. Section **31A-22-305.3** is amended to read:

3144 **31A-22-305.3. Underinsured motorist coverage.**

3145 (1) As used in this section:

3146 (a) "Covered person" has the same meaning as defined in Section [31A-22-305](#).

3147 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,  
3148 maintenance, or use of which is covered under a liability policy at the time of an injury-causing  
3149 occurrence, but which has insufficient liability coverage to compensate fully the injured party  
3150 for all special and general damages.

3151 (ii) The term "underinsured motor vehicle" does not include:

3152 (A) a motor vehicle that is covered under the liability coverage of the same policy that  
3153 also contains the underinsured motorist coverage;

3154 (B) an uninsured motor vehicle as defined in Subsection [31A-22-305\(2\)](#); or

3155 (C) a motor vehicle owned or leased by:

3156 (I) a named insured;

3157 (II) a named insured's spouse; or

3158 (III) a dependent of a named insured.

3159 (2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides  
3160 coverage for a covered person who is legally entitled to recover damages from an owner or  
3161 operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

3162 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished  
3163 to the covered person, the covered person's spouse, or covered person's resident relative may  
3164 recover underinsured benefits only if the motor vehicle is:

3165 (i) described in the policy under which a claim is made; or

3166 (ii) a newly acquired or replacement motor vehicle covered under the terms of the  
3167 policy.

3168 (3) (a) For purposes of this Subsection (3), "new policy" means:

3169 (i) any policy that is issued that does not include a renewal or reinstatement of an  
3170 existing policy; or

3171 (ii) a change to an existing policy that results in:

3172 (A) a named insured being added to or deleted from the policy; or

3173 (B) a change in the limits of the named insured's motor vehicle liability coverage.

3174 (b) For new policies written on or after January 1, 2001, the limits of underinsured  
3175 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle  
3176 liability coverage or the maximum underinsured motorist coverage limits available by the  
3177 insurer under the named insured's motor vehicle policy, unless a named insured rejects or  
3178 purchases coverage in a lesser amount by signing an acknowledgment form that:

3179 (i) is filed with the department;

3180 (ii) is provided by the insurer;

3181 (iii) waives the higher coverage;

3182 (iv) need only state in this or similar language that "underinsured motorist coverage  
3183 provides benefits or protection to you and other covered persons for bodily injury resulting  
3184 from an accident caused by the fault of another party where the other party has insufficient  
3185 liability insurance"; and

3186 (v) discloses the additional premiums required to purchase underinsured motorist  
3187 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle

3188 liability coverage or the maximum underinsured motorist coverage limits available by the  
3189 insurer under the named insured's motor vehicle policy.

3190 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the  
3191 liability coverage until the insured requests, in writing, a change of underinsured motorist  
3192 coverage from that liability insurer.

3193 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after  
3194 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for  
3195 arbitration or filed a complaint in a court of competent jurisdiction.

3196 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)  
3197 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

3198 (e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change  
3199 that increases the total number of vehicles insured by the policy, and does not include  
3200 replacement, substitute, or temporary vehicles.

3201 (ii) The adding of an additional motor vehicle to an existing personal lines or  
3202 commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

3203 (iii) If an additional motor vehicle is added to a personal lines policy where  
3204 underinsured motorist coverage has been rejected, or where underinsured motorist limits are  
3205 lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice  
3206 to a named insured within 30 days that:

3207 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of  
3208 underinsured motorist coverage; and

3209 (B) encourages the named insured to contact the insurance company or insurance  
3210 producer for quotes as to the additional premiums required to purchase underinsured motorist  
3211 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle  
3212 liability coverage or the maximum underinsured motorist coverage limits available by the  
3213 insurer under the named insured's motor vehicle policy.

3214 (f) A change in policy number resulting from any policy change not identified under  
3215 Subsection (3)(a)(ii) does not constitute a new policy.

3216 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,  
3217 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or  
3218 filed a complaint in a court of competent jurisdiction.



3219 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):  
3220 (A) does not enlarge, eliminate, or destroy vested rights; and  
3221 (B) clarifies legislative intent.

3222 (h) A self-insured, including a governmental entity, may elect to provide underinsured  
3223 motorist coverage in an amount that is less than its maximum self-insured retention under  
3224 Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the  
3225 chief financial officer or chief risk officer that declares the:

3226 (i) self-insured entity's coverage level; and  
3227 (ii) process for filing an underinsured motorist claim.

3228 (i) Underinsured motorist coverage may not be sold with limits that are less than:

3229 (i) \$10,000 for one person in any one accident; and  
3230 (ii) at least \$20,000 for two or more persons in any one accident.

3231 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the  
3232 underinsured motorist coverage until the named insured, in writing, requests different  
3233 underinsured motorist coverage from the insurer.

3234 (k) (i) The named insured's underinsured motorist coverage, as described in Subsection  
3235 (2), is secondary to the liability coverage of an owner or operator of an underinsured motor  
3236 vehicle, as described in Subsection (1).

3237 (ii) Underinsured motorist coverage may not be set off against the liability coverage of  
3238 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,  
3239 or stacked upon the liability coverage of the owner or operator of the underinsured motor  
3240 vehicle to determine the limit of coverage available to the injured person.

3241 (l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for  
3242 policies existing on that date, the insurer shall disclose in the same medium as the premium  
3243 renewal notice, an explanation of:

3244 (A) the purpose of underinsured motorist coverage in the same manner as described in  
3245 Subsection (3)(b)(iv); and

3246 (B) a disclosure of the additional premiums required to purchase underinsured motorist  
3247 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle  
3248 liability coverage or the maximum underinsured motorist coverage limits available by the  
3249 insurer under the named insured's motor vehicle policy.

3250 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named  
3251 insureds that carry underinsured motorist coverage limits in an amount less than the named  
3252 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage  
3253 limits available by the insurer under the named insured's motor vehicle policy.

3254 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured  
3255 in a household constitutes notice or disclosure to all insureds within the household.

3256 (4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a  
3257 motor vehicle described in a policy that includes underinsured motorist benefits may not elect  
3258 to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

3259 (ii) The limit of liability for underinsured motorist coverage for two or more motor  
3260 vehicles may not be added together, combined, or stacked to determine the limit of insurance  
3261 coverage available to an injured person for any one accident.

3262 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described  
3263 under Subsections (4)(b)(i) and (ii).

3264 (b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may  
3265 recover underinsured motorist benefits under any one other policy in which they are described  
3266 as a covered person.

3267 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while  
3268 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the  
3269 covered person, the covered person's spouse, or the covered person's resident parent or resident  
3270 sibling, may also recover benefits under any one other policy under which the covered person is  
3271 also a covered person.

3272 (iii) (A) A covered person may recover benefits from no more than two additional  
3273 policies, one additional policy from each parent's household if the covered person is:

3274 (I) a dependent minor of parents who reside in separate households; and

3275 (II) injured while occupying or using a motor vehicle that is not owned, leased, or  
3276 furnished to the covered person, the covered person's resident parent, or the covered person's  
3277 resident sibling.

3278 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the  
3279 percentage of the damages that the limit of liability of each parent's policy of underinsured  
3280 motorist coverage bears to the total of both parents' underinsured coverage applicable to the

3281 accident.

3282 (iv) A covered person's recovery under any available policies may not exceed the full  
3283 amount of damages.

3284 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is  
3285 primary coverage, and the coverage elected by a person described under Subsections  
3286 [31A-22-305](#)(1)(a), (b), and (c) is secondary coverage.

3287 (vi) The primary and the secondary coverage may not be set off against the other.

3288 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the  
3289 highest limits of underinsured motorist coverage under only one additional policy per  
3290 household applicable to that covered person as a named insured, spouse, or relative.

3291 (viii) A covered injured person is not barred against making subsequent elections if  
3292 recovery is unavailable under previous elections.

3293 (ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a  
3294 single incident of loss under more than one insurance policy.

3295 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is  
3296 prohibited for underinsured motorist coverage.

3297 (c) Underinsured motorist coverage:

3298 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'  
3299 Compensation Act, except that the covered person is credited an amount described in  
3300 Subsection [34A-2-106](#)(5);

3301 (ii) may not be subrogated by a workers' compensation insurance carrier, workers'  
3302 compensation insurance, uninsured employer, the Uninsured Employers Fund created in  
3303 Section [34A-2-704](#), or the Employers' Reinsurance Fund created in Section [34A-2-702](#);

3304 (iii) may not be reduced by benefits provided by workers' compensation insurance,  
3305 uninsured employer, the Uninsured Employers Fund created in Section [34A-2-704](#), or the  
3306 Employers' Reinsurance Fund created in Section [34A-2-702](#);

3307 (iv) notwithstanding Subsection [31A-1-103](#)(3)(f) may be reduced by health insurance  
3308 subrogation only after the covered person is made whole;

3309 (v) may not be collected for bodily injury or death sustained by a person:

3310 (A) while committing a violation of Section [41-1a-1314](#);

3311 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated

3312 in violation of Section 41-1a-1314; or

3313 (C) while committing a felony; and

3314 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:

3315 (A) for a person younger than 18 years old who is injured within the scope of

3316 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

3317 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured

3318 within the course and scope of the law enforcement officer's duties.

3319 (5) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract  
3320 for underinsured motorist coverage shall be commenced within four years after the inception of  
3321 loss.

3322 (b) The inception of the loss under Subsection 31A-21-313(1) for underinsured  
3323 motorist claims occurs upon the date of the settlement check representing the last liability  
3324 policy payment.

3325 (6) An underinsured motorist insurer does not have a right of reimbursement against a  
3326 person liable for the damages resulting from an injury-causing occurrence if the person's  
3327 liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

3328 (7) Except as otherwise provided in this section, a covered person may seek, subject to  
3329 the terms and conditions of the policy, additional coverage under any policy:

3330 (a) that provides coverage for damages resulting from motor vehicle accidents; and

3331 (b) that is not required to conform to Section 31A-22-302.

3332 (8) (a) When a claim is brought by a named insured or a person described in  
3333 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist  
3334 carrier, the claimant may elect to resolve the claim:

3335 (i) by submitting the claim to binding arbitration; or

3336 (ii) through litigation.

3337 (b) Unless otherwise provided in the policy under which underinsured benefits are  
3338 claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that  
3339 if the policy under which insured benefits are claimed provides that either an insured or the  
3340 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to  
3341 arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

3342 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the

3343 claimant may not elect to resolve the claim through binding arbitration under this section  
3344 without the written consent of the underinsured motorist coverage carrier.

3345 (d) For purposes of the statute of limitations applicable to a claim described in  
3346 Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the  
3347 claim is considered filed when the claimant submits the claim to binding arbitration in  
3348 accordance with this Subsection (8).

3349 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
3350 binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

3351 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

3352 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection  
3353 (8)(e)(ii), the parties shall select a panel of three arbitrators.

3354 (f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

3355 (i) each side shall select one arbitrator; and

3356 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional  
3357 arbitrator to be included in the panel.

3358 (g) Unless otherwise agreed to in writing:

3359 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected  
3360 under Subsection (8)(e)(i); or

3361 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

3362 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

3363 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected  
3364 under Subsection (8)(f)(ii).

3365 (h) Except as otherwise provided in this section or unless otherwise agreed to in  
3366 writing by the parties, an arbitration proceeding conducted under this section is governed by  
3367 Title 78B, Chapter 11, Utah Uniform Arbitration Act.

3368 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),  
3369 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of  
3370 Subsections (9)(a) through (c) are satisfied.

3371 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure  
3372 shall be determined based on the claimant's specific monetary amount in the written demand  
3373 for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

3374 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to  
3375 arbitration claims under this part.

3376 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

3377 (k) A written decision by a single arbitrator or by a majority of the arbitration panel  
3378 constitutes a final decision.

3379 (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not  
3380 exceed the underinsured motorist policy limits of all applicable underinsured motorist policies,  
3381 including applicable underinsured motorist umbrella policies.

3382 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all  
3383 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount  
3384 equal to the combined underinsured motorist policy limits of all applicable underinsured  
3385 motorist policies.

3386 (m) The arbitrator or arbitration panel may not decide an issue of coverage or  
3387 extra-contractual damages, including:

3388 (i) whether the claimant is a covered person;

3389 (ii) whether the policy extends coverage to the loss; or

3390 (iii) an allegation or claim asserting consequential damages or bad faith liability.

3391 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or  
3392 class-representative basis.

3393 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,  
3394 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees  
3395 and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

3396 (p) An arbitration award issued under this section shall be the final resolution of all  
3397 claims not excluded by Subsection (8)(m) between the parties unless:

3398 (i) the award is procured by corruption, fraud, or other undue means; or

3399 (ii) either party, within 20 days after service of the arbitration award:

3400 (A) files a complaint requesting a trial de novo in the ~~[district court]~~ a court with  
3401 jurisdiction under Title 78A, Judiciary and Judicial Administration; and

3402 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo  
3403 under Subsection (8)(p)(ii)(A).

3404 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall

3405 proceed through litigation [~~pursuant to~~] in accordance with the Utah Rules of Civil Procedure  
3406 and Utah Rules of Evidence [~~in the district court~~].

3407 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may  
3408 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

3409 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection  
3410 (8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the  
3411 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

3412 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested  
3413 under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration  
3414 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

3415 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)  
3416 shall include:

3417 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

3418 (B) the costs of expert witnesses and depositions.

3419 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless  
3420 Subsection (9)(h)(iii) applies.

3421 (s) For purposes of determining whether a party's verdict is greater or less than the  
3422 arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief  
3423 granted on a claim for damages if the claim for damages:

3424 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

3425 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil  
3426 Procedure.

3427 (t) If a [~~district~~] court determines, upon a motion of the nonmoving party, that a  
3428 moving party's use of the trial de novo process is filed in bad faith in accordance with Section  
3429 [78B-5-825](#), the [~~district~~] court may award reasonable attorney fees to the nonmoving party.

3430 (u) Nothing in this section is intended to limit a claim under another portion of an  
3431 applicable insurance policy.

3432 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4),  
3433 the claimant may elect to arbitrate in one hearing the claims against all the underinsured  
3434 motorist carriers.

3435 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured

3436 motorist benefits to binding arbitration or files litigation, the covered person shall provide to  
3437 the underinsured motorist carrier:

3438 (i) a written demand for payment of underinsured motorist coverage benefits, setting  
3439 forth:

3440 (A) subject to Subsection (9)(l), the specific monetary amount of the demand,  
3441 including a computation of the covered person's claimed past medical expenses, claimed past  
3442 lost wages, and all other claimed past economic damages; and

3443 (B) the factual and legal basis and any supporting documentation for the demand;

3444 (ii) a written statement under oath disclosing:

3445 (A) (I) the names and last known addresses of all health care providers who have  
3446 rendered health care services to the covered person that are material to the claims for which the  
3447 underinsured motorist benefits are sought for a period of five years preceding the date of the  
3448 event giving rise to the claim for underinsured motorist benefits up to the time the election for  
3449 arbitration or litigation has been exercised; and

3450 (II) the names and last known addresses of the health care providers who have rendered  
3451 health care services to the covered person, which the covered person claims are immaterial to  
3452 the claims for which underinsured motorist benefits are sought, for a period of five years  
3453 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to  
3454 the time the election for arbitration or litigation has been exercised that have not been disclosed  
3455 under Subsection (9)(a)(ii)(A)(I);

3456 (B) (I) the names and last known addresses of all health insurers or other entities to  
3457 whom the covered person has submitted claims for health care services or benefits material to  
3458 the claims for which underinsured motorist benefits are sought, for a period of five years  
3459 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to  
3460 the time the election for arbitration or litigation has been exercised; and

3461 (II) the names and last known addresses of the health insurers or other entities to whom  
3462 the covered person has submitted claims for health care services or benefits, which the covered  
3463 person claims are immaterial to the claims for which underinsured motorist benefits are sought,  
3464 for a period of five years preceding the date of the event giving rise to the claim for  
3465 underinsured motorist benefits up to the time the election for arbitration or litigation have not  
3466 been disclosed;



3467 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all  
3468 employers of the covered person for a period of five years preceding the date of the event  
3469 giving rise to the claim for underinsured motorist benefits up to the time the election for  
3470 arbitration or litigation has been exercised;

3471 (D) other documents to reasonably support the claims being asserted; and

3472 (E) all state and federal statutory lienholders including a statement as to whether the  
3473 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health  
3474 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health  
3475 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

3476 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain  
3477 records and billings from the individuals or entities disclosed under Subsections  
3478 (9)(a)(ii)(A)(I), (B)(I), and (C).

3479 (b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed  
3480 health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary,  
3481 the underinsured motorist carrier may:

3482 (A) make a request for the disclosure of the identity of the health care providers or  
3483 health care insurers; and

3484 (B) make a request for authorizations to allow the underinsured motorist carrier to only  
3485 obtain records and billings from the individuals or entities not disclosed.

3486 (ii) If the covered person does not provide the requested information within 10 days:

3487 (A) the covered person shall disclose, in writing, the legal or factual basis for the  
3488 failure to disclose the health care providers or health care insurers; and

3489 (B) either the covered person or the underinsured motorist carrier may request the  
3490 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be  
3491 provided if the covered person has elected arbitration.

3492 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of  
3493 the dispute concerning the disclosure and production of records of the health care providers or  
3494 health care insurers.

3495 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a  
3496 notice of filing litigation and the demand for payment of underinsured motorist benefits under  
3497 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the

3498 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

3499 (A) provide a written response to the written demand for payment provided for in  
3500 Subsection (9)(a)(i);

3501 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the  
3502 underinsured motorist carrier's determination of the amount owed to the covered person; and

3503 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah  
3504 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah  
3505 Children's Health Insurance Program, or if the claim is subject to any other state or federal  
3506 statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of  
3507 the amount owed to the covered person less:

3508 (I) if the amount of the state or federal statutory lien is established, the amount of the  
3509 lien; or

3510 (II) if the amount of the state or federal statutory lien is not established, two times the  
3511 amount of the medical expenses subject to the state or federal statutory lien until such time as  
3512 the amount of the state or federal statutory lien is established.

3513 (ii) If the amount tendered by the underinsured motorist carrier under Subsection  
3514 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount  
3515 shall be accepted by the covered person.

3516 (d) A covered person who receives a written response from an underinsured motorist  
3517 carrier as provided for in Subsection (9)(c)(i), may:

3518 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all  
3519 underinsured motorist claims; or

3520 (ii) elect to:

3521 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all  
3522 underinsured motorist claims; and

3523 (B) continue to litigate or arbitrate the remaining claim in accordance with the election  
3524 made under Subsections (8)(a) through (c).

3525 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i)  
3526 as partial payment of all underinsured motorist claims, the final award obtained through  
3527 arbitration, litigation, or later settlement shall be reduced by any payment made by the  
3528 underinsured motorist carrier under Subsection (9)(c)(i).

- 3529 (f) In an arbitration proceeding on the remaining underinsured claims:
- 3530 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
- 3531 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and
- 3532 (ii) the parties may not disclose the amount of the limits of underinsured motorist
- 3533 benefits provided by the policy.
- 3534 (g) If the final award obtained through arbitration or litigation is greater than the
- 3535 average of the covered person's initial written demand for payment provided for in Subsection
- 3536 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in
- 3537 Subsection (9)(c)(i), the underinsured motorist carrier shall pay:
- 3538 (i) the final award obtained through arbitration or litigation, except that if the award
- 3539 exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the
- 3540 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and
- 3541 (ii) any of the following applicable costs:
- 3542 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;
- 3543 (B) the arbitrator or arbitration panel's fee; and
- 3544 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
- 3545 evidence during arbitration or litigation.
- 3546 (h) (i) The covered person shall provide an affidavit of costs within five days of an
- 3547 arbitration award.
- 3548 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
- 3549 which the underinsured motorist carrier objects.
- 3550 (B) The objection shall be resolved by the arbitrator or arbitration panel.
- 3551 (iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii)
- 3552 may not exceed \$5,000.
- 3553 (i) (i) A covered person shall disclose all material information, other than rebuttal
- 3554 evidence, within 30 days after a covered person elects to submit a claim for underinsured
- 3555 motorist coverage benefits to binding arbitration or files litigation as specified in Subsection
- 3556 (9)(a).
- 3557 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
- 3558 may not recover costs or any amounts in excess of the policy under Subsection (9)(g).
- 3559 (j) This Subsection (9) does not limit any other cause of action that arose or may arise

3560 against the underinsured motorist carrier from the same dispute.

3561 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that  
3562 occur on or after March 30, 2010.

3563 (l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the  
3564 covered person's requirement to provide a computation of any other economic damages  
3565 claimed, and the one or more respondents shall have a reasonable time after the receipt of the  
3566 computation of any other economic damages claimed to conduct fact and expert discovery as to  
3567 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,  
3568 Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A)  
3569 apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

3570 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter  
3571 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to  
3572 binding arbitration or through litigation on or after May 13, 2014.

3573 Section 54. Section **31A-22-321** is amended to read:

3574 **31A-22-321. Use of arbitration in third party motor vehicle accident cases.**

3575 (1) A person injured as a result of a motor vehicle accident may elect to submit all third  
3576 party bodily injury claims to arbitration by filing a notice of the submission of the claim to  
3577 binding arbitration in a [~~district court~~] court with jurisdiction under Title 78A, Judiciary and  
3578 Judicial Administration, if:

3579 (a) the claimant or the claimant's representative has:

3580 (i) previously and timely filed a complaint in a [~~district~~] court that includes a third  
3581 party bodily injury claim; and

3582 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint  
3583 has been answered; and

3584 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under  
3585 Subsection (1)(a)(i) is still pending.

3586 (2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the  
3587 party submitting the claim or the party's representative is limited to an arbitration award that  
3588 does not exceed \$50,000 in addition to any available personal injury protection benefits and  
3589 any claim for property damage.

3590 (b) A claim for reimbursement of personal injury protection benefits is to be resolved

3591 between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).

3592 (c) A claim for property damage may not be made in an arbitration proceeding under  
3593 Subsection (1) unless agreed upon by the parties in writing.

3594 (d) A party who elects to proceed against a defendant under this section:

3595 (i) waives the right to obtain a judgment against the personal assets of the defendant;  
3596 and

3597 (ii) is limited to recovery only against available limits of insurance coverage.

3598 (e) (i) This section does not prevent a party from pursuing an underinsured motorist  
3599 claim as set out in Section 31A-22-305.3.

3600 (ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to  
3601 the \$50,000 limit described in Subsection (2)(a).

3602 (iii) There shall be no right of subrogation on the part of the underinsured motorist  
3603 carrier for a claim submitted to arbitration under this section.

3604 (3) A claim for punitive damages may not be made in an arbitration proceeding under  
3605 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial  
3606 de novo under Subsection (11).

3607 (4) (a) A person who has elected arbitration under this section may rescind the person's  
3608 election if the rescission is made within:

3609 (i) 90 days after the election to arbitrate; and

3610 (ii) no less than 30 days before any scheduled arbitration hearing.

3611 (b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:

3612 (i) file a notice of the rescission of the election to arbitrate with the [district] court in  
3613 which the matter was filed; and

3614 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel  
3615 of record to the action.

3616 (c) All discovery completed in anticipation of the arbitration hearing shall be available  
3617 for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah Rules of  
3618 Evidence.

3619 (d) A party who has elected to arbitrate under this section and then rescinded the  
3620 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this  
3621 section again.

3622 (5) (a) Unless otherwise agreed to by the parties or by order of the court, an arbitration  
3623 process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.

3624 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be  
3625 completed within 150 days after the date arbitration is elected under this section or the date the  
3626 answer is filed, whichever is longer.

3627 (6) (a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to  
3628 arbitration under this section shall be resolved by a single arbitrator.

3629 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall  
3630 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of  
3631 the defendant.

3632 (c) If the parties are unable to agree on a single arbitrator as required under Subsection  
3633 (6)(b), the parties shall select a panel of three arbitrators.

3634 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):

3635 (i) each side shall select one arbitrator; and

3636 (ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional  
3637 arbitrator to be included in the panel.

3638 (7) Unless otherwise agreed to in writing:

3639 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected  
3640 under Subsection (6)(a); and

3641 (b) if an arbitration panel is selected under Subsection (6)(d):

3642 (i) each party shall pay the fees and costs of the arbitrator selected by that party's side;  
3643 and

3644 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected  
3645 under Subsection (6)(d)(ii).

3646 (8) Except as otherwise provided in this section and unless otherwise agreed to in  
3647 writing by the parties, an arbitration proceeding conducted under this section shall be governed  
3648 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

3649 (9) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and  
3650 Utah Rules of Evidence apply to the arbitration proceeding.

3651 (b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied  
3652 liberally with the intent of concluding the claim in a timely and cost-efficient manner.

3653 (c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah  
3654 Rules of Civil Procedure and shall be subject to the jurisdiction of the [district] court in which  
3655 the matter is filed.

3656 (d) Dispositive motions shall be filed, heard, and decided by the [district] court prior to  
3657 the arbitration proceeding in accordance with the court's scheduling order.

3658 (10) A written decision by a single arbitrator or by a majority of the arbitration panel  
3659 shall constitute a final decision.

3660 (11) An arbitration award issued under this section shall be the final resolution of all  
3661 bodily injury claims between the parties and may be reduced to judgment by the court upon  
3662 motion and notice unless:

3663 (a) either party, within 20 days after service of the arbitration award:

3664 (i) files a notice requesting a trial de novo in the [district] court; and

3665 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo  
3666 under Subsection (11)(a)(i); or

3667 (b) the arbitration award has been satisfied.

3668 (12) (a) Upon filing a notice requesting a trial de novo under Subsection (11):

3669 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90  
3670 days shall be allowed for further discovery;

3671 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice  
3672 of appeal; and

3673 (iii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the  
3674 Utah Rules of Civil Procedure and Utah Rules of Evidence [~~in the district court~~].

3675 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may  
3676 request a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).

3677 (13) (a) If the plaintiff, as the moving party in a trial de novo requested under  
3678 Subsection (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than  
3679 the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.

3680 (b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall  
3681 include:

3682 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

3683 (ii) the costs of expert witnesses and depositions.

3684 (c) An award of costs under this Subsection (13) may not exceed \$6,000.

3685 (14) (a) If a defendant, as the moving party in a trial de novo requested under  
3686 Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award,  
3687 the defendant is responsible for all of the nonmoving party's costs.

3688 (b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall  
3689 include:

3690 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

3691 (ii) the costs of expert witnesses and depositions.

3692 (c) An award of costs under this Subsection (14) may not exceed \$6,000.

3693 (15) For purposes of determining whether a party's verdict is greater or less than the  
3694 arbitration award under Subsections (13) and (14), a court may not consider any recovery or  
3695 other relief granted on a claim for damages if the claim for damages:

3696 (a) was not fully disclosed in writing prior to the arbitration proceeding; or

3697 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil  
3698 Procedure.

3699 (16) If a [~~district~~] court determines, upon a motion of the nonmoving party, that the  
3700 moving party's use of the trial de novo process was filed in bad faith as defined in Section  
3701 [78B-5-825](#), the [~~district~~] court may award reasonable attorney fees to the nonmoving party.

3702 (17) Nothing in this section is intended to affect or prevent any first party claim from  
3703 later being brought under any first party insurance policy under which the injured person is a  
3704 covered person.

3705 (18) (a) If a defendant requests a trial de novo under Subsection (11), in no event can  
3706 the total verdict at trial exceed \$15,000 above any available limits of insurance coverage and in  
3707 no event can the total verdict exceed \$65,000.

3708 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may  
3709 not exceed \$50,000.

3710 (19) All arbitration awards issued under this section shall bear postjudgment interest  
3711 pursuant to Section [15-1-4](#).

3712 (20) If a party requests a trial de novo under Subsection (11), the party shall file a copy  
3713 of the notice requesting a trial de novo with the commissioner notifying the commissioner of  
3714 the party's request for a trial de novo under Subsection (11).



3715 Section 55. Section **32B-4-205** is amended to read:

3716 **32B-4-205. Prosecutions.**

3717 (1) (a) A prosecution for a violation of this title shall be in the name of the state.

3718 (b) A criminal action for violation of a county or municipal ordinance enacted in  
3719 furtherance of this title shall be in the name of the governmental entity involved.

3720 (2) (a) A prosecution for violation of this title shall be brought by the county attorney  
3721 of the county or district attorney of the prosecution district where the violation occurs. If a  
3722 county attorney or district attorney fails to initiate or diligently pursue a prosecution authorized  
3723 and warranted under this title, the attorney general shall exercise supervisory authority over the  
3724 county attorney or district attorney to ensure prosecution is initiated and diligently pursued.

3725 (b) If a violation occurs within a city or town, prosecution may be brought by either the  
3726 county, district, or city attorney, notwithstanding any provision of law limiting the powers of a  
3727 city attorney.

3728 (c) A city or town prosecutor has the responsibility of initiating and diligently pursuing  
3729 prosecutions for a violation of a local ordinance enacted in furtherance of this title or  
3730 commission rules.

3731 (3) [~~(a) A prosecution for a violation of this title shall be commenced~~] Notwithstanding  
3732 Section 76-1-201, a prosecuting attorney shall commence a prosecution by the return of an  
3733 indictment or the filing of an information [~~with the district court of the~~] in a court with  
3734 jurisdiction under Title 78A, Judiciary and Judicial Administration, in the county in which the  
3735 offense occurs or where the premises are located upon which an alcoholic product is seized, if  
3736 the offense involves an alcoholic product.

3737 [~~(b) An offense prescribed by this title that is not described in Subsection (3)(a) shall~~  
3738 ~~be filed before a court having jurisdiction of the offense committed.~~]

3739 (4) (a) Unless otherwise provided by law, an information may not be filed charging the  
3740 commission of a felony or class A misdemeanor under this title unless authorized by a  
3741 prosecuting attorney.

3742 (b) This Subsection (4) does not apply if the magistrate has reasonable cause to believe  
3743 that the person to be charged may avoid apprehension or escape before approval can be  
3744 obtained.

3745 (5) (a) In describing an offense respecting the sale, keeping for sale, or other disposal

3746 of an alcoholic product, or the possessing, keeping, purchasing, consumption, or giving of an  
3747 alcoholic product in an information, indictment, summons, judgment, warrant, or proceeding  
3748 under this title, it is sufficient to state the possessing, purchasing, keeping, sale, keeping for  
3749 sale, giving, consumption, or disposal of the alcoholic product without stating:

- 3750 (i) the name or kind of alcoholic product;
- 3751 (ii) the price of the alcoholic product;
- 3752 (iii) any person to whom the alcoholic product is sold or disposed of;
- 3753 (iv) by whom the alcoholic product is taken or consumed; or
- 3754 (v) from whom the alcoholic product is purchased or received.

3755 (b) It is not necessary to state the quantity of alcoholic product possessed, purchased,  
3756 kept, kept for sale, sold, given, consumed, or disposed of, except in the case of an offense when  
3757 the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less  
3758 than the quantity.

3759 (6) If an offense is committed under a local ordinance enacted to carry out this title, it  
3760 is sufficient if the charging document refers to the chapter and section of the ordinance under  
3761 which the offense is committed.

3762 Section 56. Section **34-20-10** is amended to read:

3763 **34-20-10. Unfair labor practices -- Powers of board to prevent -- Procedure.**

3764 (1) (a) The board may prevent any person from engaging in any unfair labor practice,  
3765 as listed in Section **34-20-8**, affecting intrastate commerce or the orderly operation of industry.

3766 (b) This authority is exclusive and is not affected by any other means of adjustment or  
3767 prevention that has been or may be established by agreement, code, law, or otherwise.

3768 (2) The board shall comply with the procedures and requirements of Title 63G, Chapter  
3769 4, Administrative Procedures Act, in its adjudicative proceedings.

3770 (3) When it is charged that any person has engaged in or is engaged in any unfair labor  
3771 practice, the board, or any agent or agency designated by the board, may issue and serve a  
3772 notice of agency action on that person.

3773 (4) (a) If, upon all the testimony taken, the board finds that any person named in the  
3774 complaint has engaged in or is engaging in an unfair labor practice, the board shall state its  
3775 findings of fact and shall issue and serve on the person an order to cease and desist from the  
3776 unfair labor practice and to take other affirmative action designated by the commission,

3777 including reinstatement of employees with or without back pay, to effectuate the policies of  
3778 this chapter.

3779 (b) The order may require the person to make periodic reports showing the extent to  
3780 which it has complied with the order.

3781 (c) If, upon all the testimony taken, the board determines that no person named in the  
3782 complaint has engaged in or is engaging in any unfair labor practice, the board shall state its  
3783 findings of fact and shall issue an order dismissing the complaint.

3784 (5) (a) The board may petition [~~the district court~~] a court with jurisdiction under Title  
3785 78A, Judiciary and Judicial Administration, to enforce the order and for appropriate temporary  
3786 relief or for a restraining order.

3787 (b) The board shall certify and file in the court:

3788 (i) a transcript of the entire record in the proceeding;

3789 (ii) the pleadings and testimony upon which the order was entered; and

3790 (iii) the findings and order of the board.

3791 (c) When the petition is filed, the board shall serve notice on all parties to the action.

3792 (d) Upon filing of the petition, the court has jurisdiction of the proceeding and of the  
3793 question to be determined.

3794 (e) The court may grant temporary relief or a restraining order, and, based upon the  
3795 pleadings, testimony, and proceedings set forth in the transcript, order that the board's order be  
3796 enforced, modified, or set aside in whole or in part.

3797 (f) The court may not consider any objection that was not presented before the board,  
3798 its member, agent, or agency, unless the failure or neglect to urge the objection is excused  
3799 because of extraordinary circumstances.

3800 (g) The board's findings of fact, if supported by evidence, are conclusive.

3801 (h) (i) If either party applies to the court for leave to adduce additional evidence, and  
3802 shows to the satisfaction of the court that the additional evidence is material and that there were  
3803 reasonable grounds for the failure to adduce the evidence in the hearing before the board, its  
3804 member, agent, or agency, the court may order additional evidence to be taken before the  
3805 board, its member, agent, or agency, and to be made part of the transcript.

3806 (ii) The board may modify its findings as to the facts, or make new findings, because of  
3807 the additional evidence taken and filed.

3808 (iii) The board shall file the modified or new findings, which, if supported by evidence,  
3809 are conclusive, and shall file its recommendations, if any, for the modification or setting aside  
3810 of its original order.

3811 Section 57. Section **34-20-11** is amended to read:

3812 **34-20-11. Hearings and investigations -- Power of board -- Witnesses --**  
3813 **Procedure.**

3814 For the purpose of all hearings and investigations, which, in the opinion of the board,  
3815 are necessary and proper for the exercise of the powers vested in it by Sections **34-20-9** and  
3816 **34-20-10**:

3817 (1) The board, or its duly authorized agents or agencies, shall at all reasonable times  
3818 have access to, for the purpose of examination, and the right to copy, any evidence of any  
3819 person being investigated or proceeded against that relates to any matter under investigation or  
3820 in question. Any member of the board shall have power to issue subpoenas requiring the  
3821 attendance and testimony of witnesses and the production of any evidence that relates to any  
3822 matter under investigation or in question, before the board, its member, agent, or agency  
3823 conducting the hearing or investigation. Any member of the board, or any agent or agency  
3824 designated by the board, for these purposes, may administer oaths and affirmations, examine  
3825 witnesses, and receive evidence. Attendance of witnesses and the production of evidence may  
3826 be required from any place in the state at any duly designated place of hearing.

3827 (2) (a) In case of contumacy or refusal to obey a subpoena issued to any person, [~~any~~  
3828 ~~district court of Utah within the jurisdiction of which the inquiry is carried on or within the~~  
3829 ~~jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or~~  
3830 ~~transacts business upon application by the board shall have jurisdiction to issue to the person] a  
3831 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may issue an  
3832 order requiring the person to:~~

3833 (i) appear before the board, [its] or the board's member, agent, or agency, to produce  
3834 evidence if so ordered[~~, or to~~]; or

3835 (ii) give testimony touching the matter under investigation or in question[~~, and any~~].

3836 (b) A failure to obey the order of the court may be punished by the court as a contempt.

3837 (3) In the event a witness asserts a privilege against self-incrimination, testimony and  
3838 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of

3839 Immunity.

3840 (4) Complaints, orders, and other processes and papers of the board, its member, agent,  
3841 or agency, may be served either personally, by certified or registered mail, by telegraph, or by  
3842 leaving a copy at the principal office or place of business of the person required to be served.

3843 The verified return by the individual serving the documents setting forth the manner of the  
3844 service shall be proof of the service, and the return post office receipt or telegram receipt when  
3845 certified or registered and mailed or telegraphed shall be proof of service. Witnesses

3846 summoned before the board, its member, agent, or agency, shall be paid the same fees and  
3847 mileage that are paid witnesses in the courts of the state, and witnesses whose depositions are  
3848 taken and the persons taking them shall be entitled to the same fees paid for the same services  
3849 in the courts of the state.

3850 (5) All departments and agencies of the state, when directed by the governor, shall  
3851 furnish to the board, upon its request, all records, papers, and information in their possession  
3852 relating to any matter before the board.

3853 Section 58. Section **34-28-9.5** is amended to read:

3854 **34-28-9.5. Private cause of action.**

3855 (1) Except as provided in Subsection (2), for a wage claim that is less than or equal to  
3856 \$10,000, the employee shall exhaust the employee's administrative remedies described in  
3857 Section **34-28-9** and rules made by the commission under Section **34-28-9** before the employee  
3858 may file an action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and  
3859 Judicial Administration.

3860 (2) An employee may file an action for a wage claim in [~~district~~] a court without  
3861 exhausting the administrative remedies described in Section **34-28-9** and rules made by the  
3862 commission under Section **34-28-9** if:

3863 (a) the employee's wage claim is over \$10,000;

3864 (b) (i) the employee's wage claim is less than or equal to \$10,000;

3865 (ii) the employee asserts one or more additional claims against the same employer; and

3866 (iii) the aggregate amount of damages resulting from the claims described in this

3867 Subsection (2)(b) is greater than \$10,000; or

3868 (c) (i) in the same civil action, more than one employee files a wage claim against an  
3869 employer; and

3870 (ii) the aggregate amount of the employees' combined wage claim is greater than  
3871 \$10,000.

3872 (3) In an action under this section, the court may award an employee:

3873 (a) actual damages;

3874 (b) an amount equal to 2.5% of the unpaid wages owed to the employee, assessed daily  
3875 for the lesser of:

3876 (i) the period beginning the day on which the court issues a final order and ending the  
3877 day on which the employer pays the unpaid wages owed to the employee; or

3878 (ii) 20 days after the day on which the court issues a final order; and

3879 (c) a penalty described in Subsection 34-28-5(1)(c), if applicable.

3880 Section 59. Section 34A-1-407 is amended to read:

3881 **34A-1-407. Investigation of places of employment -- Violations of rules or orders**  
3882 **-- Temporary injunction.**

3883 (1) (a) Upon complaint by any person that any employment or place of employment,  
3884 regardless of the number of persons employed, is not safe for any employee or is in violation of  
3885 state law, the commission shall refer the complaint for investigation and administrative action  
3886 under:

3887 (i) Chapter 2, Workers' Compensation Act;

3888 (ii) Chapter 3, Utah Occupational Disease Act;

3889 (iii) Chapter 5, Utah Antidiscrimination Act;

3890 (iv) Chapter 6, Utah Occupational Safety and Health Act;

3891 (v) Chapter 7, Safety; or

3892 (vi) any combination of Subsections (1)(a)(i) through (v).

3893 (b) Notwithstanding Subsection (1)(a) and Title 40, Chapter 2, Coal Mine Safety Act,  
3894 for any Utah mine subject to the Federal Mine Safety and Health Act, the sole duty of the  
3895 commission is to notify the appropriate federal agency of the complaint.

3896 (2) Notwithstanding any other penalty provided in this title, if any employer, after  
3897 receiving notice, fails or refuses to obey the rules or order of the commission relative to the  
3898 protection of the life, health, or safety of any employee, [~~the district court of Utah~~] a court with  
3899 jurisdiction under Title 78A, Judiciary and Judicial Administration, is empowered, upon  
3900 petition of the commission to issue, ex parte and without bond, a temporary injunction

3901 restraining the further operation of the employer's business.

3902 Section 60. Section **34A-5-102** is amended to read:

3903 **34A-5-102. Definitions -- Unincorporated entities -- Joint employers --**

3904 **Franchisors.**

3905 (1) As used in this chapter:

3906 (a) "Affiliate" means the same as that term is defined in Section [16-6a-102](#).

3907 (b) "Apprenticeship" means a program for the training of apprentices including a  
3908 program providing the training of those persons defined as apprentices by Section [35A-6-102](#).

3909 (c) "Bona fide occupational qualification" means a characteristic applying to an  
3910 employee that:

3911 (i) is necessary to the operation; or

3912 (ii) is the essence of the employee's employer's business.

3913 [~~(d) "Court" means:~~]

3914 [~~(i) the district court in the judicial district of the state in which the asserted unfair  
3915 employment practice occurs; or]~~

3916 [~~(ii) if the district court is not in session at that time, a judge of the court described in  
3917 Subsection (1)(d)(i):]~~

3918 (d) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial  
3919 Administration.

3920 (e) "Director" means the director of the division.

3921 (f) "Disability" means a physical or mental disability as defined and covered by the  
3922 Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

3923 (g) "Division" means the Division of Antidiscrimination and Labor.

3924 (h) "Employee" means a person applying with or employed by an employer.

3925 (i) (i) "Employer" means:

3926 (A) the state;

3927 (B) a political subdivision;

3928 (C) a board, commission, department, institution, school district, trust, or agent of the  
3929 state or a political subdivision of the state; or

3930 (D) a person employing 15 or more employees within the state for each working day in  
3931 each of 20 calendar weeks or more in the current or preceding calendar year.

3932 (ii) "Employer" does not include:

3933 (A) a religious organization, a religious corporation sole, a religious association, a  
3934 religious society, a religious educational institution, or a religious leader, when that individual  
3935 is acting in the capacity of a religious leader;

3936 (B) any corporation or association constituting an affiliate, a wholly owned subsidiary,  
3937 or an agency of any religious organization, religious corporation sole, religious association, or  
3938 religious society; or

3939 (C) the Boy Scouts of America or its councils, chapters, or subsidiaries.

3940 (j) "Employment agency" means a person:

3941 (i) undertaking to procure employees or opportunities to work for any other person; or

3942 (ii) holding the person out to be equipped to take an action described in Subsection  
3943 (1)(j)(i).

3944 (k) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec.  
3945 105, of the federal government.

3946 (l) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

3947 (m) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

3948 (n) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

3949 (o) "Gender identity" has the meaning provided in the Diagnostic and Statistical  
3950 Manual (DSM-5). A person's gender identity can be shown by providing evidence, including,  
3951 but not limited to, medical history, care or treatment of the gender identity, consistent and  
3952 uniform assertion of the gender identity, or other evidence that the gender identity is sincerely  
3953 held, part of a person's core identity, and not being asserted for an improper purpose.

3954 (p) "Joint apprenticeship committee" means an association of representatives of a labor  
3955 organization and an employer providing, coordinating, or controlling an apprentice training  
3956 program.

3957 (q) "Labor organization" means an organization that exists for the purpose in whole or  
3958 in part of:

3959 (i) collective bargaining;

3960 (ii) dealing with employers concerning grievances, terms or conditions of employment;

3961 or

3962 (iii) other mutual aid or protection in connection with employment.



3963 (r) "National origin" means the place of birth, domicile, or residence of an individual or  
3964 of an individual's ancestors.

3965 (s) "On-the-job-training" means a program designed to instruct a person who, while  
3966 learning the particular job for which the person is receiving instruction:

3967 (i) is also employed at that job; or

3968 (ii) may be employed by the employer conducting the program during the course of the  
3969 program, or when the program is completed.

3970 (t) "Person" means:

3971 (i) one or more individuals, partnerships, associations, corporations, legal  
3972 representatives, trusts or trustees, or receivers;

3973 (ii) the state; and

3974 (iii) a political subdivision of the state.

3975 (u) "Pregnancy, childbirth, or pregnancy-related conditions" includes breastfeeding or  
3976 medical conditions related to breastfeeding.

3977 (v) "Presiding officer" means the same as that term is defined in Section [63G-4-103](#).

3978 (w) "Prohibited employment practice" means a practice specified as discriminatory,  
3979 and therefore unlawful, in Section [34A-5-106](#).

3980 (x) "Religious leader" means an individual who is associated with, and is an authorized  
3981 representative of, a religious organization or association or a religious corporation sole,  
3982 including a member of clergy, a minister, a pastor, a priest, a rabbi, an imam, or a spiritual  
3983 advisor.

3984 (y) "Retaliate" means the taking of adverse action by an employer, employment agency,  
3985 labor organization, apprenticeship program, on-the-job training program, or vocational school  
3986 against one of its employees, applicants, or members because the employee, applicant, or  
3987 member:

3988 (i) opposes an employment practice prohibited under this chapter; or

3989 (ii) files charges, testifies, assists, or participates in any way in a proceeding,  
3990 investigation, or hearing under this chapter.

3991 (z) "Sexual orientation" means an individual's actual or perceived orientation as  
3992 heterosexual, homosexual, or bisexual.

3993 (aa) "Undue hardship" means an action that requires significant difficulty or expense

3994 when considered in relation to factors such as the size of the entity, the entity's financial  
3995 resources, and the nature and structure of the entity's operation.

3996 (bb) "Unincorporated entity" means an entity organized or doing business in the state  
3997 that is not:

3998 (i) an individual;

3999 (ii) a corporation; or

4000 (iii) publicly traded.

4001 (cc) "Vocational school" means a school or institution conducting a course of  
4002 instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to  
4003 pursue a manual, technical, industrial, business, commercial, office, personal services, or other  
4004 nonprofessional occupations.

4005 (2) (a) For purposes of this chapter, an unincorporated entity that is required to be  
4006 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to  
4007 be the employer of each individual who, directly or indirectly, holds an ownership interest in  
4008 the unincorporated entity.

4009 (b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,  
4010 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption  
4011 under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that  
4012 the individual:

4013 (i) is an active manager of the unincorporated entity;

4014 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated  
4015 entity; or

4016 (iii) is not subject to supervision or control in the performance of work by:

4017 (A) the unincorporated entity; or

4018 (B) a person with whom the unincorporated entity contracts.

4019 (c) As part of the rules made under Subsection (2)(b), the commission may define:

4020 (i) "active manager";

4021 (ii) "directly or indirectly holds at least an 8% ownership interest"; and

4022 (iii) "subject to supervision or control in the performance of work."

4023 (3) For purposes of determining whether two or more persons are considered joint  
4024 employers under this chapter, an administrative ruling of a federal executive agency may not be

4025 considered a generally applicable law unless that administrative ruling is determined to be  
4026 generally applicable by a court of law, or adopted by statute or rule.

4027 (4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

4028 (i) a franchisee; or

4029 (ii) a franchisee's employee.

4030 (b) With respect to a specific claim for relief under this chapter made by a franchisee or  
4031 a franchisee's employee, this Subsection (4) does not apply to a franchisor under a franchise  
4032 that exercises a type or degree of control over the franchisee or the franchisee's employee not  
4033 customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks  
4034 and brand.

4035 (5) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall  
4036 bring an action under this chapter in the judicial district in which the asserted unfair  
4037 employment practice occurs if the action is brought in the district court.

4038 Section 61. Section **34A-6-202** is amended to read:

4039 **34A-6-202. Standards -- Procedure for issuance, modification, or revocation by**  
4040 **division -- Emergency temporary standard -- Variances from standards -- Statement of**  
4041 **reasons for administrator's actions -- Judicial review -- Priority for establishing**  
4042 **standards.**

4043 (1) (a) The division, as soon as practicable, shall issue as standards any national  
4044 consensus standard, any adopted federal standard, or any adopted Utah standard, unless it  
4045 determines that issuance of the standard would not result in improved safety or health.

4046 (b) All codes, standards, and rules adopted under Subsection (1)(a) shall take effect 30  
4047 days after publication unless otherwise specified.

4048 (c) If any conflict exists between standards, the division shall issue the standard that  
4049 assures the greatest protection of safety or health for affected employees.

4050 (2) The division may issue, modify, or revoke any standard as follows:

4051 (a) The division shall publish a proposed rule issuing, modifying, or revoking an  
4052 occupational safety or health standard and shall afford interested parties an opportunity to  
4053 submit written data or comments as prescribed by Title 63G, Chapter 3, Utah Administrative  
4054 Rulemaking Act. When the administrator determines that a rule should be issued, the division  
4055 shall publish the proposed rule after the expiration of the period prescribed by the administrator

4056 for submission.

4057 (b) The administrator, in issuing standards for toxic materials or harmful physical  
4058 agents under this subsection, shall set the standard which most adequately assures, to the extent  
4059 feasible, on the basis of the best available evidence, that no employee will suffer material  
4060 impairment of health or functional capacity even if the employee has regular exposure to the  
4061 hazard during an employee's working life. Development of standards under this subsection  
4062 shall be based upon research, demonstrations, experiments, and other information deemed  
4063 appropriate. In addition to the attainment of the highest degree of health and safety protection  
4064 for the employee, other considerations shall be the latest available scientific data in the field,  
4065 the feasibility of the standards, and experience under this and other health and safety laws.  
4066 Whenever practicable, the standard shall be expressed in terms of objective criteria and of the  
4067 performance desired.

4068 (c) (i) Any employer may apply to the administrator for a temporary order granting a  
4069 variance from a standard issued under this section. Temporary orders shall be granted only if  
4070 the employer:

4071 (A) files an application which meets the requirements of Subsection (2)(c)(iv);

4072 (B) establishes that the employer is unable to comply with a standard by its effective  
4073 date because of unavailability of professional or technical personnel or of materials and  
4074 equipment needed for compliance with the standard or because necessary construction or  
4075 alteration of facilities cannot be completed by the effective date;

4076 (C) establishes that the employer is taking all available steps to safeguard the  
4077 employer's employees against hazards; and

4078 (D) establishes that the employer has an effective program for compliance as quickly as  
4079 practicable.

4080 (ii) Any temporary order shall prescribe the practices, means, methods, operations, and  
4081 processes which the employer shall adopt and use while the order is in effect and state in detail  
4082 the employer's program for compliance with the standard. A temporary order may be granted  
4083 only after notice to employees and an opportunity for a public hearing; provided, that the  
4084 administrator may issue one interim order effective until a decision is made after public  
4085 hearing.

4086 (iii) A temporary order may not be in effect longer than the period reasonably required

4087 by the employer to achieve compliance. In no case shall the period of a temporary order  
4088 exceed one year.

4089 (iv) An application for a temporary order under Subsection (2)(c) shall contain:

4090 (A) a specification of the standard or part from which the employer seeks a variance;

4091 (B) a representation by the employer, supported by representations from qualified  
4092 persons having first-hand knowledge of the facts represented, that the employer is unable to  
4093 comply with the standard or some part of the standard;

4094 (C) a detailed statement of the reasons the employer is unable to comply;

4095 (D) a statement of the measures taken and anticipated with specific dates, to protect  
4096 employees against the hazard;

4097 (E) a statement of when the employer expects to comply with the standard and what  
4098 measures the employer has taken and those anticipated, giving specific dates for compliance;  
4099 and

4100 (F) a certification that the employer has informed the employer's employees of the  
4101 application by:

4102 (I) giving a copy to their authorized representative;

4103 (II) posting a statement giving a summary of the application and specifying where a  
4104 copy may be examined at the place or places where notices to employees are normally posted;  
4105 and

4106 (III) by other appropriate means.

4107 (v) The certification required under Subsection (2)(c)(iv) shall contain a description of  
4108 how employees have been informed.

4109 (vi) The information to employees required under Subsection (2)(c)(v) shall inform the  
4110 employees of their right to petition the division for a hearing.

4111 (vii) The administrator is authorized to grant a variance from any standard or some part  
4112 of the standard when the administrator determines that it is necessary to permit an employer to  
4113 participate in a research and development project approved by the administrator to demonstrate  
4114 or validate new and improved techniques to safeguard the health or safety of workers.

4115 (d) (i) Any standard issued under this subsection shall prescribe the use of labels or  
4116 other forms of warning necessary to ensure that employees are apprised of all hazards, relevant  
4117 symptoms and emergency treatment, and proper conditions and precautions of safe use or

4118 exposure. When appropriate, a standard shall prescribe suitable protective equipment and  
4119 control or technological procedures for use in connection with such hazards and provide for  
4120 monitoring or measuring employee exposure at such locations and intervals, and in a manner  
4121 necessary for the protection of employees. In addition, any such standard shall prescribe the  
4122 type and frequency of medical examinations or other tests which shall be made available by the  
4123 employer, or at the employer's cost, to employees exposed to hazards in order to most  
4124 effectively determine whether the health of employees is adversely affected by exposure. If  
4125 medical examinations are in the nature of research as determined by the division, the  
4126 examinations may be furnished at division expense. The results of such examinations or tests  
4127 shall be furnished only to the division; and, at the request of the employee, to the employee's  
4128 physician.

4129 (ii) The administrator may by rule make appropriate modifications in requirements for  
4130 the use of labels or other forms of warning, monitoring or measuring, and medical  
4131 examinations warranted by experience, information, or medical or technological developments  
4132 acquired subsequent to the promulgation of the relevant standard.

4133 (e) Whenever a rule issued by the administrator differs substantially from an existing  
4134 national consensus standard, the division shall publish a statement of the reasons why the rule  
4135 as adopted will better effectuate the purposes of this chapter than the national consensus  
4136 standard.

4137 (f) Whenever a rule, standard, or national consensus standard is modified by the  
4138 secretary so as to make less restrictive the federal Williams-Steiger Occupational Safety and  
4139 Health Act of 1970, the less restrictive modification shall be immediately applicable to this  
4140 chapter and shall be immediately implemented by the division.

4141 (3) (a) The administrator shall provide an emergency temporary standard to take  
4142 immediate effect upon publication if the administrator determines that:

4143 (i) employees are exposed to grave danger from exposure to substances or agents  
4144 determined to be toxic or physically harmful or from new hazards; and

4145 (ii) that the standard is necessary to protect employees from danger.

4146 (b) An emergency standard shall be effective until superseded by a standard issued in  
4147 accordance with the procedures prescribed in this Subsection (3)(c).

4148 (c) Upon publication of an emergency standard the division shall commence a

4149 proceeding in accordance with Subsection (2) and the standard as published shall serve as a  
4150 proposed rule for the proceedings. The division shall issue a standard under Subsection (3) no  
4151 later than 120 days after publication of the emergency standard.

4152 (4) (a) Any affected employer may apply to the division for a rule or order for a  
4153 variance from a standard issued under this section. Affected employees shall be given notice of  
4154 each application and may participate in a hearing. The administrator shall issue a rule or order  
4155 if the administrator determines on the record, after opportunity for an inspection where  
4156 appropriate and a hearing, that the proponent of the variance has demonstrated by a  
4157 preponderance of the evidence that the conditions, practices, means, methods, operations, or  
4158 processes used or proposed to be used by an employer will provide employment and a  
4159 workplace to the employer's employees that are as safe and healthful as those which would  
4160 prevail if the employer complied with the standard.

4161 (b) The rule or order issued under Subsection (4)(a) shall prescribe the conditions the  
4162 employer must maintain, and the practices, means, methods, operations and processes that the  
4163 employer must adopt and use to the extent they differ from the standard in question.

4164 (c) A rule or order issued under Subsection (4)(a) may be modified or revoked upon  
4165 application by an employer, employees, or by the administrator on its own motion, in the  
4166 manner prescribed for its issuance under this Subsection (4) at any time after six months from  
4167 its issuance.

4168 (5) The administrator shall include a statement of reasons for the administrator's  
4169 actions when the administrator:

4170 (a) issues any code, standard, rule, or order;

4171 (b) grants any exemption or extension of time; or

4172 (c) compromises, mitigates, or settles any penalty assessed under this chapter.

4173 (6) Any person adversely affected by a standard issued under this section, at any time  
4174 prior to 60 days after a standard is issued, may file a petition challenging ~~[its]~~ the standard's  
4175 validity with [the district court having jurisdiction for judicial review] a court with jurisdiction  
4176 under Title 78A, Judiciary and Judicial Administration. A copy of the petition shall be served  
4177 upon the division by the petitioner. The filing of a petition may not, unless otherwise ordered  
4178 by the court, operate as a stay of the standard. The determinations of the division shall be  
4179 conclusive if supported by substantial evidence on the record as a whole.

4180 (7) In determining the priority for establishing standards under this section, the division  
4181 shall give due regard to the urgency of the need for mandatory safety and health standards for  
4182 particular industries, trades, crafts, occupations, businesses, workplaces or work environments.  
4183 The administrator shall also give due regard to the recommendations of the Department of  
4184 Health and Human Services about the need for mandatory standards in determining the priority  
4185 for establishing the standards.

4186 Section 62. Section **38-1a-308** is amended to read:

4187 **38-1a-308. Intentional submission of excessive lien notice -- Criminal and civil**  
4188 **liability.**

4189 (1) As used in this section, "residential project" means a project on real property:

4190 (a) for which a preconstruction service or construction work is provided; and

4191 (b) that consists of:

4192 (i) one single-family residence; or

4193 (ii) one multi-family residence that contains no more than four units.

4194 (2) A person is guilty of a class B misdemeanor if:

4195 (a) the person intentionally submits for recording a notice of preconstruction lien or  
4196 notice of construction lien against any property containing a greater demand than the sum due;  
4197 and

4198 (b) by submitting the notice, the person intends:

4199 (i) to cloud the title;

4200 (ii) to exact from the owner or person liable by means of the excessive notice of  
4201 preconstruction or construction lien more than is due; or

4202 (iii) to procure any unjustified advantage or benefit.

4203 (3) (a) As used in this Subsection (3), "third party" means an owner, original  
4204 contractor, or subcontractor.

4205 (b) In addition to any criminal penalty under Subsection (2), a person who submits a  
4206 notice of preconstruction lien or notice of construction lien as described in Subsection (2) is  
4207 liable to a third party who is affected by the notice of preconstruction lien or the notice of  
4208 construction lien for twice the amount by which the lien notice exceeds the amount actually  
4209 due or the actual damages incurred by the owner, original contractor, or subcontractor,  
4210 whichever is greater.



- 4211 (4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the  
4212 claim shall arbitrate in accordance with Subsections (5) through (15) if the notice of  
4213 preconstruction lien, or the notice of construction lien, that is the subject of the claim is:
- 4214 (a) for a residential project; and
  - 4215 (b) for \$50,000 or less.
- 4216 (5) (a) Unless otherwise agreed to by the parties, a claim that is submitted to arbitration  
4217 under this section shall be resolved by a single arbitrator.
- 4218 (b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within  
4219 60 days after the day on which an answer is filed.
- 4220 (c) If the parties are unable to agree on a single arbitrator as required under Subsection  
4221 (5)(b), the parties shall select a panel of three arbitrators.
- 4222 (d) If the parties select a panel of three arbitrators under Subsection (5)(c):
- 4223 (i) each side shall select one arbitrator; and
  - 4224 (ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional  
4225 arbitrator to be included in the panel.
- 4226 (6) Unless otherwise agreed to in writing:
- 4227 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected  
4228 under Subsection (5)(b); or
  - 4229 (b) if an arbitration panel is selected under Subsection (5)(d):
- 4230 (i) each party shall pay the fees and costs of that party's selected arbitrator; and
  - 4231 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected  
4232 under Subsection (5)(d)(ii).
- 4233 (7) Except as otherwise provided in this section or otherwise agreed to by the parties,  
4234 an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter  
4235 11, Utah Uniform Arbitration Act.
- 4236 (8) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and  
4237 the Utah Rules of Evidence shall apply to an arbitration proceeding under this section.
- 4238 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied  
4239 liberally with the intent of resolving the claim in a timely and cost-efficient manner.
- 4240 (c) Subject to the provisions of this section, ~~discovery shall be conducted in~~  
4241 ~~accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject~~

4242 to the jurisdiction of the district court in which the claim is filed] the parties shall conduct  
4243 discovery in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.

4244 (d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an  
4245 arbitration proceeding under this section shall be limited to the discovery available in a tier 1  
4246 case under Rule 26 of the Utah Rules of Civil Procedure.

4247 (9) A written decision by a single arbitrator or by a majority of the arbitration panel  
4248 shall constitute a final decision.

4249 (10) An arbitration award issued under this section:

4250 (a) shall be the final resolution of all excessive notice claims described in Subsection  
4251 (3)(b) that are:

4252 (i) between the parties;

4253 (ii) for a residential project; and

4254 (iii) for \$50,000 or less; and

4255 (b) may be reduced to judgment by the court upon motion and notice, unless:

4256 (i) any party, within 20 days after the day on which the arbitration award is served, files  
4257 a notice requesting a trial de novo in [~~district court~~] a court with jurisdiction under [Title 78A,](#)  
4258 Judiciary and Judicial Administration; or

4259 (ii) the arbitration award has been satisfied.

4260 (11) (a) Upon filing a notice requesting a trial de novo under Subsection [~~(10)~~]

4261 (10)(b)(i):

4262 (i) unless otherwise stipulated to by the parties or ordered by the court, the parties are  
4263 allowed an additional 60 days for discovery; and

4264 (ii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the Utah  
4265 Rules of Civil Procedure and the Utah Rules of Evidence [~~in the district court~~].

4266 (b) The additional discovery time described in Subsection (11)(a)(i) shall run from the  
4267 day on which the notice requesting a trial de novo is filed.

4268 (12) If the plaintiff, as the moving party in a trial de novo requested under Subsection  
4269 [~~(10)~~] (10)(b)(i), does not obtain a verdict that is at least 10% greater than the arbitration  
4270 award, the plaintiff is responsible for all of the nonmoving party's costs, including expert  
4271 witness fees.

4272 (13) If a defendant, as the moving party in a trial de novo requested under Subsection

4273 ~~[(10)]~~ (10)(b)(i), does not obtain a verdict that is at least 10% less than the arbitration award,  
4274 the defendant is responsible for all of the nonmoving party's costs, including expert witness  
4275 fees.

4276 (14) If a ~~[district]~~ court determines, upon a motion of the nonmoving party, that the  
4277 moving party's use of the trial de novo process was filed in bad faith, as defined in Section  
4278 78B-5-825, the ~~[district]~~ court may award reasonable attorney fees to the nonmoving party.

4279 (15) All arbitration awards issued under this section shall bear postjudgment interest  
4280 pursuant to Section 15-1-4.

4281 Section 63. Section 38-1a-804 is amended to read:

4282 **38-1a-804. Notice of release of lien and substitution of alternate security.**

4283 (1) The owner of any interest in a project property that is subject to a recorded  
4284 preconstruction or construction lien, or any original contractor or subcontractor affected by the  
4285 lien, who disputes the correctness or validity of the lien may submit for recording a notice of  
4286 release of lien and substitution of alternate security:

4287 (a) that meets the requirements of Subsection (2);

4288 (b) in the office of each applicable county recorder where the lien was recorded; and

4289 (c) at any time before the date that is 180 days after the first summons is served in an  
4290 action to foreclose the preconstruction or construction lien for which the notice under this  
4291 section is submitted for recording.

4292 (2) A notice of release of lien and substitution of alternate security recorded under  
4293 Subsection (1) shall:

4294 (a) meet the requirements for the recording of documents in Title 57, Chapter 3,  
4295 Recording of Documents;

4296 (b) reference the preconstruction or construction lien sought to be released, including  
4297 the applicable entry number, book number, and page number; and

4298 (c) have as an attachment a surety bond or evidence of a cash deposit that:

4299 (i) (A) if a surety bond, is executed by a surety company that is treasury listed, A-rated  
4300 by AM Best Company, and authorized to issue surety bonds in this state; or

4301 (B) if evidence of a cash deposit, meets the requirements established by rule by the  
4302 Department of Commerce in accordance with Title 63G, Chapter 3, Utah Administrative  
4303 Rulemaking Act;

4304 (ii) is in an amount equal to:

4305 (A) 150% of the amount claimed by the claimant under the preconstruction or  
4306 construction lien or as determined under Subsection (7), if the lien claim is for \$25,000 or  
4307 more;

4308 (B) 175% of the amount claimed by the claimant under the preconstruction or  
4309 construction lien or as determined under Subsection (7), if the lien claim is for at least \$15,000  
4310 but less than \$25,000; or

4311 (C) 200% of the amount claimed by the claimant under the preconstruction or  
4312 construction lien or as determined under Subsection (7), if the lien claim is for less than  
4313 \$15,000;

4314 (iii) is made payable to the claimant;

4315 (iv) is conditioned for the payment of:

4316 (A) the judgment that would have been rendered, or has been rendered against the  
4317 project property in the action to enforce the lien; and

4318 (B) any costs and attorney fees awarded by the court; and

4319 (v) has as principal:

4320 (A) the owner of the interest in the project property; or

4321 (B) the original contractor or subcontractor affected by the lien.

4322 (3) (a) Upon the recording of the notice of release of lien and substitution of alternate  
4323 security under Subsection (1), the real property described in the notice shall be released from  
4324 the preconstruction lien or construction lien to which the notice applies.

4325 (b) A recorded notice of release of lien and substitution of alternate security is effective  
4326 as to any amendment to the preconstruction or construction lien being released if the bond  
4327 amount remains enough to satisfy the requirements of Subsection (2)(c)(ii).

4328 (4) (a) Upon the recording of a notice of release of lien and substitution of alternate  
4329 security under Subsection (1), the person recording the notice shall serve a copy of the notice,  
4330 together with any attachments, within 30 days upon the claimant.

4331 (b) If a suit is pending to foreclose the preconstruction or construction lien at the time  
4332 the notice is served upon the claimant under Subsection (4)(a), the claimant shall, within 90  
4333 days after the receipt of the notice, institute proceedings to add the alternate security as a party  
4334 to the lien foreclosure suit.

4335 (5) The alternate security attached to a notice of release of lien shall be discharged and  
4336 released upon:

4337 (a) the failure of the claimant to commence a suit against the alternate security within  
4338 the same time as an action to enforce the lien under Section 38-1a-701;

4339 (b) the failure of the lien claimant to institute proceedings to add the alternate security  
4340 as a party to a lien foreclosure suit within the time required by Subsection (4)(b);

4341 (c) the dismissal with prejudice of the lien foreclosure suit or suit against the alternate  
4342 security as to the claimant; or

4343 (d) the entry of judgment against the claimant in:

4344 (i) a lien foreclosure suit; or

4345 (ii) suit against the alternate security.

4346 (6) If a copy of the notice of release of lien and substitution of alternate security is not  
4347 served upon the claimant as provided in Subsection (4)(a), the claimant has six months after  
4348 the discovery of the notice to commence an action against the alternate security, except that no  
4349 action may be commenced against the alternate security after two years from the date the notice  
4350 was recorded.

4351 (7) (a) (i) The owner of any interest in a project property that is subject to a recorded  
4352 preconstruction or construction lien, or an original contractor or subcontractor affected by the  
4353 lien, who disputes the amount claimed under a preconstruction or construction lien may  
4354 petition [~~the district court in the county in which the notice of lien is recorded~~] a court with  
4355 jurisdiction under Title 78A, Judiciary and Judicial Administration, for a summary  
4356 determination of the correct amount owing under the lien for the sole purpose of providing  
4357 alternate security.

4358 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall  
4359 bring a petition described in Subsection (7)(a)(i) in the county in which the notice of lien is  
4360 recorded if the person brings the petition in the district court.

4361 (b) A petition under this Subsection (7) shall:

4362 (i) state with specificity the factual and legal bases for disputing the amount claimed  
4363 under the preconstruction or construction lien; and

4364 (ii) be supported by a sworn affidavit and any other evidence supporting the petition.

4365 (c) A petitioner under Subsection (7)(a) shall, as provided in Utah Rules of Civil

4366 Procedure, Rule 4, serve on the claimant:

4367 (i) a copy of the petition; and

4368 (ii) a notice of hearing if a hearing is scheduled.

4369 (d) If a court finds a petition under Subsection (7)(a) insufficient, the court may

4370 dismiss the petition without a hearing.

4371 (e) If a court finds a petition under Subsection (7)(a) sufficient, the court shall schedule

4372 a hearing within 10 days to determine the correct amount claimed under the preconstruction or

4373 construction lien for the sole purpose of providing alternate security.

4374 (f) A claimant may:

4375 (i) attend a hearing held under this Subsection (7); and

4376 (ii) contest the petition.

4377 (g) A determination under this section is limited to a determination of the amount

4378 claimed under a preconstruction or construction lien for the sole purpose of providing alternate

4379 security and does not conclusively establish:

4380 (i) the amount to which the claimant is entitled;

4381 (ii) the validity of the claim; or

4382 (iii) any person's right to any other legal remedy.

4383 (h) If a court, in a proceeding under this Subsection (7), determines that the amount

4384 claimed under a preconstruction or construction lien is excessive, the court shall set the amount

4385 for the sole purpose of providing alternate security.

4386 (i) In an order under Subsection (7)(h), the court shall include a legal description of the

4387 project property.

4388 (j) A petitioner under this Subsection (7) may record a certified copy of any order

4389 issued under this Subsection (7) in the county in which the lien is recorded.

4390 (k) A court may not award attorney fees for a proceeding under this Subsection (7), but

4391 shall consider those attorney fees in any award of attorney fees under any other provision of

4392 this chapter.

4393 Section 64. Section **38-1a-805** is amended to read:

4394 **38-1a-805. Failure to file notice -- Petition to nullify preconstruction or**

4395 **construction lien -- Expedited proceeding.**

4396 (1) (a) An owner of an interest in a project property that is subject to a recorded

4397 preconstruction lien or a recorded construction lien may petition [~~the district court in the~~  
4398 ~~county in which the project property is located~~] a court with jurisdiction under Title 78A,  
4399 Judiciary and Judicial Administration, for summary relief to nullify the preconstruction lien or  
4400 the construction lien if:

4401        ~~[(a)]~~ (i) the owner claims that the preconstruction lien or the construction lien is invalid  
4402 because:

4403        ~~[(i)]~~ (A) the lien claimant did not timely file a notice of preconstruction service under  
4404 Section 38-1a-401; or

4405        ~~[(ii)]~~ (B) the lien claimant did not timely file a preliminary notice under Section  
4406 38-1a-501;

4407        ~~[(b)]~~ (ii) the owner sent the lien claimant a written request to withdraw in accordance  
4408 with Subsection (2); and

4409        ~~[(c)]~~ (iii) the lien claimant did not withdraw the preconstruction lien or the construction  
4410 lien within 10 business days after the day on which the owner sent the written request to  
4411 withdraw.

4412        (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall  
4413 bring a petition described in Subsection (1)(a) in the county in which the project property is  
4414 located if the person brings the petition in the district court.

4415        (2) A written request to withdraw described in Subsection (1) shall:

4416        (a) be delivered by certified mail to the lien claimant at the lien claimant's address  
4417 provided in the recorded preconstruction lien or the recorded construction lien;

4418        (b) state the owner's name, address, and telephone number;

4419        (c) contain:

4420        (i) (A) the name of the county in which the property that is subject to the  
4421 preconstruction lien or the construction lien is located; and

4422        (B) the tax parcel identification number of each parcel that is subject to the  
4423 preconstruction lien or the construction lien; or

4424        (ii) a legal description of the property that is subject to the preconstruction lien or the  
4425 construction lien;

4426        (d) state that the lien claimant has failed to timely file:

4427        (i) a notice of preconstruction service under Section 38-1a-401; or

4428 (ii) a preliminary notice under Section 38-1a-501;

4429 (e) request that the lien claimant withdraw the lien claimant's preconstruction lien or  
4430 construction lien within 10 business days after the day on which the written request to  
4431 withdraw is sent; and

4432 (f) state that if the lien claimant does not withdraw the preconstruction lien or the  
4433 construction lien within 10 business days after the day on which the written request to  
4434 withdraw is sent, the owner may petition a court to nullify the lien in an expedited proceeding  
4435 under this section.

4436 (3) A petition under Subsection (1) shall:

4437 (a) state with specificity that:

4438 (i) the lien claimant's preconstruction lien or the lien claimant's construction lien is  
4439 invalid because the lien claimant did not file a notice of preconstruction service or a  
4440 preliminary notice, as applicable;

4441 (ii) the petitioner sent the lien claimant a written request to withdraw in accordance  
4442 with Subsection (2); and

4443 (iii) the lien claimant did not withdraw the preconstruction lien or the construction lien  
4444 within 10 business days after the day on which the owner sent the written request to withdraw;

4445 (b) be supported by a sworn affidavit of the petitioner; and

4446 (c) be served on the lien claimant, in accordance with the Rules of Civil Procedure,  
4447 within three business days after the day on which the petitioner files the petition in the [district]  
4448 court.

4449 (4) (a) If the court finds that a petition does not meet the requirements described in  
4450 Subsection (3), the court may dismiss the petition without a hearing.

4451 (b) If the court finds that a petition meets the requirements described in Subsection (3),  
4452 the court shall schedule an expedited hearing to determine whether the preconstruction lien or  
4453 the construction lien is invalid because the lien claimant failed to file a notice of  
4454 preconstruction service or a preliminary notice, as applicable.

4455 (5) (a) If the court grants a hearing, within three business days after the day on which  
4456 the court schedules the hearing and at least seven business days before the day on which the  
4457 hearing is scheduled, the petitioner shall serve on the lien claimant, in accordance with the  
4458 Rules of Civil Procedure, a copy of the petition, notice of the hearing, and a copy of the court's



4459 order granting the expedited hearing.

4460 (b) The lien claimant may attend the hearing and contest the petition.

4461 (6) An expedited proceeding under this section may only determine:

4462 (a) whether the lien claimant filed a notice of preconstruction service or a preliminary  
4463 notice; and

4464 (b) if the lien claimant failed to file a notice of preconstruction service or a preliminary  
4465 notice, whether the lien claimant's preconstruction lien or construction lien is valid.

4466 (7) (a) If, following a hearing, the court determines that the preconstruction lien or the  
4467 construction lien is invalid, the court shall issue an order that:

4468 (i) contains a legal description of the property;

4469 (ii) declares the preconstruction lien or the construction lien void ab initio;

4470 (iii) releases the property from the lien; and

4471 (iv) awards costs and reasonable attorney fees to the petitioner.

4472 (b) The petitioner may submit a copy of an order issued under Subsection (7)(a) to the  
4473 county recorder for recording.

4474 (8) (a) If, following a hearing, the court determines that the preconstruction lien or the  
4475 construction lien is valid, the court shall:

4476 (i) dismiss the petition; and

4477 (ii) award costs and reasonable attorney fees to the lien claimant.

4478 (b) The dismissal order shall contain a legal description of the property.

4479 (c) The lien claimant may submit a copy of the dismissal order to the county recorder  
4480 for recording.

4481 (9) If a petition under this section contains a claim for damages, the proceedings related  
4482 to the claim for damages may not be expedited under this section.

4483 Section 65. Section **38-2-4** is amended to read:

4484 **38-2-4. Disposal of property by lienholder -- Procedure.**

4485 (1) Any party holding a lien upon personal property as provided in this chapter may  
4486 dispose of the property in the manner provided in Subsection (2).

4487 (2) (a) The lienor shall give notice to the owner of the property, to the customer as  
4488 indicated on the work order, and to all other persons claiming an interest in or lien on it, as  
4489 disclosed by the records of the Motor Vehicle Division, lieutenant governor's office, or of

4490 corresponding agencies of any other state in which the property appears registered or an interest  
4491 in or lien on it is evidenced if known by the lienor.

4492 (b) The notice shall be sent by certified mail at least 30 days before the proposed or  
4493 scheduled date of any sale and shall contain:

4494 (i) a description of the property and its location;

4495 (ii) the name and address of the owner of the property, the customer as indicated on the  
4496 work order, and any person claiming an interest in or lien on the property;

4497 (iii) the name, address, and telephone number of the lienor;

4498 (iv) notice that the lienor claims a lien on the property for labor and services performed  
4499 and interest and storage fees charged, if any, and the cash sum which, if paid to the lienor,  
4500 would be sufficient to redeem the property from the lien claimed by the lienor;

4501 (v) notice that the lien claimed by the lienor is subject to enforcement under this  
4502 section and that the property may be sold to satisfy the lien;

4503 (vi) the date, time, and location of any proposed or scheduled sale of the property and  
4504 whether the sale is private or public, except that no property may be sold earlier than 45 days  
4505 after completion of the repair work; and

4506 (vii) notice that the owner of the property has a right to recover possession of the  
4507 property without instituting judicial proceedings by posting bond.

4508 (3) If the owner of the property is unknown or his whereabouts cannot be determined,  
4509 or if the owner or any person notified under Subsection (2) fails to acknowledge receipt of the  
4510 notice, the lienor, at least 20 days before the proposed or scheduled date of sale of the property,  
4511 shall publish the notice required by this section once in a newspaper circulated in the county  
4512 where the vehicle is held.

4513 (4) A lienee may have his property released from any lien claimed on it under this  
4514 chapter by filing with the clerk of a ~~[justice court or district]~~ court a cash or surety bond,  
4515 payable to the person claiming the lien, and conditioned for the payment of any judgment that  
4516 may be recovered on the lien, with costs, interest, and storage fees.

4517 (5) (a) The lienor has 60 days after receiving notice that the lienee has filed the bond  
4518 provided in Subsection (4) to file suit to foreclose his lien.

4519 (b) If the lienor fails to timely file an action, the clerk of the court shall release the  
4520 bond.

4521 (6) Property subject to lien enforcement under this section may be sold by the lienor at  
4522 public or private sale; however, in the case of a private sale, every aspect of the sale, including  
4523 the method, manner, time, place, and terms shall be commercially reasonable.

4524 (7) This section may not be construed to affect an owner's right to redeem his property  
4525 from the lien at any time prior to sale by paying the amount claimed by the lienor for work  
4526 done, interest, and storage fees charged and any costs incurred by the repair shop for using  
4527 enforcement procedures under this section.

4528 Section 66. Section **38-9-204** is amended to read:

4529 **38-9-204. Petition to file lien -- Notice to record interest holders -- Summary relief**  
4530 **-- Contested petition.**

4531 (1) A lien claimant whose document is rejected pursuant to Section **38-9-202** may  
4532 petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial  
4533 Administration, for an expedited determination that the lien may be recorded.

4534 (2) A petition under Subsection (1) shall:

4535 (a) be filed:

4536 (i) [~~with the district court~~] notwithstanding Title 78B, Chapter 3a, Venue for Civil  
4537 Actions, in the county of the county recorder who refused to record the document if the petition  
4538 is filed in the district court; and

4539 (ii) within 10 days after the day on which the person who files the petition receives the  
4540 notice under Subsection **38-9-202**(1)(b) of the county recorder's refusal to record the document;

4541 (b) state with specificity the grounds why the document should lawfully be recorded;  
4542 and

4543 (c) be supported by a sworn affidavit of the lien claimant.

4544 (3) If the court finds the petition is insufficient, it may dismiss the petition without a  
4545 hearing.

4546 (4) (a) If the court grants a hearing, the petitioner shall, by certified or registered mail,  
4547 serve a copy of the petition, notice of hearing, and a copy of the court's order granting an  
4548 expedited hearing on all record interest holders of the property sufficiently in advance of the  
4549 hearing to enable any record interest holder to attend the hearing.

4550 (b) Any record interest holder of the property has the right to attend and contest the  
4551 petition.

4552 (5) (a) If, following a hearing, the court finds that the document may lawfully be  
4553 recorded, the court shall issue an order directing the county recorder to accept the document for  
4554 recording.

4555 (b) If the petition is contested, the court may award costs and reasonable attorney fees  
4556 to the prevailing party.

4557 (6) (a) A summary proceeding under this section:

4558 (i) may only determine whether a contested document, on its face, shall be recorded by  
4559 the county recorder; and

4560 (ii) may not determine the truth of the content of the document or the property or legal  
4561 rights of the parties beyond the necessary determination of whether the document shall be  
4562 recorded.

4563 (b) A court's grant or denial of a petition under this section may not restrict any other  
4564 legal remedies of any party, including any right to injunctive relief pursuant to Rules of Civil  
4565 Procedure, Rule 65A, Injunctions.

4566 (7) If a petition under this section contains a claim for damages, the proceedings related  
4567 to the claim for damages may not be expedited under this section.

4568 Section 67. Section **38-9-205** is amended to read:

4569 **38-9-205. Petition to nullify lien -- Notice to lien claimant -- Summary relief --**  
4570 **Finding of wrongful lien -- Wrongful lien is void.**

4571 (1) (a) A record interest holder of real property against which a wrongful lien is  
4572 recorded may petition [~~the district court in the county in which the document is recorded~~] a  
4573 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for summary  
4574 relief to nullify the wrongful lien.

4575 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a record interest  
4576 holder shall bring a petition described in Subsection (1)(a) in the county in which the document  
4577 is recorded if the person brings the petition in the district court.

4578 (2) The petition described in Subsection (1) shall state with specificity the claim that  
4579 the lien is a wrongful lien and shall be supported by a sworn affidavit of the record interest  
4580 holder.

4581 (3) (a) If the court finds the petition insufficient, the court may dismiss the petition  
4582 without a hearing.

4583 (b) If the court finds the petition is sufficient, the court shall schedule a hearing within  
4584 10 days to determine whether the document is a wrongful lien.

4585 (c) The record interest holder shall serve a copy of the petition on the lien claimant and  
4586 a copy of a notice of the hearing pursuant to Rules of Civil Procedure, Rule 4, Process.

4587 (d) The lien claimant is entitled to attend and contest the petition.

4588 (4) A summary proceeding under this section:

4589 (a) may only determine whether a document is a wrongful lien; and

4590 (b) may not determine any other property or legal rights of the parties or restrict other  
4591 legal remedies of any party.

4592 (5) (a) If, following a hearing, the court determines that the recorded document is a  
4593 wrongful lien, the court shall issue an order declaring the wrongful lien void ab initio, releasing  
4594 the property from the lien, and awarding costs and reasonable attorney fees to the petitioner.

4595 (b) (i) The record interest holder may submit a certified copy of the order to the county  
4596 recorder for recording.

4597 (ii) The order shall contain a legal description of the real property.

4598 (c) If the court determines that the claim of lien is valid, the court shall dismiss the  
4599 petition and may award costs and reasonable attorney's fees to the lien claimant. The dismissal  
4600 order shall contain a legal description of the real property. The prevailing lien claimant may  
4601 record a certified copy of the dismissal order.

4602 (6) If the court determines that the recorded document is a wrongful lien, the wrongful  
4603 lien is void ab initio and provides no notice of claim or interest.

4604 (7) If a petition under this section contains a claim for damages, the proceedings related  
4605 to the claim for damages may not be expedited under this section.

4606 Section 68. Section **38-9-303** is amended to read:

4607 **38-9-303. Enforcement proceeding required.**

4608 (1) (a) For a nonconsensual common law document recorded on or after May 13, 2014,  
4609 within 10 business days after the day on which a document sponsor submits a nonconsensual  
4610 common law document to the county recorder for recording, the document sponsor shall [~~file a~~  
4611 ~~complaint in district court in the county of the county recorder where the nonconsensual~~  
4612 ~~common law document was recorded for a proceeding]~~ bring an action in a court with  
4613 jurisdiction under Title 78A, Judiciary and Judicial Administration, to obtain an order that the

4614 nonconsensual common law document is valid and enforceable.

4615 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the document  
4616 sponsor shall bring an action described in Subsection (1)(a) in the county of the county recorder  
4617 where the nonconsensual common law document was recorded if the person brings the petition  
4618 in the district court.

4619 (2) A complaint to initiate [~~a judicial proceeding~~] an action described in Subsection (1)  
4620 shall:

4621 (a) state with specificity the grounds that make the nonconsensual common law  
4622 document valid and enforceable;

4623 (b) be supported by the document sponsor's sworn affidavit; and

4624 (c) name each affected person as an opposing party.

4625 (3) If the court finds that a complaint [~~filed under Subsection (1)~~] does not meet the  
4626 requirements described in Subsection (2), the court may dismiss the complaint without a  
4627 hearing.

4628 (4) If a complaint [~~filed under Subsection (1)~~] meets the requirements described in  
4629 Subsection (2), the court:

4630 (a) shall hold a hearing;

4631 (b) following the hearing, shall issue an order that:

4632 (i) states whether the nonconsensual common law document is valid and enforceable;

4633 and

4634 (ii) includes a legal description of the real property that is the subject of the complaint;

4635 and

4636 (c) may award costs and reasonable attorney fees to the prevailing party.

4637 (5) Within three business days after the day on which the court issues a final order in a  
4638 proceeding under this section, the prevailing party shall submit a copy of the court's final order  
4639 to the county recorder for recording.

4640 (6) A nonconsensual common law document is presumed invalid and unenforceable.

4641 (7) A person's lack of belief in the jurisdiction or authority of the state or of the  
4642 government of the United States is not a defense to liability under this section.

4643 (8) A court's order in [~~a proceeding~~] an action under this section does not restrict any  
4644 other legal remedies available to any party, including any right to injunctive relief under Utah

4645 Rules of Civil Procedure, Rule 65A, Injunctions.

4646 Section 69. Section **38-9a-201** is amended to read:

4647 **38-9a-201. Wrongful lien injunction -- Forms.**

4648 (1) (a) Any person who believes that [~~he or she~~] the person is the victim of a wrongful  
4649 lien may file a verified written petition for a civil wrongful lien injunction against the person  
4650 filing, making, or uttering the lien, notice of interest, or other encumbrance in [~~the district court~~  
4651 ~~in the district in which the petitioner or respondent resides or in which any of the events~~  
4652 ~~occurred~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

4653 (b) A minor accompanied by [~~his or her~~] the minor's parent or guardian may file a  
4654 petition on [~~his or her~~] the minor's own behalf, or a parent, guardian, or custodian may file a  
4655 petition on the minor's behalf.

4656 (2) (a) (i) The Administrative Office of the Courts shall develop and adopt forms for  
4657 petitions, ex parte civil wrongful lien injunctions, civil wrongful lien injunctions, service, and  
4658 any other necessary forms in accordance with the provisions of this chapter on or before May 2,  
4659 2005.

4660 (ii) The office shall provide the forms adopted under Subsection (2)(a)(i) to the clerk of  
4661 each district court.

4662 (b) The court clerks shall provide the forms to persons seeking to proceed under this  
4663 chapter.

4664 (c) The [~~district~~] courts shall issue all petitions, injunctions, ex parte injunctions, and  
4665 any other necessary forms in the form prescribed by the Administrative Office of the Courts.

4666 Section 70. Section **38-9a-202** is amended to read:

4667 **38-9a-202. Petition for wrongful lien injunction -- Ex parte injunction.**

4668 (1) The petition for a civil wrongful lien injunction shall include:

4669 (a) the name of the petitioner, except that at the petitioner's request his or her address  
4670 shall be disclosed to the court for purposes of service, but may not be listed on the petition, and  
4671 shall be maintained in a separate document or automated database, not subject to release,  
4672 disclosure, or any form of public access except as ordered by the court for good cause shown;

4673 (b) the name and address, if known, of the respondent;

4674 (c) specific actions and dates of the actions constituting the alleged wrongful lien;

4675 (d) if there is a prior court order concerning the same conduct, the name of the court in

4676 which the order was rendered; and

4677 (e) corroborating evidence of a wrongful lien, which may be in the form of a police  
4678 report, affidavit, record, statement, item, letter, copy of the lien, or any other evidence which  
4679 tends to prove the allegation of wrongful lien.

4680 (2) If the court determines there is reason to believe that a wrongful lien has been  
4681 made, uttered, recorded, or filed, the court may issue an ex parte civil wrongful lien injunction  
4682 that includes any of the following:

4683 (a) enjoining the respondent from making, uttering, recording, or filing any further  
4684 liens without specific permission of the court;

4685 (b) ordering that the lien be nullified; and

4686 (c) any other relief necessary or convenient for the protection of the petitioner and  
4687 other specifically designated persons under the circumstances.

4688 (3) An ex parte civil wrongful lien injunction issued under this section shall state on its  
4689 face:

4690 (a) that the respondent is entitled to a hearing, upon written request filed with the court  
4691 within 10 days of the service of the injunction;

4692 (b) the name and address of the [district] court where the request may be filed;

4693 (c) that if the respondent fails to request a hearing within 10 days of service, the ex  
4694 parte civil wrongful lien injunction is automatically modified to a civil wrongful lien injunction  
4695 without further notice to the respondent and that the civil wrongful lien injunction expires three  
4696 years after service on the respondent;

4697 (d) the following statement: "Attention. This is an official court order. If you disobey  
4698 this order, the court may find you in contempt. You may also be arrested and prosecuted for  
4699 the crime of making a wrongful lien and any other crime you may have committed in  
4700 disobeying this order."; and

4701 (e) that if the respondent requests, in writing, a hearing after the ten-day period  
4702 specified in Subsection (3)(a) the court shall set a hearing within a reasonable time from the  
4703 date the hearing is requested.

4704 (4) The ex parte civil wrongful lien injunction shall be served on the respondent within  
4705 90 days after the date it is signed, and is effective upon service.

4706 Section 71. Section **38-9a-205** is amended to read:



4707 **38-9a-205. Remedies -- Actions arising from injunctions -- Attorney fees.**

4708 (1) The remedies provided in this chapter for enforcement of the orders of the court are  
4709 in addition to any other civil and criminal remedies available.

4710 [~~(2) The district court shall hear and decide all matters arising pursuant to this chapter.~~]

4711 [(3)] (2) After a hearing with notice to the affected party, the court may enter an order  
4712 requiring any party to pay the costs of the action, including reasonable attorney's fees.

4713 Section 72. Section **38-11-110** is amended to read:

4714 **38-11-110. Issuance of certificates of compliance.**

4715 (1) (a) The director may issue a certificate of compliance only after determining  
4716 through an informal proceeding, as set forth in Title 63G, Chapter 4, Administrative  
4717 Procedures Act:

4718 (i) that the owner is in compliance with Subsections **38-11-204**(4)(a) and (b); or

4719 (ii) subject to Subsection (2), that the owner is entitled to protection under Subsection  
4720 **38-11-107**(1)(b).

4721 (b) If the director determines through an informal proceeding under Subsection (1)(a)  
4722 that an owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(i) is  
4723 not in compliance as provided in Subsection (1)(a)(i), the director may not issue a certificate of  
4724 compliance.

4725 (2) (a) An owner seeking the issuance of a certificate of compliance under Subsection  
4726 (1)(a)(ii) shall submit an affidavit, as defined by the division by rule, affirming that the owner  
4727 is entitled to protection under Subsection **38-11-107**(1)(b).

4728 (b) If an owner's affidavit under Subsection (2)(a) is disputed, the owner may file a  
4729 complaint in [~~small claims court or district court~~] a court with jurisdiction under Title 78A,  
4730 Judiciary and Judicial Administration, to resolve the dispute.

4731 (c) The director may issue a certificate of compliance to an owner seeking issuance of a  
4732 certificate under Subsection (1)(a)(ii) if:

4733 (i) the owner's affidavit under Subsection (2)(a) is undisputed; or

4734 (ii) [~~a small claims court or district court~~] a court resolves any dispute over the owner's  
4735 affidavit in favor of the owner.

4736 Section 73. Section **40-8-9** is amended to read:

4737 **40-8-9. Evasion of chapter or orders -- Penalties -- Limitations of actions --**

4738 **Violation of chapter or permit conditions -- Inspection -- Cessation order, abatement**  
4739 **notice, or show cause order -- Suspension or revocation of permit -- Review -- Division**  
4740 **enforcement authority -- Appeal provisions.**

4741 (1) (a) A person, owner, or operator who willfully or knowingly evades this chapter, or  
4742 who for the purpose of evading this chapter or any order issued under this chapter, willfully or  
4743 knowingly makes or causes to be made any false entry in any report, record, account, or  
4744 memorandum required by this chapter, or by the order, or who willfully or knowingly omits or  
4745 causes to be omitted from a report, record, account, or memorandum, full, true, and correct  
4746 entries as required by this chapter, or by the order, or who willfully or knowingly removes from  
4747 this state or destroys, mutilates, alters, or falsifies any record, account, or memorandum, is  
4748 guilty of a class B misdemeanor and, upon conviction, is subject to a fine of not more than  
4749 \$10,000 for each violation.

4750 (b) Each day of willful failure to comply with an emergency order is a separate  
4751 violation.

4752 (2) No suit, action, or other proceeding based upon a violation of this chapter, or any  
4753 rule or order issued under this chapter, may be commenced or maintained unless the suit,  
4754 action, or proceeding is commenced within five years from the date of the alleged violation.

4755 (3) (a) If, on the basis of information available, the division has reason to believe that a  
4756 person is in violation of a requirement of this chapter or a permit condition required by this  
4757 chapter, the division shall immediately order inspection of the mining operation at which the  
4758 alleged violation is occurring, unless the information available to the division is a result of a  
4759 previous inspection of the mining operation.

4760 (b) (i) If, on the basis of an inspection, the division determines that a condition or  
4761 practice exists, or that a permittee is in violation of a requirement of this chapter or a permit  
4762 condition required by this chapter, and the condition, practice, or violation also creates an  
4763 imminent danger to the health or safety of the public, or is causing, or can reasonably be  
4764 expected to cause significant, imminent environmental harm to land, air, or water resources,  
4765 the division shall immediately order a cessation of mining and operations or the portion  
4766 relevant to the condition, practice, or violation.

4767 (ii) The cessation order shall remain in effect until the division determines that the  
4768 condition, practice, or violation has been abated, or until modified, vacated, or terminated by

4769 the division.

4770 (iii) If the division finds that the ordered cessation of mining operations, or a portion of  
4771 the operation, will not completely abate the imminent danger to the health or safety of the  
4772 public or the significant imminent environmental harm to land, air, or water resources, the  
4773 division shall, in addition to the cessation order, impose affirmative obligations on the operator  
4774 requiring him to take whatever steps the division considers necessary to abate the imminent  
4775 danger or the significant environmental harm.

4776 (c) (i) If, on the basis of an inspection, the division determines that a permittee is in  
4777 violation of a requirement of this chapter or a permit condition required by this chapter, but the  
4778 violation does not create an imminent danger to the health or safety of the public or cannot be  
4779 reasonably expected to cause significant, imminent environmental harm to land, air, or water  
4780 resources, the division shall issue a notice to the permittee or his agent specifying a reasonable  
4781 time, but not more than 90 days, for the abatement of the violation and providing an  
4782 opportunity for a conference with the division.

4783 (ii) If, upon expiration of the period of time as originally fixed or subsequently  
4784 extended, for good cause shown, and upon the written finding of the division, the division finds  
4785 that the violation has not been abated, it shall immediately order a cessation of mining  
4786 operations or the portion of the mining operation relevant to the violation.

4787 (iii) The cessation order shall remain in effect until the division determines that the  
4788 violation has been abated or until modified, vacated, or terminated by the division pursuant to  
4789 this Subsection (3).

4790 (iv) In the order of cessation issued by the division under this Subsection (3), the  
4791 division shall determine the steps necessary to abate the violation in the most expeditious  
4792 manner possible and shall include the necessary measures in the order.

4793 (d) (i) Notices and orders issued under this section shall set forth with reasonable  
4794 specificity:

4795 (A) the nature of the violation and the remedial action required;

4796 (B) the period of time established for abatement; and

4797 (C) a reasonable description of the portion of the mining and reclamation operation to  
4798 which the notice or order applies.

4799 (ii) Each notice or order issued under this section shall be given promptly to the

4800 permittee or his agent by the division, and the notices and orders shall be in writing and shall  
4801 be signed by the director, or his authorized representative who issues notices or orders.

4802 (iii) A notice or order issued under this section may be modified, vacated, or  
4803 terminated by the division, but any notice or order issued under this section which requires  
4804 cessation of mining by the operator shall expire within 30 days of the actual notice to the  
4805 operator, unless a conference is held with the division.

4806 (4) (a) The division may request the attorney general to institute a civil action for relief,  
4807 including a permanent or temporary injunction, restraining order, or any other appropriate order  
4808 in [~~the district court for the district in which the mining and reclamation operation is located, or~~  
4809 ~~in which the permittee of the operation has his principal office,]~~ a court with jurisdiction under  
4810 Title 78A, Judiciary and Judicial Administration, if the permittee or [~~his~~] the permittee's agent:

4811 (i) violates or fails or refuses to comply with an order or decision issued by the division  
4812 under this chapter;

4813 (ii) interferes with, hinders, or delays the division, or its authorized representatives, in  
4814 carrying out the provisions of this chapter;

4815 (iii) refuses to admit the authorized representatives to the mine;

4816 (iv) refuses to permit inspection of the mine by the authorized representative; or

4817 (v) refuses to furnish any information or report requested by the division in furtherance  
4818 of the provisions of this chapter.

4819 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney  
4820 general brings the action described in Subsection (4)(a) in the district court, the attorney  
4821 general shall bring the action in the county in which:

4822 (i) the mining and reclamation operation is located; or

4823 (ii) the permittee of the operation has the permittee's principal office.

4824 [~~(b)~~] (c) (i) The court shall have jurisdiction to provide the appropriate relief.

4825 (ii) Relief granted by the court to enforce an order under Subsection (4)(a)(i) shall  
4826 continue in effect until the completion or final termination of all proceedings for review of that  
4827 order under this chapter, unless, prior to this completion or termination, the [~~district~~] court  
4828 granting the relief sets it aside or modifies the order.

4829 (5) (a) (i) A permittee issued a notice or order by the division, pursuant to the  
4830 provisions of Subsections (3)(b) and (3)(c), or a person having an interest which may be

4831 adversely affected by the notice or order, may apply to the board for review of the notice or  
4832 order within 30 days of receipt of the notice or order, or within 30 days of a modification,  
4833 vacation, or termination of the notice or order.

4834 (ii) Upon receipt of this application, the board shall pursue an investigation as it  
4835 considers appropriate.

4836 (iii) The investigation shall provide an opportunity for a public hearing at the request of  
4837 the applicant or the person having an interest which is or may be adversely affected, to enable  
4838 the applicant or that person to present information relating to the issuance and continuance of  
4839 the notice or order of the modification, vacation, or termination of the notice or order.

4840 (iv) The filing of an application for review under this Subsection (5)(a) shall not  
4841 operate as a stay of an order or notice.

4842 (b) (i) The permittee and other interested persons shall be given written notice of the  
4843 time and place of the hearing at least five days prior to the hearing.

4844 (ii) This hearing shall be of record and shall be subject to judicial review.

4845 (c) (i) Pending completion of the investigation and hearing required by this section, the  
4846 applicant may file with the board a written request that the board grant temporary relief from  
4847 any notice or order issued under this section, with a detailed statement giving the reasons for  
4848 granting this relief.

4849 (ii) The board shall issue an order or decision granting or denying this relief  
4850 expeditiously.

4851 (d) (i) Following the issuance of an order to show cause as to why a permit should not  
4852 be suspended or revoked pursuant to this section, the board shall hold a public hearing, after  
4853 giving written notice of the time, place, and date of the hearing.

4854 (ii) The hearing shall be of record and shall be subject to judicial review.

4855 (iii) Within 60 days following the public hearing, the board shall issue and furnish to  
4856 the permittee and all other parties to the hearing, a written decision, and the reasons for the  
4857 decision, regarding suspension or revocation of the permit.

4858 (iv) If the board revokes the permit, the permittee shall immediately cease mining  
4859 operations on the permit area and shall complete reclamation within a period specified by the  
4860 board, or the board shall declare the performance bonds forfeited for the operation.

4861 (e) An action taken by the board under this section, or any other provision of the state

4862 program, is subject to judicial review by a court with jurisdiction under Title 78A, Judiciary  
4863 and Judicial Administration.

4864 ~~[(e) Action by the board taken under this section or any other provision of the state~~  
4865 ~~program shall be subject to judicial review by the appropriate district court within the state.]~~

4866 (6) A criminal proceeding for a violation of this chapter, or a regulation or order issued  
4867 under this chapter, shall be commenced within five years from the date of the alleged violation.

4868 Section 74. Section **40-8-9.1** is amended to read:

4869 **40-8-9.1. Civil penalty for violation of chapter -- Informal conference -- Public**  
4870 **hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties --**  
4871 **Civil penalty for failure to correct violation -- Civil penalties.**

4872 (1) (a) (i) A permittee who violates a permit condition or other provision of this  
4873 chapter, may be assessed a civil penalty by the division.

4874 (ii) If the violation leads to the issuance of a cessation order under ~~[Section]~~ Subsection  
4875 40-8-9(3), the civil penalty shall be assessed.

4876 (b) (i) The penalty may not exceed \$5,000 for each violation.

4877 (ii) Each day of a continuing violation may be considered to be a separate violation for  
4878 purposes of the penalty assessments.

4879 (c) In determining the amount of the penalty, consideration shall be given to:

4880 (i) the permittee's history of previous violations at the particular mining operation;

4881 (ii) the seriousness of the violation, including any irreparable harm to the environment  
4882 and any hazard to the health or safety of the public;

4883 (iii) whether the permittee was negligent; and

4884 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid  
4885 compliance after notification of the violation.

4886 (2) (a) Within 30 days after the issuance of a notice or order charging that a violation of  
4887 this chapter has occurred, the division shall inform the permittee of the proposed assessment.

4888 (b) The person charged with the penalty shall then have 30 days to pay the proposed  
4889 assessment in full, or request an informal conference with the division.

4890 (c) The informal conference held by the division may address either the amount of the  
4891 proposed assessment or the fact of the violation, or both.

4892 (d) If the permittee who requested the informal conference and participated in the

4893 proceedings is not in agreement with the results of the informal conference, the permittee may,  
4894 within 30 days of receipt of the decision made by the division in the informal conference,  
4895 request a hearing before the board.

4896 (e) (i) Prior to any review of the proposed assessment or the fact of a violation by the  
4897 board, and within 30 days of receipt of the decision made by the division in the informal  
4898 conference, the permittee shall forward to the division the amount of the proposed assessment  
4899 for placement in an escrow account.

4900 (ii) If the permittee fails to forward the amount of the penalty to the division within 30  
4901 days of receipt of the results of the informal conference, the operator waives any opportunity  
4902 for further review of the fact of the violation or to contest the amount of the civil penalty  
4903 assessed for the violation.

4904 (iii) If, through administrative or judicial review, it is determined that no violation  
4905 occurred or that the amount of the penalty should be reduced, the division shall, within 30 days,  
4906 remit the appropriate amount to the operator with interest accumulated.

4907 (3) (a) A civil penalty assessed by the division shall be final only after the person  
4908 charged with a violation described under Subsection (1) has been given an opportunity for a  
4909 public hearing.

4910 (b) If a public hearing is held, the board shall make findings of fact and shall issue a  
4911 written decision as to the occurrence of the violation and the amount of the penalty which is  
4912 warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

4913 (c) When appropriate, the board shall consolidate the hearings with other proceedings  
4914 under Section 40-8-9.

4915 (d) A hearing under this section shall be of record and shall be conducted pursuant to  
4916 board rules governing the proceedings.

4917 (e) If the person charged with a violation does not attend the public hearing, a civil  
4918 penalty shall be assessed by the division after the division:

4919 (i) has determined:

4920 (A) that a violation did occur; and

4921 (B) the amount of the penalty which is warranted; and

4922 (ii) has issued an order requiring that the penalty be paid.

4923 ~~[(4) Civil penalties owed under this chapter may be recovered in a civil action brought~~

4924 by the attorney general of Utah at the request of the board in any appropriate district court of  
4925 the state.]

4926 (4) At the request of the board, the attorney general may bring a civil action in a court  
4927 with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil  
4928 penalty owed under this chapter.

4929 (5) Any person who willfully and knowingly violates a condition of a permit issued  
4930 pursuant to this chapter or fails or refuses to comply with an order issued under Section 40-8-9,  
4931 or any order incorporated in a final decision issued by the board under this chapter, except an  
4932 order incorporated in a decision under Subsection (3), shall, upon conviction, be punished by a  
4933 fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

4934 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to  
4935 this chapter or fails or refuses to comply with any order incorporated in a final decision issued  
4936 by the board under this chapter, except an order incorporated in a decision issued under  
4937 Subsection (3), a director, officer, or agent of the corporation who willfully and knowingly  
4938 authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same  
4939 civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections  
4940 (1) and (5).

4941 (7) Any person who knowingly makes a false statement, representation, or certification,  
4942 or knowingly fails to make a statement, representation, or certification in an application,  
4943 record, report, plan, or other document filed or required to be maintained pursuant to this  
4944 chapter or an order or decision issued by the board under this chapter shall, upon conviction, be  
4945 punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or  
4946 both.

4947 (8) (a) An operator who fails to correct a violation for which a notice or cessation order  
4948 has been issued under Subsection 40-8-9(3)(b) within the period permitted for a correction of  
4949 the violation shall be assessed a civil penalty of not less than \$750 for each day during which  
4950 the failure or violation continues.

4951 (b) The period permitted for correction of a violation for which a notice of cessation  
4952 order has been issued under Subsection 40-8-9(3)(b) may not end until:

4953 (i) the entry of a final order by the board, in a review proceeding initiated by the  
4954 operator, in which the board orders, after an expedited hearing, the suspension of the abatement



4955 requirements of the citation after determining that the operator will suffer irreparable loss or  
4956 damage from the application of those requirements; or

4957 (ii) the entry of an order of the court, a review proceeding initiated by the operator, in  
4958 which the court orders the suspension of the abatement requirements of the citation.

4959 (9) Money received by the state from civil penalties collected from actions resulting  
4960 from this chapter shall be deposited into the division's Abandoned Mine Reclamation Fund as  
4961 established under Section 40-10-25.1 and shall be used for the reclamation of mined land  
4962 impacts not covered by reclamation bonds.

4963 Section 75. Section 40-10-14 is amended to read:

4964 **40-10-14. Division's findings issued to applicant and parties to conference --**  
4965 **Notice to applicant of approval or disapproval of application -- Hearing -- Temporary**  
4966 **relief -- Appeal to district court -- Further review.**

4967 (1) If a conference has been held under Subsection 40-10-13(2), the division shall issue  
4968 and furnish the applicant for a permit and persons who are parties to the proceedings with the  
4969 written finding of the division granting or denying the permit in whole or in part and stating the  
4970 reasons, within the 60 days after the conference.

4971 (2) If there has been no conference held under Subsection 40-10-13(2), the division  
4972 shall notify the applicant for a permit within a reasonable time as set forth in rules, taking into  
4973 account the time needed for proper investigation of the site, the complexity of the permit  
4974 application, and whether or not written objection to the application has been filed, whether the  
4975 application has been approved or disapproved in whole or part.

4976 (3) Upon approval of the application, the permit shall be issued. If the application is  
4977 disapproved, specific reasons shall be set forth in the notification. Within 30 days after the  
4978 applicant is notified of the final decision of the division on the permit application, the applicant  
4979 or any person with an interest which is or may be adversely affected may request a hearing on  
4980 the reasons for the final determination. The board shall hold a hearing pursuant to the rules of  
4981 practice and procedure of the board within 30 days of this request and provide notification to  
4982 all interested parties at the time that the applicant is notified. Within 30 days after the hearing  
4983 the board shall issue and furnish the applicant, and all persons who participated in the hearing,  
4984 with the written decision of the board granting or denying the permit in whole or in part and  
4985 stating the reasons.

4986 (4) Where a hearing is requested pursuant to Subsection (3), the board may, under  
4987 conditions it prescribes, grant temporary relief it deems appropriate pending final determination  
4988 of the proceedings if:

4989 (a) all parties to the proceedings have been notified and given an opportunity to be  
4990 heard on a request for temporary relief;

4991 (b) the person requesting the relief shows that there is a substantial likelihood that the  
4992 person will prevail on the merits of the final determination of the proceedings; and

4993 (c) the relief will not adversely affect the public health or safety or cause significant  
4994 imminent environmental harm to land, air, or water resources.

4995 (5) For the purpose of the hearing, the board may administer oaths, subpoena witnesses  
4996 or written or printed materials, compel attendance of the witnesses or production of the  
4997 materials, and take evidence, including, but not limited to, site inspections of the land to be  
4998 affected and other surface coal mining operations carried on by the applicant in the general  
4999 vicinity of the proposed operation. A verbatim record of each public hearing required by this  
5000 chapter shall be made, and a transcript made available on the motion of any party or by order of  
5001 the board.

5002 (6) (a) An applicant or person with an interest which is or may be adversely affected  
5003 who has participated in the proceedings as an objector, and who is aggrieved by the decision of  
5004 the board, may appeal the decision of the board directly to the Utah Supreme Court.

5005 (b) If the board fails to act within the time limits specified in this chapter, the applicant  
5006 or any person with an interest which is or may be adversely affected~~[, who]~~ and has requested a  
5007 hearing in accordance with Subsection (3), may bring an action in ~~[the district court for the~~  
5008 ~~county in which the proposed operation is located]~~ a court with jurisdiction under Title 78A,  
5009 Judiciary and Judicial Administration.

5010 (c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the applicant or  
5011 person shall bring an action described in Subsection (6)(b) in the county in which the proposed  
5012 operation is located if the petition is brought in the district court.

5013 ~~[(c)]~~ (d) Any party to the action in ~~[district]~~ court may appeal from the final judgment,  
5014 order, or decree of the ~~[district]~~ court.

5015 ~~[(d)]~~ (e) Time frames for appeals under Subsections (6)(a) through ~~[(c)]~~ (d) shall be  
5016 consistent with applicable provisions in Section 63G-4-401.

5017 Section 76. Section **40-10-20** is amended to read:

5018 **40-10-20. Civil penalty for violation of chapter -- Informal conference -- Public**  
5019 **hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties --**  
5020 **Civil penalty for failure to correct violation.**

5021 (1) (a) Any permittee who violates any permit condition or other provision of this  
5022 chapter may be assessed a civil penalty by the division. If the violation leads to the issuance of  
5023 a cessation order under Section [40-10-22](#), the civil penalty shall be assessed.

5024 (b) (i) The penalty may not exceed \$5,000 for each violation.

5025 (ii) Each day of a continuing violation may be deemed a separate violation for purposes  
5026 of the penalty assessments.

5027 (c) In determining the amount of the penalty, consideration shall be given to:

5028 (i) the permittee's history of previous violations at the particular surface coal mining  
5029 operation;

5030 (ii) the seriousness of the violation, including any irreparable harm to the environment  
5031 and any hazard to the health or safety of the public;

5032 (iii) whether the permittee was negligent; and

5033 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid  
5034 compliance after notification of the violation.

5035 (2) (a) Within 30 days after the issuance of a notice or order charging that a violation of  
5036 this chapter has occurred, the division shall inform the permittee of the proposed assessment.

5037 (b) The person charged with the penalty shall then have 30 days to pay the proposed  
5038 assessment in full, or request an informal conference before the division.

5039 (c) The informal conference held by the division may address either the amount of the  
5040 proposed assessment or the fact of the violation, or both.

5041 (d) If the permittee who requested the informal conference and participated in the  
5042 proceedings is not in agreement with the results of the informal conference, the permittee may,  
5043 within 30 days of receipt of the decision made by the division in the informal conference,  
5044 request a hearing before the board.

5045 (e) (i) Prior to any review of the proposed assessment or the fact of a violation by the  
5046 board, and within 30 days of receipt of the decision made by the division in the informal  
5047 conference, the permittee shall forward to the division the amount of the proposed assessment

5048 for placement in an escrow account.

5049 (ii) If the operator fails to forward the amount of the penalty to the division within 30  
5050 days of receipt of the results of the informal conference, the operator waives any opportunity  
5051 for further review of the fact of the violation or to contest the amount of the civil penalty  
5052 assessed for the violation.

5053 (iii) If, through administrative or judicial review, it is determined that no violation  
5054 occurred or that the amount of the penalty should be reduced, the division shall within 30 days  
5055 remit the appropriate amount to the operator with interest accumulated.

5056 (3) (a) A civil penalty assessed by the division shall be final only after the person  
5057 charged with a violation described under Subsection (1) has been given an opportunity for a  
5058 public hearing.

5059 (b) If a public hearing is held, the board shall make findings of fact and shall issue a  
5060 written decision as to the occurrence of the violation and the amount of the penalty which is  
5061 warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

5062 (c) When appropriate, the board shall consolidate the hearings with other proceedings  
5063 under Section 40-10-22.

5064 (d) Any hearing under this section shall be of record and shall be conducted pursuant to  
5065 board rules governing the proceedings.

5066 (e) If the person charged with a violation fails to avail himself of the opportunity for a  
5067 public hearing, a civil penalty shall be assessed by the division after the division:

5068 (i) has determined:

5069 (A) that a violation did occur; and

5070 (B) the amount of the penalty which is warranted; and

5071 (ii) has issued an order requiring that the penalty be paid.

5072 [~~(4) Civil penalties owed under this chapter may be recovered in a civil action brought~~  
5073 ~~by the attorney general of Utah at the request of the board in any appropriate district court of~~  
5074 ~~the state.]~~

5075 (4) At the request of the board, the attorney general may bring a civil action in a court  
5076 with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil  
5077 penalty owed under this chapter.

5078 (5) Any person who willfully and knowingly violates a condition of a permit issued

5079 pursuant to this chapter or fails or refuses to comply with any order issued under Section  
5080 40-10-22 or any order incorporated in a final decision issued by the board under this chapter,  
5081 except an order incorporated in a decision under Subsection (3), shall, upon conviction, be  
5082 punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or  
5083 both.

5084 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to  
5085 this chapter or fails or refuses to comply with any order incorporated in a final decision issued  
5086 by the board under this chapter, except an order incorporated in a decision issued under  
5087 Subsection (3), any director, officer, or agent of the corporation who willfully and knowingly  
5088 authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same  
5089 civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections  
5090 (1) and (5).

5091 (7) Whoever knowingly makes any false statement, representation, or certification, or  
5092 knowingly fails to make any statement, representation, or certification in any application,  
5093 record, report, plan, or other document filed or required to be maintained pursuant to this  
5094 chapter or any order or decision issued by the board under this chapter shall, upon conviction,  
5095 be punished by a fine of not more than \$10,000, or by imprisonment for not more than one  
5096 year, or both.

5097 (8) (a) Any operator who fails to correct a violation for which a notice or cessation  
5098 order has been issued under Subsection 40-10-22(1) within the period permitted for its  
5099 correction shall be assessed a civil penalty of not less than \$750 for each day during which the  
5100 failure or violation continues.

5101 (b) The period permitted for correction of a violation for which a notice of cessation  
5102 order has been issued under Subsection 40-10-22(1) may not end until:

5103 (i) the entry of a final order by the board, in the case of any review proceedings  
5104 initiated by the operator in which the board orders, after an expedited hearing, the suspension  
5105 of the abatement requirements of the citation after determining that the operator will suffer  
5106 irreparable loss or damage from the application of those requirements; or

5107 (ii) the entry of an order of the court, in the case of any review proceedings initiated by  
5108 the operator wherein the court orders the suspension of the abatement requirements of the  
5109 citation.

5110 Section 77. Section **40-10-21** is amended to read:

5111 **40-10-21. Civil action to compel compliance with chapter -- Venue -- Division**  
5112 **and board as parties -- Court costs -- Security when temporary restraining order or**  
5113 **injunction sought -- Other rights not affected -- Action for damages.**

5114 (1) ~~[(a)]~~ Except as provided in Subsection (2), any person having an interest ~~[which]~~  
5115 ~~that is or may be adversely affected may [commence a civil action]~~ bring an action on the  
5116 person's own behalf to compel compliance with this chapter against:

5117 ~~[(i)]~~ (a) the state or any other governmental instrumentality or agency to the extent  
5118 permitted by the 11th Amendment to the United States Constitution or Title 63G, Chapter 7,  
5119 Governmental Immunity Act of Utah, which is alleged to be in violation of the provisions of  
5120 this chapter or of any rule, order, or permit issued pursuant to it;

5121 ~~[(ii)]~~ (b) any person who is alleged to be in violation of any rule, order, or permit  
5122 issued pursuant to this chapter; or

5123 ~~[(iii)]~~ (c) the division or board where there is alleged a failure of the division or board  
5124 to perform any act or duty under this chapter which is not discretionary with the division or  
5125 with the board.

5126 ~~[(b) The district courts shall have jurisdiction without regard to the amount in~~  
5127 ~~controversy or the citizenship of the parties.]~~

5128 (2) ~~[No action may be commenced]~~ A person may not bring an action:

5129 (a) under Subsection ~~[(1)(a)(i) or (ii)]~~ (1)(a) or (b):

5130 (i) prior to 60 days after the ~~[plaintiff]~~ person has given notice in writing of the  
5131 violation to the division and to any alleged violator; or

5132 (ii) if the attorney general has commenced and is diligently prosecuting a civil action in  
5133 a court of the state to require compliance with the provisions of this chapter, or any rule, order,  
5134 or permit issued pursuant to this chapter; or

5135 (b) under Subsection ~~[(1)(a)(iii)]~~ (1)(c) prior to 60 days after the ~~[plaintiff]~~ person has  
5136 given notice in writing of the action to the board, in the manner as the board prescribes by rule,  
5137 except that the ~~[action may be brought immediately]~~ person may bring the action immediately  
5138 after the notification in the case where the violation or order complained of constitutes an  
5139 imminent threat to the health or safety of the ~~[plaintiff]~~ person or would immediately affect a  
5140 legal interest of the ~~[plaintiff]~~ person.

5141 ~~[(3) (a) Any action concerning a violation of this chapter or the rules promulgated~~  
5142 ~~under it may be brought only in the judicial district in which the surface coal mining operation~~  
5143 ~~complained of is located.]~~

5144 (3) (a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person  
5145 shall bring an action under this section in the county in which the surface coal mining operation  
5146 is located.

5147 (b) In the action, the division and board, if not a party, may intervene as a matter of  
5148 right.

5149 (4) (a) The court, in issuing any final order in any action brought pursuant to  
5150 Subsection (1), may award costs of litigation, including attorney and expert witness fees, to any  
5151 party whenever the court determines that award is appropriate.

5152 (b) The court may, if a temporary restraining order or preliminary injunction is sought,  
5153 require the filing of a bond or equivalent security in accordance with the Utah Rules of Civil  
5154 Procedure.

5155 (5) Nothing in this section may restrict any right which any person, or class of persons,  
5156 has under any statute or common law to seek enforcement of any of the provisions of this  
5157 chapter and the rules promulgated under it, or to seek any other relief, including relief against  
5158 the division and board.

5159 (6) (a) Any person who is injured in his person or property through the violation by an  
5160 operator of any rule, order, or permit issued pursuant to this chapter may bring an action for  
5161 damages, including reasonable attorney and expert witness fees, only in the judicial district in  
5162 which the surface coal mining operation complained of is located.

5163 (b) Nothing in this Subsection (6) shall affect the rights established by or limits  
5164 imposed under Utah workmen's compensation laws.

5165 Section 78. Section **40-10-22** is amended to read:

5166 **40-10-22. Violation of chapter or permit conditions -- Inspection -- Cessation**  
5167 **order, abatement notice, or show cause order -- Suspension or revocation of permit --**  
5168 **Review -- Costs assessed against either party.**

5169 (1) (a) Whenever, on the basis of any information available, including receipt of  
5170 information from any person, the division has reason to believe that any person is in violation  
5171 of any requirement of this chapter or any permit condition required by this chapter, the division

5172 shall immediately order inspection of the surface coal mining operation at which the alleged  
5173 violation is occurring, unless the information available to the division is a result of a previous  
5174 inspection of the surface coal mining operation. When the inspection results from information  
5175 provided to the division by any person, the division shall notify that person when the inspection  
5176 is proposed to be carried out, and that person shall be allowed to accompany the inspector  
5177 during the inspection.

5178 (b) When, on the basis of any inspection, the division determines that any condition or  
5179 practices exist, or that any permittee is in violation of any requirement of this chapter or any  
5180 permit condition required by this chapter, which condition, practice, or violation also creates an  
5181 imminent danger to the health or safety of the public, or is causing, or can reasonably be  
5182 expected to cause significant, imminent environmental harm to land, air, or water resources,  
5183 the division shall immediately order a cessation of surface coal mining and reclamation  
5184 operations or the portion thereof relevant to the condition, practice, or violation. The cessation  
5185 order shall remain in effect until the division determines that the condition, practice, or  
5186 violation has been abated, or until modified, vacated, or terminated by the division pursuant to  
5187 Subsection (1)(e). Where the division finds that the ordered cessation of surface coal mining  
5188 and reclamation operations, or any portion of same, will not completely abate the imminent  
5189 danger to health or safety of the public or the significant imminent environmental harm to land,  
5190 air, or water resources, the division shall, in addition to the cessation order, impose affirmative  
5191 obligations on the operator requiring him to take whatever steps the division deems necessary  
5192 to abate the imminent danger or the significant environmental harm.

5193 (c) When, on the basis of an inspection, the division determines that any permittee is in  
5194 violation of any requirement of this chapter or any permit condition required by this chapter,  
5195 but the violation does not create an imminent danger to the health or safety of the public or  
5196 cannot be reasonably expected to cause significant, imminent environmental harm to land, air,  
5197 or water resources, the division shall issue a notice to the permittee or his agent fixing a  
5198 reasonable time but not more than 90 days for the abatement of the violation and providing  
5199 opportunity for conference before the division. If upon expiration of the period of time as  
5200 originally fixed or subsequently extended, for good cause shown, and upon the written finding  
5201 of the division, the division finds that the violation has not been abated, it shall immediately  
5202 order a cessation of surface coal mining and reclamation operations or the portion of same



5203 relevant to the violation. The cessation order shall remain in effect until the division  
5204 determines that the violation has been abated or until modified, vacated, or terminated by the  
5205 division pursuant to Subsection (1)(e). In the order of cessation issued by the division under  
5206 this subsection, the division shall determine the steps necessary to abate the violation in the  
5207 most expeditious manner possible and shall include the necessary measures in the order.

5208 (d) When on the basis of an inspection the division determines that a pattern of  
5209 violations of any requirements of this chapter or any permit conditions required by this chapter  
5210 exists or has existed, and if the division also finds that these violations are caused by the  
5211 unwarranted failure of the permittee to comply with any requirements of this chapter or any  
5212 permit conditions or that these violations are willfully caused by the permittee, the division  
5213 shall initiate agency action by requesting the board to issue an order to show cause to the  
5214 permittee as to why the permit should not be suspended or revoked and shall provide  
5215 opportunity for a public hearing. If a hearing is requested, the board shall give notice in  
5216 accordance with the rules of practice and procedure of the board. Upon the permittee's failure  
5217 to show cause as to why the permit should not be suspended or revoked, the board shall  
5218 immediately enter an order to suspend or revoke the permit.

5219 (e) Notices and orders issued under this section shall set forth with reasonable  
5220 specificity the nature of the violation and the remedial action required, the period of time  
5221 established for abatement, and a reasonable description of the portion of the surface coal  
5222 mining and reclamation operation to which the notice or order applies. Each notice or order  
5223 issued under this section shall be given promptly to the permittee or his agent by the division,  
5224 and the notices and orders shall be in writing and shall be signed by the director, or his  
5225 authorized representative who issues such notice or order. Any notice or order issued under  
5226 this section may be modified, vacated, or terminated by the division, but any notice or order  
5227 issued under this section which requires cessation of mining by the operator shall expire within  
5228 30 days of actual notice to the operator unless a conference is held before the division.

5229 (2) (a) The division may request the attorney general to institute a civil action for relief,  
5230 including a permanent or temporary injunction, restraining order, or any other appropriate order  
5231 [~~in the district court for the district in which the surface coal mining and reclamation operation~~  
5232 ~~is located or in which the permittee of the operation has his principal office, whenever such~~  
5233 ~~permittee or his agent] in a court with jurisdiction under Title 78A, Judiciary and Judicial~~

5234 Administration, whenever a permittee or the permittee's agent:

5235 (i) violates or fails or refuses to comply with any order or decision issued under this  
5236 chapter;

5237 (ii) interferes with, hinders, or delays the division or its authorized representatives in  
5238 carrying out the provisions of this chapter;

5239 (iii) refuses to admit the authorized representatives to the mine;

5240 (iv) refuses to permit inspection of the mine by the authorized representative;

5241 (v) refuses to furnish any information or report requested by the division in furtherance  
5242 of the provisions of this chapter; or

5243 (vi) refuses to permit access to and copying of such records as the division determines  
5244 necessary in carrying out the provisions of this chapter.

5245 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney  
5246 general brings the action described in Subsection (2)(a) in the district court, the attorney  
5247 general shall bring the action in the county in which:

5248 (i) the surface coal mining and reclamation operation is located; or

5249 (ii) the permittee of the operation has the permittee's principal office.

5250 ~~[(b)]~~ (c) (i) The ~~[district]~~ court shall have jurisdiction to provide such relief as may be  
5251 appropriate.

5252 (ii) Any relief granted by the ~~[district]~~ court to enforce an order under Subsection  
5253 (2)(a)(i) shall continue in effect until the completion or final termination of all proceedings for  
5254 review of that order under this chapter, unless, prior to this completion or termination, the Utah  
5255 Supreme Court on review grants a stay of enforcement or sets aside or modifies the board's  
5256 order which is being appealed.

5257 (3) (a) A permittee issued a notice or order by the division pursuant to the provisions of  
5258 Subsections (1)(b) and (1)(c), or any person having an interest which may be adversely affected  
5259 by the notice or order, may initiate board action by requesting a hearing for review of the notice  
5260 or order within 30 days of receipt of it or within 30 days of its modification, vacation, or  
5261 termination. Upon receipt of this application, the board shall cause such investigation to be  
5262 made as it deems appropriate. The investigation shall provide an opportunity for a public  
5263 hearing at the request of the applicant or the person having an interest which is or may be  
5264 adversely affected to enable the applicant or that person to present information relating to the

5265 issuance and continuance of the notice or order or the modification, vacation, or termination of  
5266 it. The filing of an application for review under this subsection shall not operate as a stay of  
5267 any order or notice.

5268 (b) The permittee and other interested persons shall be given written notice of the time  
5269 and place of the hearing in accordance with the rules of practice and procedure of the board,  
5270 but the notice may not be less than five days prior to the hearing. This hearing shall be of  
5271 record and shall be subject to judicial review.

5272 (c) Pending completion of the investigation and hearing required by this section, the  
5273 applicant may file with the board a written request that the board grant temporary relief from  
5274 any notice or order issued under this section, together with a detailed statement giving the  
5275 reasons for granting this relief. The board shall issue an order or decision granting or denying  
5276 this relief expeditiously; and where the applicant requests relief from an order for cessation of  
5277 coal mining and reclamation operations issued pursuant to Subsections (1)(b) or (1)(c), the  
5278 order or decision on this request shall be issued within five days of its receipt. The board may  
5279 grant the relief under such conditions as it may prescribe, if a hearing has been held in the  
5280 locality of the permit area on the request for temporary relief and the conditions of Subsections  
5281 40-10-14(4)(a), 40-10-14(4)(b), and 40-10-14(4)(c) are met.

5282 (d) Following the issuance of an order to show cause as to why a permit should not be  
5283 suspended or revoked pursuant to this section, the board shall hold a public hearing after giving  
5284 notice in accordance with the rules of practice and procedure of the board. Within 60 days  
5285 following the hearing, the board shall issue and furnish to the permittee and all other parties to  
5286 the hearing an order containing the basis for its decision on the suspension or revocation of the  
5287 permit. If the board revokes the permit, the permittee shall immediately cease surface coal  
5288 mining operations on the permit area and shall complete reclamation within a period specified  
5289 by the board, or the board shall declare as forfeited the performance bonds for the operation.

5290 (e) Whenever an order is entered under this section or as a result of any adjudicative  
5291 proceeding under this chapter, at the request of any person, a sum equal to the aggregate  
5292 amount of all costs and expenses (including attorney fees) as determined by the board to have  
5293 been reasonably incurred by that person in connection with his participation in the proceedings,  
5294 including any judicial review of agency actions, may be assessed against either party as the  
5295 court, resulting from judicial review, or the board, resulting from adjudicative proceedings,

5296 deems proper.

5297 (f) Action by the board taken under this section or any other provision of the state  
5298 program shall be subject to judicial review by the Utah Supreme Court as prescribed in Section  
5299 78A-3-102, but the availability of this review shall not be construed to limit the operation of  
5300 the citizen suit in Section 40-10-21, except as provided in this latter section.

5301 Section 79. Section 41-6a-1622 is amended to read:

5302 **41-6a-1622. Purchase and testing of equipment by department -- Prohibition**  
5303 **against sale of substandard devices -- Injunction -- Review -- Appeal.**

5304 (1) The department may purchase and test equipment described in Section 41-6a-1619  
5305 to determine whether it complies with the standards under this part.

5306 (2) Upon identification of unapproved or substandard devices being sold or offered for  
5307 sale, the department shall give notice to the person selling them that the person is in violation  
5308 of Section 41-6a-1619 and that selling or offering them for sale is prohibited.

5309 (3) (a) In order to enforce the prohibition against the sale or offer for sale of  
5310 unapproved or substandard devices, the department may file a petition in [~~the district court of~~  
5311 ~~the county in which the person maintains a place of business]~~ a court with jurisdiction under  
5312 Title 78A, Judiciary and Judicial Administration, to enjoin any further sale or offer of sale of  
5313 the unapproved or substandard part.

5314 (b) An injunction under Subsection (3)(a) shall be issued upon a prima facie showing  
5315 that:

5316 (i) the part is of a type required to be approved by the department under this part;

5317 (ii) the part has not been approved; and

5318 (iii) the part is being sold or offered for sale.

5319 (4) (a) Any person enjoined under Subsection (3) may file a petition for a review of the  
5320 court's order in the county in which the injunction was issued.

5321 (b) A copy of the petition shall be served on the department and the department shall  
5322 have 30 days after the service to file an answer, but the petition shall not act as a stay of the  
5323 injunction.

5324 (c) At the hearing on the petition, the judge shall sit without intervention of a jury and  
5325 shall only receive evidence as to whether the parts in question:

5326 (i) are of a type for which approval by the department is required;

5327 (ii) have not been approved; and  
5328 (iii) are being sold or offered for sale in violation of Section 41-6a-1619.

5329 (d) Following a hearing under Subsection (4)(c), the injunction shall be continued if  
5330 the court finds that each condition under Subsection (4)(c) has been met.

5331 (5) Either party may appeal the decision of the court [~~in the same manner as in other~~  
5332 ~~civil appeals from the district court~~].

5333 Section 80. Section 51-2a-401 is amended to read:

5334 **51-2a-401. Prohibiting access to and withholding funds from an entity that does**  
5335 **not comply with the accounting report requirements.**

5336 (1) If a political subdivision, interlocal organization, or other local entity does not  
5337 comply with the accounting report requirements of Section 51-2a-201, the state auditor may:

5338 (a) withhold allocated state funds to pay the cost of the accounting report, in  
5339 accordance with Subsection (2); or

5340 (b) prohibit financial access, in accordance with Subsection (3).

5341 (2) (a) If the state auditor does not prohibit financial access in accordance with  
5342 Subsection (3), the state auditor may withhold allocated state funds sufficient to pay the cost of  
5343 the accounting report from any local entity described in Subsection (1).

5344 (b) If no allocated state funds are available for withholding, the local entity shall  
5345 reimburse the state auditor for any cost incurred in completing the accounting reports required  
5346 under Section 51-2a-402.

5347 (c) The state auditor shall release the withheld funds if the local entity meets the  
5348 accounting report requirements either voluntarily or by action under Section 51-2a-402.

5349 (3) (a) If the state auditor does not withhold funds in accordance with Subsection (2),  
5350 the state auditor may prohibit any local entity described in Subsection (1) from accessing:

5351 (i) money held by the state; and

5352 (ii) money held in an account of a financial institution by:

5353 (A) contacting the entity's financial institution and requesting that the institution  
5354 prohibit access to the account; or

5355 (B) filing an action in [~~district court~~] a court with jurisdiction under Title 78A,  
5356 Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial  
5357 institution from providing the entity access to the account.

5358 (b) The state auditor shall remove the prohibition on accessing funds described in  
5359 Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily  
5360 or by action under Section 51-2a-402.

5361 Section 81. Section 51-7-22.5 is amended to read:

5362 **51-7-22.5. Enforcement.**

5363 (1) Whenever it appears to the council that any person has engaged, is engaging, or is  
5364 about to engage in any act or practice constituting a violation of this chapter or any rule issued  
5365 under authority of this chapter:

5366 (a) the council may bring an action in [~~the appropriate district court of this state or the~~  
5367 ~~appropriate court of~~] a court with jurisdiction under Title 78A, Judiciary and Judicial  
5368 Administration, or a court with jurisdiction in another state, to enjoin the acts or practices and  
5369 to enforce compliance with this chapter or any rule under this chapter; and

5370 (b) upon a proper showing in an action brought under this section, the court may:

- 5371 (i) issue a permanent or temporary, prohibitory, or mandatory injunction;
- 5372 (ii) issue a restraining order or writ of mandamus or other extraordinary writ;
- 5373 (iii) enter a declaratory judgment;
- 5374 (iv) order disgorgement;
- 5375 (v) order rescission;
- 5376 (vi) impose a fine of not more than \$50,000 for each violation of the chapter; or
- 5377 (vii) provide any other relief that the court considers appropriate.

5378 (2) An indictment or information may not be returned nor may a civil complaint be  
5379 filed under this chapter more than five years after discovery of the alleged violation.

5380 Section 82. Section 53-2d-605 (Effective 07/01/24) is amended to read:

5381 **53-2d-605 (Effective 07/01/24). Service interruption or cessation -- Receivership --**  
5382 **Default coverage -- Notice.**

5383 (1) (a) Acting in the public interest, the department may petition [~~the district court~~  
5384 ~~where an ambulance or paramedic provider operates or the district court with jurisdiction in~~  
5385 ~~Salt Lake County~~] a court with jurisdiction under Title 78A, Judiciary and Judicial  
5386 Administration, to appoint the bureau or an independent receiver to continue the operations of  
5387 a provider upon any one of the following conditions:

5388 [~~(a)~~] (i) the provider ceases or intends to cease operations;

5389           ~~[(b)]~~ (ii) the provider becomes insolvent;

5390           ~~[(c)]~~ (iii) the bureau has initiated proceedings to revoke the provider's license and has  
5391 determined that the lives, health, safety, or welfare of the population served within the  
5392 provider's exclusive geographic service area are endangered because of the provider's action or  
5393 inaction pending a full hearing on the license revocation; or

5394           ~~[(d)]~~ (iv) the bureau has revoked the provider's license and has been unable to  
5395 adequately arrange for another provider to take over the provider's exclusive geographic service  
5396 area.

5397           (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the department  
5398 brings a petition described in Subsection (1)(a) in the district court, the department shall bring  
5399 the petition in:

5400           (i) Salt Lake County; or

5401           (ii) the county in which the ambulance or paramedic provider operates.

5402           (2) If a licensed or designated provider ceases operations or is otherwise unable to  
5403 provide services, the bureau may arrange for another licensed provider to provide services on a  
5404 temporary basis until a license is issued.

5405           (3) A licensed provider shall give the department 30 days' notice of its intent to cease  
5406 operations.

5407           Section 83. Section **53-7-406** is amended to read:

5408           **53-7-406. Penalties.**

5409           (1) (a) Except as provided in Subsection (1)(b), a manufacturer, wholesale dealer,  
5410 agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than  
5411 through retail sale, in violation of Section **53-7-403**:

5412           (i) for a first offense shall be liable for a civil penalty not to exceed \$10,000 per each  
5413 sale of cigarettes; and

5414           (ii) for a subsequent offense shall be liable for a civil penalty not to exceed \$25,000 per  
5415 each sale of such cigarettes.

5416           (b) A penalty imposed under Subsection (1)(a) may not exceed \$100,000 during any  
5417 30-day period against any one entity described in Subsection (1).

5418           (2) (a) Except as provided in Subsection (2)(b), a retail dealer who knowingly sells  
5419 cigarettes in violation of Section **53-7-403** shall:

5420 (i) for a first offense for each sale or offer for sale of cigarettes, if the total number of  
5421 cigarettes sold or offered for sale:

5422 (A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$500  
5423 for each sale or offer of sale; and

5424 (B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$1,000 for  
5425 each sale or offer of sale; and

5426 (ii) for a subsequent offense, if the total number of cigarettes sold or offered for sale:

5427 (A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$2,000  
5428 for each sale or offer of sale; and

5429 (B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$5,000 for  
5430 each sale or offer of sale.

5431 (b) A penalty imposed under Subsection (2)(a) against any retail dealer shall not  
5432 exceed \$25,000 during a 30-day period.

5433 (3) In addition to any penalty prescribed by law, any corporation, partnership, sole  
5434 proprietor, limited partnership, or association engaged in the manufacture of cigarettes that  
5435 knowingly makes a false certification pursuant to Section 53-7-404 shall, for each false  
5436 certification:

5437 (a) for a first offense, be liable for a civil penalty of at least \$75,000; and

5438 (b) for a subsequent offense, be liable for a civil penalty not to exceed \$250,000.

5439 (4) Any person violating any other provision in this part shall be liable for a civil  
5440 penalty for each violation:

5441 (a) for a first offense, not to exceed \$1,000; and

5442 (b) for a subsequent offense, not to exceed \$5,000.

5443 (5) (a) In addition to any other remedy provided by law, the state fire marshal or  
5444 attorney general may [~~file an action in district court~~] bring an action in a court with jurisdiction  
5445 under Title 78A, Judiciary and Judicial Administration, for a violation of this part, including  
5446 petitioning for injunctive relief or to recover any costs or damages suffered by the state because  
5447 of a violation of this part, including enforcement costs relating to the specific violation and  
5448 attorney fees.

5449 (b) Each violation of this part or of rules or regulations adopted under this part  
5450 constitutes a separate civil violation for which the state fire marshal or attorney general may



5451 obtain relief.

5452 Section 84. Section **53B-28-506** is amended to read:

5453 **53B-28-506. Penalties.**

5454 (1) A third-party contractor that knowingly or recklessly permits unauthorized  
5455 collecting, sharing, or use of student data under this part:

5456 (a) except as provided in Subsection ~~[(1)(d)]~~ (2), may not enter into a future contract  
5457 with an institution; ~~[and]~~

5458 (b) may be required by the board to pay a civil penalty of up to \$25,000~~[-]; and~~

5459 (c) may be required to pay:

5460 (i) an institution's cost of notifying parents and students of the unauthorized sharing or  
5461 use of student data; and

5462 (ii) any expense incurred by the institution as result of the unauthorized sharing or use  
5463 of student data.

5464 ~~[(d)]~~ (2) An education entity may enter into a contract with a third-party contractor that  
5465 knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

5466 ~~[(i)]~~ (a) the education entity determines that the third-party contractor has corrected the  
5467 errors that caused the unauthorized collecting, sharing, or use of student data; and

5468 ~~[(ii)]~~ (b) the third-party contractor demonstrates:

5469 ~~[(A)]~~ (i) if the third-party contractor is under contract with the education entity, current  
5470 compliance with this part; or

5471 ~~[(B)]~~ (ii) an ability to comply with the requirements of this part.

5472 ~~[(e)]~~

5473 (3) (a) ~~[The]~~ If necessary, the board may bring an action in ~~[the district court of the~~  
5474 ~~county in which the office of the education entity is located, if necessary,]~~ a court with  
5475 jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce payment of the  
5476 civil penalty described in Subsection (1)(b).

5477 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the board shall  
5478 bring an action described in Subsection (3)(a) in the county in which the office of the education  
5479 entity is located if the action is brought in the district court.

5480 ~~[(f)]~~ (4) An individual who knowingly or intentionally permits unauthorized collecting,  
5481 sharing, or use of student data may be found guilty of a class A misdemeanor.

5482           ~~[(2)]~~ (5) (a) A student or a minor student's parent may bring an action against a  
5483 third-party contractor in a court ~~[of competent jurisdiction]~~ with jurisdiction under Title 78A,  
5484 Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation  
5485 of Section 53B-28-505 by a third-party contractor.

5486           (b) If the court finds that a third-party contractor has violated Section 53B-28-505, the  
5487 court may award to the parent or student:

5488           (i) damages; and

5489           (ii) costs.

5490           Section 85. Section 53E-9-310 is amended to read:

5491           **53E-9-310. Penalties.**

5492           (1) (a) A third-party contractor that knowingly or recklessly permits unauthorized  
5493 collecting, sharing, or use of student data under this part:

5494           (i) except as provided in Subsection (1)(b), may not enter into a future contract with an  
5495 education entity;

5496           (ii) may be required by the state board to pay a civil penalty of up to \$25,000; and

5497           (iii) may be required to pay:

5498           (A) the education entity's cost of notifying parents and students of the unauthorized  
5499 sharing or use of student data; and

5500           (B) expenses incurred by the education entity as a result of the unauthorized sharing or  
5501 use of student data.

5502           (b) An education entity may enter into a contract with a third-party contractor that  
5503 knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

5504           (i) the state board or education entity determines that the third-party contractor has  
5505 corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

5506           (ii) the third-party contractor demonstrates:

5507           (A) if the third-party contractor is under contract with an education entity, current  
5508 compliance with this part; or

5509           (B) an ability to comply with the requirements of this part.

5510           (c) The state board may assess the civil penalty described in Subsection (1)(a)(ii) in  
5511 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

5512           (d) (i) The state board may bring an action ~~[in the district court of the county in which~~

5513 ~~the office of the state board is located]~~ in a court with jurisdiction under Title 78A, Judiciary  
 5514 and Judicial Administration, if necessary, to enforce payment of the civil penalty described in  
 5515 Subsection (1)(a)(ii).

5516 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state board  
 5517 shall bring an action described in Subsection (1)(d)(i) in the county in which the office of the  
 5518 state board is located if the action is brought in the district court.

5519 (e) An individual who knowingly or intentionally permits unauthorized collecting,  
 5520 sharing, or use of student data may be found guilty of a class A misdemeanor.

5521 (2) (a) A parent or adult student may bring an action in a court [~~of competent~~  
 5522 ~~jurisdiction]~~ with jurisdiction under Title 78A, Judiciary and Judicial Administration, for  
 5523 damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party  
 5524 contractor.

5525 (b) If the court finds that a third-party contractor has violated Section 53E-9-309, the  
 5526 court may award to the parent or student:

5527 (i) damages; and

5528 (ii) costs.

5529 Section 86. Section 53G-5-501 is amended to read:

5530 **53G-5-501. Noncompliance -- Rulemaking.**

5531 (1) If a charter school is found to be out of compliance with the requirements of  
 5532 Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify  
 5533 the following in writing that the charter school has a reasonable time to remedy the deficiency,  
 5534 except as otherwise provided in Subsection 53G-5-503(4):

5535 (a) the charter school governing board; and

5536 (b) if the charter school is a qualifying charter school with outstanding bonds issued in  
 5537 accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School  
 5538 Finance Authority.

5539 (2) (a) If the charter school does not remedy the deficiency within the established  
 5540 timeline, the authorizer may:

5541 (i) subject to the requirements of Subsection (4), take one or more of the following  
 5542 actions:

5543 (A) remove a charter school director or finance officer;

5544 (B) remove a charter school governing board member;  
5545 (C) appoint an interim director, mentor, or finance officer to work with the charter  
5546 school; or  
5547 (D) appoint a governing board member;  
5548 (ii) subject to the requirements of Section 53G-5-503, terminate the school's charter  
5549 agreement; or  
5550 (iii) transfer operation and control of the charter school to a high performing charter  
5551 school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to  
5552 effectuate the transfer.  
5553 (b) The authorizer may prohibit the charter school governing board from removing an  
5554 appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the  
5555 appointment.  
5556 (3) The costs of an interim director, mentor, or finance officer appointed under  
5557 Subsection (2)(a) shall be paid from the funds of the charter school for which the interim  
5558 director, mentor, or finance officer is working.  
5559 (4) The authorizer shall notify the Utah Charter School Finance Authority before the  
5560 authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying  
5561 charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit  
5562 Enhancement Program.  
5563 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5564 state board shall make rules:  
5565 (a) specifying the timeline for remedying deficiencies under Subsection (1); and  
5566 (b) ensuring the compliance of a charter school with its approved charter agreement.  
5567 (6) (a) (i) An authorizer may petition [~~the district court where a charter school is~~  
5568 ~~located or incorporated to appoint a receiver, and the district court]~~ a court with jurisdiction  
5569 under Title 78A, Judiciary and Judicial Administration, to appoint a receiver.  
5570 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the authorizer  
5571 shall bring a petition described in Subsection (6)(a)(i) in the county in which a charter school is  
5572 located or incorporated if the action is brought in the district court.  
5573 (b) The court may appoint a receiver if the authorizer establishes that the charter  
5574 school:

5575 (i) is subject to closure under Section 53G-5-503; and

5576 (ii) (A) has disposed, or there is a demonstrated risk that the charter school will

5577 dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or

5578 (B) cannot, or there is a demonstrated risk that the charter school will not, make

5579 repayment of amounts owed to the federal government or the state.

5580 ~~[(b)]~~ (c) The court shall describe the powers and duties of the receiver in the court's

5581 appointing order, and may amend the order from time to time.

5582 ~~[(c)]~~ (d) Among other duties ordered by the court, the receiver shall:

5583 (i) ensure the protection of the charter school's assets;

5584 (ii) preserve money owed to creditors; and

5585 (iii) if requested by the authorizer, carry out charter school closure procedures

5586 described in Section 53G-5-504, and state board rules, as directed by the authorizer.

5587 ~~[(d)]~~ (e) If the authorizer does not request, or the court does not appoint, a receiver:

5588 (i) the authorizer may reconstitute the governing board of a charter school; or

5589 (ii) if a new governing board cannot be reconstituted, the authorizer shall complete the

5590 closure procedures described in Section 53G-5-504, including liquidation and assignment of

5591 assets, and payment of liabilities and obligations in accordance with Subsection 53G-5-504(7)

5592 and state board rule.

5593 ~~[(e)]~~ (f) For a qualifying charter school with outstanding bonds issued in accordance

5594 with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the

5595 consent of the Utah Charter School Finance Authority before the authorizer takes the following

5596 actions:

5597 (i) petitions ~~[a district court]~~ a court to appoint a receiver, as described in Subsection

5598 (6)(a);

5599 (ii) reconstitutes the governing board, as described in Subsection ~~[(6)(d)(i)]~~ (6)(e)(i); or

5600 (iii) carries out closure procedures, as described in Subsection ~~[(6)(d)(ii)]~~ (6)(e)(ii).

5601 Section 87. Section 54-4-27 is amended to read:

5602 **54-4-27. Payment of dividends -- Notice -- Restraint.**

5603 (1) No gas or electric corporation doing business in this state shall pay any dividend

5604 upon its common stock prior to 30 days after the date of the declaration of such dividend by the

5605 board of directors of such utility corporation.

5606 (2) Within five days after the declaration of such dividend the management of such  
5607 corporation shall:

5608 (a) notify the utilities commission in writing of the declaration of said dividend, the  
5609 amount thereof, the date fixed for payment of the same; and

5610 (b) publish a notice, including the information described in Subsection (2)(a):

5611 (i) in a newspaper having general circulation in the city or town where its principal  
5612 place of business is located; and

5613 (ii) as required in Section 45-1-101.

5614 (3) If the commission, after investigation, shall find that the capital of any such  
5615 corporation is being impaired or that its service to the public is likely to become impaired or is  
5616 in danger of impairment, it may issue an order directing such utility corporation to refrain from  
5617 the payment of said dividend until such impairment is made good or danger of impairment is  
5618 avoided.

5619 (4) ~~[The district court of any county in which said utility is doing business in this state~~  
5620 ~~is authorized upon a suit by the commission to]~~ A court may enforce the order of the  
5621 ~~commission[; and empowered to]~~ and issue a restraining order pending final determination of  
5622 the action.

5623 Section 88. Section 54-5-3 is amended to read:

5624 **54-5-3. Default in payment of fee -- Procedure to collect -- Penalties.**

5625 (1) (a) If the public utility fee is due and the payment is in default, ~~[a lien in the amount~~  
5626 ~~of the fee may be filed against the property of the utility and may be foreclosed in an action~~  
5627 ~~brought by the executive director of the Department of Commerce in the district court of any~~  
5628 ~~county in which property of the delinquent utility is located.]~~ the executive director of the  
5629 Department of Commerce may:

5630 (i) file a lien in the amount of the property of the utility; and

5631 (ii) bring an action to foreclose the property in a court with jurisdiction under Title  
5632 78A, Judiciary and Judicial Administration.

5633 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the executive  
5634 director shall bring an action described in Subsection (1)(a)(ii) in the county in which the  
5635 property of the delinquent utility is located if the action is brought in the district court.

5636 (2) (a) If the fee computed and imposed under this chapter is not paid within 60 days

5637 after it becomes due, the rights and privileges of the delinquent utility shall be suspended.

5638 (b) The executive director of the Department of Commerce shall transmit the name of  
5639 the utility to the Public Service Commission, which may immediately enter an order  
5640 suspending the operating rights of the utility.

5641 Section 89. Section **54-8a-12** is amended to read:

5642 **54-8a-12. Enforcement -- Attorney general.**

5643 (1) (a) (i) The attorney general may bring an action [~~in the district court located~~] in a  
5644 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this  
5645 chapter.

5646 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the attorney  
5647 general shall bring the action described in Subsection (1)(a)(i) in the county in which the  
5648 excavation is located [~~to enforce this chapter~~] if the attorney general brings the action in the  
5649 district court.

5650 (b) The right of any person to bring a civil action for damage arising from an  
5651 excavator's or operator's actions or conduct relating to underground facilities is not affected by:

5652 (i) a proceeding commenced by the attorney general under this chapter; or

5653 (ii) the imposition of a civil penalty under this chapter.

5654 (c) If the attorney general does not bring an action under Subsection (1)(a), the operator  
5655 or excavator may pursue any remedy, including a civil penalty.

5656 (2) Any civil penalty imposed and collected under this chapter shall be deposited into  
5657 the General Fund.

5658 Section 90. Section **54-8b-13** is amended to read:

5659 **54-8b-13. Rules governing operator assisted services.**

5660 (1) The commission shall make rules to implement the following requirements  
5661 pertaining to the provision of operator assisted services:

5662 (a) Rates, surcharges, terms, or conditions for operator assisted services shall be  
5663 provided to customers upon request without charge.

5664 (b) A customer shall be made aware, prior to incurring any charges, of the identity of  
5665 the operator service provider handling the operator assisted call by a form of signage placed on  
5666 or near the telephone or by verbal identification by the operator service provider.

5667 (c) Any contract between an operator service provider and an aggregator shall contain

5668 language which assures that any person making a telephone call on any telephone owned or  
5669 controlled by the aggregator or operator service provider can access:

5670 (i) where technically feasible, any other operator service provider operating in the  
5671 relevant geographic area; and

5672 (ii) the public safety emergency telephone numbers for the jurisdiction where the  
5673 aggregator's telephone service is geographically located.

5674 (d) No operator service provider shall transfer a call to another operator service  
5675 provider unless that transfer is accomplished at, and billed from, the call's place of origin. If  
5676 such a transfer is not technically possible, the operator service provider shall inform the caller  
5677 that the call cannot be transferred as requested and that the caller should hang up and attempt to  
5678 reach another operator service provider through the means provided by that other operator  
5679 service provider.

5680 (2) (a) The Division of Public Utilities shall be responsible for enforcing any rule  
5681 adopted by the commission under this section.

5682 (b) If the Division of Public Utilities determines that any person, or any officer or  
5683 employee of any person, is violating any rule adopted under this section, the division shall  
5684 serve written notice upon the alleged violator which:

5685 (i) specifies the violation;

5686 (ii) alleges the facts constituting the violation; and

5687 (iii) specifies the corrective action to be taken.

5688 (c) After serving notice as required in Subsection (2)(b), the division may request the  
5689 commission to issue an order to show cause.

5690 (d) After a hearing, the commission may impose penalties and, if necessary, may  
5691 request the attorney general to enforce the order in ~~[district]~~ a court.

5692 (3) (a) Any person who violates any rule made under this section or fails to comply  
5693 with any order issued pursuant to this section is subject to a penalty not to exceed \$2,000 per  
5694 violation.

5695 (b) In the case of a continuing violation, each day that the violation continues  
5696 constitutes a separate and distinct offense.

5697 (4) A penalty assessment under this section does not relieve the person assessed from  
5698 civil liability for claims arising out of any act which was a violation of any rule under this



5699 section.

5700 Section 91. Section **54-13-7** is amended to read:

5701 **54-13-7. Minimum distances for placement of structures and facilities near main**  
5702 **and transmission lines.**

5703 (1) As used in this section:

5704 (a) "Main" has the meaning set forth in 49 C.F.R. Section 192.3.

5705 (b) "Minimum distance" means:

5706 (i) the width of a recorded easement when the width is described;

5707 (ii) 15 feet when the width of a recorded easement is undefined; or

5708 (iii) for any underground facility, it means an area measured one foot vertically and  
5709 three feet horizontally from the outer surface of a main or transmission line.

5710 (c) "Transmission line" has the meaning set forth in 49 C.F.R. Section 192.3.

5711 (d) "Underground facility" has the meaning set forth in Section [54-8a-2](#).

5712 (2) (a) After April 30, 1995, a building or structure requiring slab support or footings,  
5713 or an underground facility may not be placed within the minimum distance of a main or  
5714 transmission line.

5715 (b) Subsection (2)(a) does not apply if:

5716 (i) the building or structure is used for public or railroad transportation, natural gas  
5717 pipeline purposes, or by a public utility subject to the jurisdiction or regulation of the Public  
5718 Service Commission;

5719 (ii) in order to receive natural gas service, the building or structure must be located  
5720 within the minimum distance of the pipeline;

5721 (iii) the owner or operator of the main or transmission line has been notified prior to  
5722 construction or placement pursuant to Section [54-8a-4](#) and has given written permission; or

5723 (iv) the commission by rule exempts such action from the provisions of Subsection  
5724 (2)(a).

5725 (3) (a) An owner or operator of a main or transmission line may obtain a mandatory  
5726 injunction from ~~[the district court of the judicial district]~~ a court with jurisdiction under Title  
5727 78A, Judiciary and Judicial Administration, against any person who violates Subsection (2).

5728 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the owner or  
5729 operator shall bring an action described in Subsection (3)(a) in the county in which the main or

5730 transmission line is located [~~against any person who violates Subsection (2)~~] if the action is  
5731 brought in the district court.

5732 (4) The penalties specified in [~~Title 54, Chapter 7, Hearings, Practice, and Procedure~~]  
5733 Chapter 7, Hearings, Practice, and Procedure, do not apply to a violation of this section.

5734 Section 92. Section **54-13-8** is amended to read:

5735 **54-13-8. Violation of chapter -- Penalty.**

5736 (1) Any person engaged in intrastate pipeline transportation who is determined by the  
5737 commission, after notice and an opportunity for a hearing, to have violated any provision of  
5738 this chapter or any rule or order issued under this chapter, is liable for a civil penalty of not  
5739 more than \$100,000 for each violation for each day the violation persists.

5740 (2) The maximum civil penalty assessed under this section may not exceed \$1,000,000  
5741 for any related series of violations.

5742 (3) The amount of the penalty shall be assessed by the commission by written notice.

5743 (4) In determining the amount of the penalty, the commission shall consider:

5744 (a) the nature, circumstances, and gravity of the violation; and

5745 (b) with respect to the person found to have committed the violation:

5746 (i) the degree of culpability;

5747 (ii) any history of prior violations;

5748 (iii) the effect on the person's ability to continue to do business;

5749 (iv) any good faith in attempting to achieve compliance;

5750 (v) the person's ability to pay the penalty; and

5751 (vi) any other matter, as justice may require.

5752 (5) (a) A civil penalty assessed under this section may be recovered in an action  
5753 brought by the attorney general on behalf of the state in [~~the appropriate district court~~] a court  
5754 with jurisdiction under [Title 78A, Judiciary and Judicial Administration](#), or before referral to  
5755 the attorney general, it may be compromised by the commission.

5756 (b) The amount of the penalty, when finally determined, or agreed upon in  
5757 compromise, may be deducted from any sum owed by the state to the person charged.

5758 (6) Any penalty collected under this section shall be deposited in the General Fund.

5759 Section 93. Section **54-14-308** is amended to read:

5760 **54-14-308. Judicial review in formal adjudicative proceedings.**

5761 The Court of Appeals has jurisdiction to review any decision of the board in a formal  
5762 adjudicative proceeding as described in Sections [63G-4-403](#) and [78A-4-103](#).

5763 Section 94. Section **54-22-205** is amended to read:

5764 **54-22-205. Disputes.**

5765 A dispute under this chapter involving an electric entity shall be resolved as follows:

5766 (1) if the electric entity is a public utility, in accordance with Section [54-7-9](#); and

5767 (2) if the electric entity is not a public utility, by [~~filing an action with the district court~~]

5768 bringing an action in a court with jurisdiction under [Title 78A](#), Judiciary and Judicial

5769 Administration.

5770 Section 95. Section **57-11-11** is amended to read:

5771 **57-11-11. Rules of division -- Notice and hearing requirements -- Filing**  
5772 **advertising material -- Injunctions -- Intervention by division in suits -- General powers**  
5773 **of division.**

5774 (1) (a) The division shall prescribe reasonable rules which shall be adopted, amended,  
5775 or repealed only after a public hearing.

5776 (b) The division shall:

5777 (i) publish notice of the public hearing described in Subsection (1)(a) for the state, as a  
5778 class A notice under Section [63G-30-102](#), for at least 20 days before the day of the hearing; and

5779 (ii) send a notice to a nonprofit organization which files a written request for notice  
5780 with the division at least 20 days before the day of the hearing.

5781 (2) The rules shall include but need not be limited to:

5782 (a) provisions for advertising standards to assure full and fair disclosure; and

5783 (b) provisions for escrow or trust agreements, performance bonds, or other means

5784 reasonably necessary to assure that all improvements referred to in the application for

5785 registration and advertising will be completed and that purchasers will receive the interest in

5786 land contracted for.

5787 (3) These provisions, however, shall not be required if the city or county in which the

5788 subdivision is located requires similar means of assurance of a nature and in an amount no less

5789 adequate than is required under said rules:

5790 (a) provisions for operating procedures;

5791 (b) provisions for a shortened form of registration in cases where the division

5792 determines that the purposes of this act do not require a subdivision to be registered pursuant to  
5793 an application containing all the information required by Section 57-11-6 or do not require that  
5794 the public offering statement contain all the information required by Section 57-11-7; and

5795 (c) other rules necessary and proper to accomplish the purpose of this chapter.

5796 (4) The division by rule or order, after reasonable notice, may require the filing of  
5797 advertising material relating to subdivided lands prior to its distribution, provided that the  
5798 division must approve or reject any advertising material within 15 days from the receipt thereof  
5799 or the material shall be considered approved.

5800 (5) (a) If it appears that a person has engaged or is about to engage in an act or practice  
5801 constituting a violation of a provision of this chapter or a rule or order hereunder, the agency,  
5802 with or without prior administrative proceedings, may bring an action in [~~the district court of~~  
5803 ~~the district where said person maintains his residence or a place of business or where said act or~~  
5804 ~~practice has occurred or is about to occur,]~~ a court with jurisdiction under Title 78A, Judiciary  
5805 and Judicial Administration, to enjoin the acts or practices and to enforce compliance with this  
5806 chapter or any rule or order hereunder.

5807 (b) Upon proper showing, a court may grant injunctive relief or temporary restraining  
5808 orders [~~shall be granted, and~~] or appoint a receiver or conservator [~~may be appointed~~].

5809 (c) The division shall not be required to post a bond in any court proceedings.

5810 (6) The division shall be allowed to intervene in a suit involving subdivided lands,  
5811 either as a party or as an amicus curiae, where it appears that the interpretation or  
5812 constitutionality of any provision of law will be called into question. In any suit by or against a  
5813 subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice  
5814 of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division,  
5815 constitute grounds for the division withholding any approval required by this chapter.

5816 (7) The division may:

5817 (a) accept registrations filed in other states or with the federal government;

5818 (b) contract with public agencies or qualified private persons in this state or other  
5819 jurisdictions to perform investigative functions; and

5820 (c) accept grants-in-aid from any source.

5821 (8) The division shall cooperate with similar agencies in other jurisdictions to establish  
5822 uniform filing procedures and forms, uniform public offering statements, advertising standards,

5823 rules, and common administrative practices.

5824 Section 96. Section **57-11-13** is amended to read:

5825 **57-11-13. Enforcement powers of division -- Cease and desist orders.**

5826 (1) (a) If the director has reason to believe that any person has been or is engaging in  
5827 conduct violating this chapter, or has violated any lawful order or rule of the division, the  
5828 director shall issue and serve upon the person a cease and desist order and may also order the  
5829 person to take such affirmative actions the director determines will carry out the purposes of  
5830 this chapter.

5831 (b) The person served may request an adjudicative proceeding within 10 days after  
5832 receiving the order.

5833 (c) The cease and desist order remains in effect pending the hearing.

5834 (d) The division shall follow the procedures and requirements of Title 63G, Chapter 4,  
5835 Administrative Procedures Act, if the person served requests a hearing.

5836 (2) (a) After the hearing the director may issue an order making the cease and desist  
5837 order permanent if the director finds there has been a violation of this chapter.

5838 (b) If no hearing is requested and the person served does not obey the director's order,  
5839 the director shall ~~[file suit]~~ bring an action in a court with jurisdiction under Title 78A,  
5840 Judiciary and Judicial Administration, in the name of the Department of Commerce and the  
5841 Division of Real Estate to enjoin the person from violating this chapter. ~~[The action shall be~~  
5842 ~~filed in the district court in the county in which the conduct occurred or where the person~~  
5843 ~~resides or carries on business.]~~

5844 (3) The remedies and action provided in this section may not interfere with or prevent  
5845 the prosecution of any other remedies or actions including criminal prosecutions.

5846 Section 97. Section **57-11-18** is amended to read:

5847 **57-11-18. Dispositions subject to chapter -- Jurisdiction of courts.**

5848 (1) Dispositions of subdivided lands are subject to this ~~[act, and the district courts of~~  
5849 ~~this state have jurisdiction in claims or causes of action arising under this act,]~~ chapter.

5850 (2) A court of this state has jurisdiction in a claim or action arising under this chapter  
5851 if:

5852 ~~[(1)]~~ (a) ~~[The]~~ the subdivided lands offered for disposition are located in this state;

5853 ~~[(2)]~~ (b) ~~[The]~~ the subdivider's principal office is located in this state; or

5854            ~~[(3)]~~ (c) ~~[Any]~~ any offer or disposition of subdivided lands is made in this state,  
5855 whether or not the offeror or offeree is then present in this state, if the offer originates within  
5856 this state or is directed by the offeror to a person or place in this state and received by the  
5857 person or at the place to which it is directed.

5858            Section 98. Section **58-37-11** is amended to read:

5859            **58-37-11. Court action to enjoin violations -- Jury trial.**

5860            (1) ~~[The district courts of this state shall have jurisdiction in proceedings in accordance~~  
5861 ~~with the rules of those courts to]~~ A court may enjoin violations of this act.

5862            (2) If an alleged violation of an injunction or restraining order issued under this section  
5863 occurs, the accused may demand a jury trial in accordance with ~~[the rules of the district courts]~~  
5864 the Utah Rules of Civil Procedure.

5865            Section 99. Section **63A-3-507** is amended to read:

5866            **63A-3-507. Administrative garnishment order.**

5867            (1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may  
5868 issue an administrative garnishment order against the debtor's personal property, including  
5869 wages, in the possession of a party other than the debtor in the same manner and with the same  
5870 effect as if the order was a writ of garnishment issued by a court with jurisdiction.

5871            (2) The office may issue the administrative garnishment order if:

5872            (a) the order is signed by the director or the director's designee; and

5873            (b) the underlying debt is for:

5874            (i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

5875            (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court,

5876 based on an administrative order for payment issued by an agency of the state.

5877            (3) An administrative garnishment order issued in accordance with this section is  
5878 subject to the procedures and due process protections provided by Rule 64D, Utah Rules of  
5879 Civil Procedure, except as provided by Section **70C-7-103**.

5880            (4) An administrative garnishment order issued by the office shall:

5881            (a) contain a statement that includes:

5882            (i) if known:

5883            (A) the nature, location, account number, and estimated value of the property; and

5884            (B) the name, address, and phone number of the person holding the property;

- 5885 (ii) whether any of the property consists of earnings;
- 5886 (iii) the amount of the judgment and the amount due on the judgment; and
- 5887 (iv) the name, address, and phone number of any person known to the plaintiff to claim
- 5888 an interest in the property;
- 5889 (b) identify the defendant, including the defendant's name and last known address;
- 5890 (c) notify the defendant of the defendant's right to reply to answers and request a
- 5891 hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and
- 5892 (d) state where the garnishee may deliver property.
- 5893 (5) The office may, in the office's discretion, include in an administrative garnishment
- 5894 order:
- 5895 (a) the last four digits of the defendant's Social Security number;
- 5896 (b) the last four digits of the defendant's driver license number;
- 5897 (c) the state in which the defendant's driver license was issued;
- 5898 (d) one or more interrogatories inquiring:
- 5899 (i) whether the garnishee is indebted to the defendant and, if so, the nature of the
- 5900 indebtedness;
- 5901 (ii) whether the garnishee possesses or controls any property of the defendant and, if
- 5902 so, the nature, location, and estimated value of the property;
- 5903 (iii) whether the garnishee knows of any property of the defendant in the possession or
- 5904 under the control of another and, if so:
- 5905 (A) the nature, location, and estimated value of the property; and
- 5906 (B) the name, address, and telephone number of the person who has possession or
- 5907 control of the property;
- 5908 (iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim
- 5909 against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant,
- 5910 and the amount deducted;
- 5911 (v) the date and manner of the garnishee's service of papers upon the defendant and any
- 5912 third party;
- 5913 (vi) the dates on which any previously served writs of continuing garnishment were
- 5914 served; and
- 5915 (vii) any other relevant information, including the defendant's position, rate of pay,

5916 method of compensation, pay period, and computation of the amount of the defendant's  
5917 disposable earnings.

5918 (6) (a) A garnishee who acts in accordance with this section and the administrative  
5919 garnishment issued by the office is released from liability unless an answer to an interrogatory  
5920 is successfully controverted.

5921 (b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an  
5922 administrative garnishment issued by the office without a court or final administrative order  
5923 directing otherwise, the garnishee is liable to the office for an amount determined by the court.

5924 (c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

5925 (i) (A) the value of the judgment; or

5926 (B) the value of the property, if the garnishee shows that the value of the property is  
5927 less than the value of the judgment;

5928 (ii) reasonable costs; and

5929 (iii) attorney fees incurred by the parties as a result of the garnishee's failure.

5930 (d) If the garnishee shows that the steps taken to secure the property were reasonable,  
5931 the court may excuse the garnishee's liability in whole or in part.

5932 (7) (a) If the office has reason to believe that a garnishee has failed to comply with the  
5933 requirements of this section in the garnishee's response to a garnishment order issued under this  
5934 section, the office may submit a motion to the court requesting the court to issue an order  
5935 against the garnishee requiring the garnishee to appear and show cause why the garnishee  
5936 should not be held liable under this section.

5937 (b) The office shall attach to a motion under Subsection (7)(a) a statement that the  
5938 office has in good faith conferred or attempted to confer with the garnishee in an effort to settle  
5939 the issue without court action.

5940 (8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a  
5941 negotiable instrument if the instrument is not in the possession or control of the garnishee at  
5942 the time of service of the administrative garnishment order.

5943 (9) (a) A person indebted to the defendant may pay to the office the amount of the debt  
5944 or an amount to satisfy the administrative garnishment.

5945 (b) The office's receipt of an amount described in Subsection (9)(a) discharges the  
5946 debtor for the amount paid.



5947 (10) A garnishee may deduct from the property any liquidated claim against the  
5948 defendant.

5949 (11) (a) If a debt to the garnishee is secured by property, the office:

5950 (i) is not required to apply the property to the debt when the office issues the  
5951 administrative garnishment order; and

5952 (ii) may obtain a court order authorizing the office to buy the debt and requiring the  
5953 garnishee to deliver the property.

5954 (b) Notwithstanding Subsection (11)(a)(i):

5955 (i) the administrative garnishment order remains in effect; and

5956 (ii) the office may apply the property to the debt.

5957 (c) The office or a third party may perform an obligation of the defendant and require  
5958 the garnishee to deliver the property upon completion of performance or, if performance is  
5959 refused, upon tender of performance if:

5960 (i) the obligation is secured by property; and

5961 (ii) (A) the obligation does not require the personal performance of the defendant; and

5962 (B) a third party may perform the obligation.

5963 (12) (a) The office may issue a continuing garnishment order against a nonexempt  
5964 periodic payment.

5965 (b) This section is subject to the Utah Exemptions Act.

5966 (c) A continuing garnishment order issued in accordance with this section applies to  
5967 payments to the defendant from the date of service upon the garnishee until the earliest of the  
5968 following:

5969 (i) the last periodic payment;

5970 (ii) the judgment upon which the administrative garnishment order is issued is stayed,  
5971 vacated, or satisfied in full; or

5972 (iii) the office releases the order.

5973 (d) No later than seven days after the last day of each payment period, the garnishee  
5974 shall with respect to that period:

5975 (i) answer each interrogatory;

5976 (ii) serve an answer to each interrogatory on the office, the defendant, and any other  
5977 person who has a recorded interest in the property; and

5978 (iii) deliver the property to the office.

5979 (e) If the office issues a continuing garnishment order during the term of a writ of  
5980 continuing garnishment issued by ~~[the district]~~ a court, the order issued by the office:

5981 (i) is tolled when a writ of garnishment or other income withholding is already in effect  
5982 and is withholding greater than or equal to the maximum portion of disposable earnings  
5983 described in Subsection (13);

5984 (ii) is collected in the amount of the difference between the maximum portion of  
5985 disposable earnings described in Subsection (13) and the amount being garnished by an  
5986 existing writ of continuing garnishment if the maximum portion of disposable earnings exceed  
5987 the existing writ of garnishment or other income withholding; and

5988 (iii) shall take priority upon the termination of the current term of existing writs.

5989 (13) The maximum portion of disposable earnings of an individual subject to seizure in  
5990 accordance with this section is the lesser of:

5991 (a) 25% of the defendant's disposable earnings for any other judgment; or

5992 (b) the amount by which the defendant's disposable earnings for a pay period exceeds  
5993 the number of weeks in that pay period multiplied by 30 times the federal minimum wage as  
5994 provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

5995 (14) (a) In accordance with the requirements of this Subsection (14), the office may, at  
5996 its discretion, determine a dollar amount that a garnishee is to withhold from earnings and  
5997 deliver to the office in a continuing administrative garnishment order issued under this section.

5998 (b) The office may determine the dollar amount that a garnishee is to withhold from  
5999 earnings under Subsection (14)(a) if the dollar amount determined by the office:

6000 (i) does not exceed the maximum amount allowed under Subsection (13); and

6001 (ii) is based on:

6002 (A) earnings information received by the office directly from the ~~[Utah]~~ Department of  
6003 Workforce Services; or

6004 (B) previous garnishments issued to the garnishee by the office where payments were  
6005 received at a consistent dollar amount.

6006 (c) The earnings information or previous garnishments relied on by the office under  
6007 Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

6008 (i) for one debtor;

6009 (ii) from the same employer;

6010 (iii) for two or more consecutive quarters; and

6011 (iv) received within the last six months.

6012 (15) (a) A garnishee who provides the calculation for withholdings on a defendant's  
6013 wages in the garnishee's initial response to an interrogatory in an administrative garnishment  
6014 order under this section is not required to provide the calculation for withholdings after the  
6015 garnishee's initial response if:

6016 (i) the garnishee's accounting system automates the amount of defendant's wages to be  
6017 paid under the garnishment; and

6018 (ii) the defendant's wages do not vary by more than five percent from the amount  
6019 disclosed in the garnishee's initial response.

6020 (b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a  
6021 garnishee shall provide, for the last pay period or other pay period specified by the office or  
6022 defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

6023 (16) (a) A garnishee under an administrative garnishment order under this section is  
6024 entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

6025 (i) \$10 per garnishment order, for a noncontinuing garnishment order; and

6026 (ii) \$25, as a one-time fee, for a continuing garnishment order.

6027 (b) A garnishee may deduct the amount of the garnishee fee from the amount to be  
6028 remitted to the office under the administrative garnishment order, if the amount to be remitted  
6029 exceeds the amount of the fee.

6030 (c) If the amount to be remitted to the office under an administrative garnishment order  
6031 does not exceed the amount of the garnishee fee:

6032 (i) the garnishee shall notify the office that the amount to be remitted does not exceed  
6033 the amount of the garnishee fee; and

6034 (ii) (A) the garnishee under a noncontinuing garnishment order shall return the  
6035 administrative garnishment order to the office, and the office shall pay the garnishee the  
6036 garnishee fee; or

6037 (B) the garnishee under a continuing garnishment order shall delay remitting to the  
6038 office until the amount to be remitted exceeds the garnishee fee.

6039 (d) If, upon receiving the administrative garnishment order, the garnishee does not

6040 possess or control any property, including money or wages, in which the defendant has an  
6041 interest:

6042 (i) the garnishee under a continuing or noncontinuing garnishment order shall, except  
6043 as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office,  
6044 and the office shall pay the garnishee the applicable garnishee fee; or

6045 (ii) if the garnishee under a continuing garnishment order believes that the garnishee  
6046 will, within 90 days after issuance of the continuing garnishment order, come into possession  
6047 or control of property in which the defendant owns an interest, the garnishee may retain the  
6048 garnishment order and deduct the garnishee fee for a continuing garnishment once the amount  
6049 to be remitted exceeds the garnishee fee.

6050 (17) Section [78A-2-216](#) does not apply to an administrative garnishment order issued  
6051 under this section.

6052 (18) An administrative garnishment instituted in accordance with this section shall  
6053 continue to operate and require that a person withhold the nonexempt portion of earnings at  
6054 each succeeding earning disbursement interval until the total amount due in the garnishment is  
6055 withheld or the garnishment is released in writing by the court or office.

6056 (19) If the office issues an administrative garnishment order under this section to  
6057 collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the  
6058 administrative garnishment order shall be construed as a continuation of the criminal action for  
6059 which the civil accounts receivable or civil judgment of restitution arises if the amount owed is  
6060 from a fine, fee, or restitution for the criminal action.

6061 Section 100. Section **63G-4-403** is amended to read:

6062 **63G-4-403. Judicial review -- Formal adjudicative proceedings.**

6063 (1) As provided by statute, the Supreme Court or the Court of Appeals has jurisdiction  
6064 to review all final agency action resulting from formal adjudicative proceedings as described in  
6065 Sections [78A-3-102](#) and [78A-4-103](#).

6066 (2) (a) To seek judicial review of final agency action resulting from formal adjudicative  
6067 proceedings, the petitioner shall file a petition for review of agency action with the appropriate  
6068 appellate court in the form required by the appellate rules of the appropriate appellate court.

6069 (b) The appellate rules of the appropriate appellate court shall govern all additional  
6070 filings and proceedings in the appellate court.

6071 (3) The contents, transmittal, and filing of the agency's record for judicial review of  
6072 formal adjudicative proceedings are governed by the Utah Rules of Appellate Procedure,  
6073 except that:

6074 (a) all parties to the review proceedings may stipulate to shorten, summarize, or  
6075 organize the record; and

6076 (b) the appellate court may tax the cost of preparing transcripts and copies for the  
6077 record:

6078 (i) against a party who unreasonably refuses to stipulate to shorten, summarize, or  
6079 organize the record; or

6080 (ii) according to any other provision of law.

6081 (4) The appellate court shall grant relief only if, on the basis of the agency's record, it  
6082 determines that a person seeking judicial review has been substantially prejudiced by any of the  
6083 following:

6084 (a) the agency action, or the statute or rule on which the agency action is based, is  
6085 unconstitutional on its face or as applied;

6086 (b) the agency has acted beyond the jurisdiction conferred by any statute;

6087 (c) the agency has not decided all of the issues requiring resolution;

6088 (d) the agency has erroneously interpreted or applied the law;

6089 (e) the agency has engaged in an unlawful procedure or decision-making process, or  
6090 has failed to follow prescribed procedure;

6091 (f) the persons taking the agency action were illegally constituted as a decision-making  
6092 body or were subject to disqualification;

6093 (g) the agency action is based upon a determination of fact, made or implied by the  
6094 agency, that is not supported by substantial evidence when viewed in light of the whole record  
6095 before the court; or

6096 (h) the agency action is:

6097 (i) an abuse of the discretion delegated to the agency by statute;

6098 (ii) contrary to a rule of the agency;

6099 (iii) contrary to the agency's prior practice, unless the agency justifies the inconsistency  
6100 by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency; or

6101 (iv) otherwise arbitrary or capricious.

6102 Section 101. Section **63G-7-501** is amended to read:

6103 **63G-7-501. Actions brought under this chapter.**

6104 [~~(1) The district courts have exclusive, original jurisdiction over any action brought~~  
6105 ~~under this chapter.~~ (2)] An action brought under this chapter may not be tried as a small claims  
6106 action.

6107 Section 102. Section **63G-7-502** is amended to read:

6108 **63G-7-502. Venue of actions.**

6109 (1) [~~Actions against the state may be brought in the county in which the claim arose or~~  
6110 ~~in Salt Lake County.~~] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a  
6111 person shall bring an action described in this chapter in:

6112 (a) Salt Lake County; or

6113 (b) the county in which the claim arose.

6114 (2) [~~(a) Actions against a county may be brought in the county in which the claim~~  
6115 ~~arose, or in the defendant county.~~]

6116 (a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall  
6117 bring an action against a county in:

6118 (i) the county in which the claim arose; or

6119 (ii) the defendant county.

6120 (b) (i) A district court judge of the defendant county may transfer venue to any county  
6121 contiguous to the defendant county.

6122 (ii) A motion to transfer may be filed ex parte.

6123 (3) [~~Actions against all other political subdivisions, including cities and towns, shall be~~  
6124 ~~brought in the county in which the political subdivision is located or in the county in which the~~  
6125 ~~claim arose.~~] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall  
6126 bring an action against any other political subdivision, including a city or a town, in the county  
6127 in which:

6128 (a) the political subdivision is located; or

6129 (b) the claim arose.

6130 Section 103. Section **63G-20-204** is amended to read:

6131 **63G-20-204. Remedies -- Attorney fees and costs.**

6132 (1) (a) A person aggrieved by a violation of this part may:

6133 (i) seek injunctive or other civil relief to require a state or local government or a state  
6134 or local government official to comply with the requirements of this part; or

6135 (ii) seek removal of the local government official for malfeasance in office according  
6136 to the procedures and requirements of Title 77, Chapter 6, Removal by Judicial Proceedings.

6137 (b) The court may award reasonable attorney fees and costs to the prevailing party.

6138 (2) (a) A person aggrieved by a violation of this part may bring a civil action in [district  
6139 court] a court with jurisdiction under [Title 78A, Judiciary and Judicial Administration](#).

6140 (b) If the plaintiff establishes one or more violations of this part by a preponderance of  
6141 the evidence, the court:

6142 (i) shall grant the plaintiff appropriate legal or equitable relief; and

6143 (ii) may award reasonable attorney fees and costs to the prevailing party.

6144 Section 104. Section **63G-20-302** is amended to read:

6145 **63G-20-302. Remedies -- Civil action -- Attorney fees and costs.**

6146 (1) A person aggrieved by a violation of this part may bring a civil action in [district  
6147 court] a court with jurisdiction under [Title 78A, Judiciary and Judicial Administration](#).

6148 (2) If the plaintiff establishes one or more violations of this part by a preponderance of  
6149 the evidence, the court:

6150 (a) shall grant the plaintiff appropriate legal or equitable relief; and

6151 (b) may award reasonable attorney fees and costs to the prevailing party.

6152 Section 105. Section **63G-23-102** is amended to read:

6153 **63G-23-102. Definitions.**

6154 As used in this chapter:

6155 (1) "Public official" means, except as provided in Subsection (3), the same as that term  
6156 is defined in Section [36-11-102](#).

6157 (2) "Public official" includes a judge or justice of:

6158 (a) the Utah Supreme Court;

6159 (b) the Utah Court of Appeals; [or]

6160 (c) a district court[-];

6161 (d) a juvenile court; or

6162 (e) the Business and Chancery Court.

6163 (3) "Public official" does not include a local official or an education official as defined

6164 in Section [36-11-102](#).

6165 Section 106. Section **63H-1-601** is amended to read:

6166 **63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics**  
6167 **of bonds.**

6168 (1) The authority may not issue bonds under this part unless the authority board first:

6169 (a) adopts a parameters resolution that sets forth:

6170 (i) the maximum:

6171 (A) amount of the bonds;

6172 (B) term; and

6173 (C) interest rate; and

6174 (ii) the expected security for the bonds; and

6175 (b) submits the parameters resolution for review and recommendation to the State

6176 Finance Review Commission created in Section [63C-25-201](#).

6177 (2) (a) As provided in the authority resolution authorizing the issuance of bonds under  
6178 this part or the trust indenture under which the bonds are issued, bonds issued under this part  
6179 may be issued in one or more series and may be sold at public or private sale and in the manner  
6180 provided in the resolution or indenture.

6181 (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest  
6182 at the rate, be in the denomination and in the form, carry the conversion or registration  
6183 privileges, have the rank or priority, be executed in the manner, be subject to the terms of  
6184 redemption or tender, with or without premium, be payable in the medium of payment and at  
6185 the place, and have other characteristics as provided in the authority resolution authorizing  
6186 their issuance or the trust indenture under which they are issued.

6187 (3) Upon the board's adoption of a resolution providing for the issuance of bonds, the  
6188 board may provide for the publication of the resolution:

6189 (a) in a newspaper having general circulation in the authority's boundaries; and

6190 (b) as required in Section [45-1-101](#).

6191 (4) In lieu of publishing the entire resolution, the board may publish notice of bonds  
6192 that contains the information described in Subsection [11-14-316\(2\)](#).

6193 (5) For a period of 30 days after the publication, any person in interest may contest:

6194 (a) the legality of the resolution or proceeding;



6195 (b) any bonds that may be authorized by the resolution or proceeding; or

6196 (c) any provisions made for the security and payment of the bonds.

6197 (6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified  
6198 written complaint, within 30 days of the publication under Subsection (5), in [~~the district court~~  
6199 ~~of the county in which the person resides~~] a court with jurisdiction under Title 78A, Judiciary  
6200 and Judicial Administration.

6201 (b) A person may not contest the matters set forth in Subsection (5), or the regularity,  
6202 formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for  
6203 contesting provided in Subsection (6)(a).

6204 (7) No later than 60 days after the closing day of any bonds, the authority shall report  
6205 the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

6206 (a) the Executive Appropriations Committee; and

6207 (b) the State Finance Review Commission created in Section 63C-25-201.

6208 Section 107. Section 63L-5-301 is amended to read:

6209 **63L-5-301. Remedies.**

6210 (1) (a) A person whose free exercise of religion has been substantially burdened by a  
6211 government entity in violation of Section 63L-5-201 may bring an action in [~~the district court~~  
6212 ~~of~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

6213 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall  
6214 bring an action described in Subsection (1)(a) in the county where the largest portion of the  
6215 property subject to the land use regulation is located if the action is brought in the district court.

6216 (2) Any person who asserts a claim or defense against a government entity under this  
6217 chapter may request:

6218 (a) declaratory relief;

6219 (b) temporary or permanent injunctive relief to prevent the threatened or continued  
6220 violation; or

6221 (c) a combination of declaratory and injunctive relief.

6222 (3) A person may not bring an action under this chapter against an individual, other  
6223 than an action against an individual acting in the individual's official capacity as an officer of a  
6224 government entity.

6225 Section 108. Section 63L-8-304 is amended to read:

6226 **63L-8-304. Enforcement authority.**

6227 (1) The director shall issue rules as necessary to implement the provisions of this  
6228 chapter with respect to the management, use, and protection of the public land and property  
6229 located on the public land.

6230 (2) At the request of the director, the attorney general may [~~institute a civil action in a~~  
6231 ~~district court~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and  
6232 Judicial Administration, for an injunction or other appropriate remedy to prevent any person  
6233 from utilizing public land in violation of this chapter or rules issued by the director under this  
6234 chapter.

6235 (3) The use, occupancy, or development of any portion of the public land contrary to  
6236 any rule issued by the DLM in accordance with this chapter, and without proper authorization,  
6237 is unlawful and prohibited.

6238 (4) (a) The locally elected county sheriff is the primary law enforcement authority with  
6239 jurisdiction on public land to enforce:

6240 (i) all the laws of this state; and

6241 (ii) this chapter and rules issued by the director pursuant to Subsection (1).

6242 (b) The governor may utilize the Department of Public Safety for the purposes of  
6243 assisting the county sheriff in enforcing:

6244 (i) all the laws of this state and this chapter; and

6245 (ii) rules issued by the director pursuant to Subsection (1).

6246 (c) Conservation officers employed by the Division of Wildlife Resources have  
6247 authority to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the  
6248 sake of any protected wildlife.

6249 (d) A conservation officer shall work cooperatively with the locally elected county  
6250 sheriff to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the  
6251 sake of protected wildlife.

6252 (e) Nothing herein shall be construed as enlarging or diminishing the responsibility or  
6253 authority of a state certified peace officer in performing the officer's duties on public land.

6254 Section 109. Section **65A-8a-104** is amended to read:

6255 **65A-8a-104. Notification of intent to conduct forest practices.**

6256 (1) No later than 30 days before an operator commences forest practices, the operator

6257 shall notify the division of the operator's intent to conduct forest practices.

6258 (2) The notification shall include:

6259 (a) the name and address of the operator;

6260 (b) the name, address, and other current contact information of the landowner;

6261 (c) a legal description of the area in which the forest practices are to be conducted;

6262 (d) a description of the proposed forest practices to be conducted, including the number

6263 of acres with timber to be harvested; and

6264 (e) an agreement granting the state forestry personnel permission to enter the area in  
6265 which the forest practices are to be conducted to conduct an inspection, when the state forestry  
6266 personnel reasonably consider an inspection necessary to ensure compliance with this chapter.

6267 (3) Upon the receipt of notification, the division shall, within 10 days, mail to the  
6268 landowner and the operator:

6269 (a) an acknowledgment of notification;

6270 (b) information on Forest Water Quality Guidelines; and

6271 (c) any other information the division believes would assist the landowner and operator  
6272 in conducting forest practices.

6273 (4) (a) Failure to notify the division in accordance with this section is a class B  
6274 misdemeanor.

6275 (b) (i) The division may [~~file an action in the district court of any county in which the~~  
6276 ~~area in which the forest practices are to be conducted is located~~] bring an action in a court with  
6277 jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin an operator  
6278 engaged in conduct violating this chapter from operating until the operator complies with this  
6279 chapter.

6280 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the division shall  
6281 bring an action described in Subsection (4)(b)(i) in the county in which the forest practices are  
6282 to be conducted is located if the division brings the action in the district court.

6283 (c) In an action by the division in accordance with Subsection (4)(b), the operator shall  
6284 pay reasonable attorney fees and all court costs incurred by the division because of the action.

6285 Section 110. Section **67-3-1** is amended to read:

6286 **67-3-1. Functions and duties.**

6287 (1) (a) The state auditor is the auditor of public accounts and is independent of any

6288 executive or administrative officers of the state.

6289 (b) The state auditor is not limited in the selection of personnel or in the determination  
6290 of the reasonable and necessary expenses of the state auditor's office.

6291 (2) The state auditor shall examine and certify annually in respect to each fiscal year,  
6292 financial statements showing:

6293 (a) the condition of the state's finances;

6294 (b) the revenues received or accrued;

6295 (c) expenditures paid or accrued;

6296 (d) the amount of unexpended or unencumbered balances of the appropriations to the  
6297 agencies, departments, divisions, commissions, and institutions; and

6298 (e) the cash balances of the funds in the custody of the state treasurer.

6299 (3) (a) The state auditor shall:

6300 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of  
6301 any department of state government or any independent agency or public corporation as the law  
6302 requires, as the auditor determines is necessary, or upon request of the governor or the  
6303 Legislature;

6304 (ii) perform the audits in accordance with generally accepted auditing standards and  
6305 other auditing procedures as promulgated by recognized authoritative bodies; and

6306 (iii) as the auditor determines is necessary, conduct the audits to determine:

6307 (A) honesty and integrity in fiscal affairs;

6308 (B) accuracy and reliability of financial statements;

6309 (C) effectiveness and adequacy of financial controls; and

6310 (D) compliance with the law.

6311 (b) If any state entity receives federal funding, the state auditor shall ensure that the  
6312 audit is performed in accordance with federal audit requirements.

6313 (c) (i) The costs of the federal compliance portion of the audit may be paid from an  
6314 appropriation to the state auditor from the General Fund.

6315 (ii) If an appropriation is not provided, or if the federal government does not  
6316 specifically provide for payment of audit costs, the costs of the federal compliance portions of  
6317 the audit shall be allocated on the basis of the percentage that each state entity's federal funding  
6318 bears to the total federal funds received by the state.

6319 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit  
6320 funds passed through the state to local governments and to reflect any reduction in audit time  
6321 obtained through the use of internal auditors working under the direction of the state auditor.

6322 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to  
6323 financial audits, and as the auditor determines is necessary, conduct performance and special  
6324 purpose audits, examinations, and reviews of any entity that receives public funds, including a  
6325 determination of any or all of the following:

6326 (i) the honesty and integrity of all the entity's fiscal affairs;

6327 (ii) whether the entity's administrators have faithfully complied with legislative intent;

6328 (iii) whether the entity's operations have been conducted in an efficient, effective, and  
6329 cost-efficient manner;

6330 (iv) whether the entity's programs have been effective in accomplishing the intended  
6331 objectives; and

6332 (v) whether the entity's management, control, and information systems are adequate,  
6333 effective, and secure.

6334 (b) The auditor may not conduct performance and special purpose audits,  
6335 examinations, and reviews of any entity that receives public funds if the entity:

6336 (i) has an elected auditor; and

6337 (ii) has, within the entity's last budget year, had the entity's financial statements or  
6338 performance formally reviewed by another outside auditor.

6339 (5) The state auditor:

6340 (a) shall administer any oath or affirmation necessary to the performance of the duties  
6341 of the auditor's office; and

6342 (b) may:

6343 (i) subpoena witnesses and documents, whether electronic or otherwise; and

6344 (ii) examine into any matter that the auditor considers necessary.

6345 (6) The state auditor may require all persons who have had the disposition or  
6346 management of any property of this state or its political subdivisions to submit statements  
6347 regarding the property at the time and in the form that the auditor requires.

6348 (7) The state auditor shall:

6349 (a) except where otherwise provided by law, institute suits in Salt Lake County in

6350 relation to the assessment, collection, and payment of revenues against:

6351 (i) persons who by any means have become entrusted with public money or property

6352 and have failed to pay over or deliver the money or property; and

6353 (ii) all debtors of the state;

6354 (b) collect and pay into the state treasury all fees received by the state auditor;

6355 (c) perform the duties of a member of all boards of which the state auditor is a member

6356 by the constitution or laws of the state, and any other duties that are prescribed by the

6357 constitution and by law;

6358 (d) stop the payment of the salary of any state official or state employee who:

6359 (i) refuses to settle accounts or provide required statements about the custody and

6360 disposition of public funds or other state property;

6361 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling

6362 board or department head with respect to the manner of keeping prescribed accounts or funds;

6363 or

6364 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the

6365 official's or employee's attention;

6366 (e) establish accounting systems, methods, and forms for public accounts in all taxing

6367 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

6368 (f) superintend the contractual auditing of all state accounts;

6369 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of

6370 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that

6371 officials and employees in those taxing units comply with state laws and procedures in the

6372 budgeting, expenditures, and financial reporting of public funds;

6373 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,

6374 if necessary, to ensure that officials and employees in the county comply with Section

6375 [59-2-303.1](#); and

6376 (i) withhold state allocated funds or the disbursement of property taxes from a local

6377 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if

6378 the state auditor finds the withholding necessary to ensure that the entity registers and

6379 maintains the entity's registration with the lieutenant governor, in accordance with Section

6380 [67-1a-15](#).

6381 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds  
6382 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal  
6383 written notice of noncompliance from the auditor and has been given 60 days to make the  
6384 specified corrections.

6385 (b) If, after receiving notice under Subsection (8)(a), a state or independent local  
6386 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state  
6387 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the  
6388 state auditor:

6389 (i) shall provide a recommended timeline for corrective actions;

6390 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the  
6391 state; and

6392 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an  
6393 account of a financial institution by filing an action in [~~district court~~] a court with jurisdiction  
6394 under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to  
6395 prohibit a financial institution from providing the fee-assessing unit access to an account.

6396 (c) The state auditor shall remove a limitation on accessing funds under Subsection  
6397 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and  
6398 financial reporting of public funds.

6399 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with  
6400 state law, the state auditor:

6401 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to  
6402 comply;

6403 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the  
6404 state; and

6405 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an  
6406 account of a financial institution by:

6407 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that  
6408 the institution prohibit access to the account; or

6409 (B) filing an action in [~~district court~~] a court with jurisdiction under Title 78A,  
6410 Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial  
6411 institution from providing the taxing or fee-assessing unit access to an account.

6412 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state  
6413 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection  
6414 (8)(d).

6415 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has  
6416 received formal written notice of noncompliance from the auditor and has been given 60 days  
6417 to make the specified corrections.

6418 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state  
6419 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

6420 (b) If the state auditor receives a notice of non-registration, the state auditor may  
6421 prohibit the local government entity or limited purpose entity, as those terms are defined in  
6422 Section 67-1a-15, from accessing:

6423 (i) money held by the state; and

6424 (ii) money held in an account of a financial institution by:

6425 (A) contacting the entity's financial institution and requesting that the institution  
6426 prohibit access to the account; or

6427 (B) filing an action in [~~district court~~] a court with jurisdiction under Title 78A,  
6428 Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial  
6429 institution from providing the entity access to an account.

6430 (c) The state auditor shall remove the prohibition on accessing funds described in  
6431 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in  
6432 Section 67-1a-15, from the lieutenant governor.

6433 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the  
6434 state auditor:

6435 (a) shall authorize a disbursement by a local government entity or limited purpose  
6436 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing  
6437 unit if the disbursement is necessary to:

6438 (i) avoid a major disruption in the operations of the local government entity, limited  
6439 purpose entity, or state or local taxing or fee-assessing unit; or

6440 (ii) meet debt service obligations; and

6441 (b) may authorize a disbursement by a local government entity, limited purpose entity,  
6442 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.



6443 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to  
6444 take temporary custody of public funds if an action is necessary to protect public funds from  
6445 being improperly diverted from their intended public purpose.

6446 (b) If the state auditor seeks relief under Subsection (12)(a):

6447 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);  
6448 and

6449 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a  
6450 court orders the public funds to be protected from improper diversion from their public  
6451 purpose.

6452 (13) The state auditor shall:

6453 (a) establish audit guidelines and procedures for audits of local mental health and  
6454 substance abuse authorities and their contract providers, conducted pursuant to Title 17,  
6455 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local  
6456 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental  
6457 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
6458 Organizations, and Other Local Entities Act; and

6459 (b) ensure that those guidelines and procedures provide assurances to the state that:

6460 (i) state and federal funds appropriated to local mental health authorities are used for  
6461 mental health purposes;

6462 (ii) a private provider under an annual or otherwise ongoing contract to provide  
6463 comprehensive mental health programs or services for a local mental health authority is in  
6464 compliance with state and local contract requirements and state and federal law;

6465 (iii) state and federal funds appropriated to local substance abuse authorities are used  
6466 for substance abuse programs and services; and

6467 (iv) a private provider under an annual or otherwise ongoing contract to provide  
6468 comprehensive substance abuse programs or services for a local substance abuse authority is in  
6469 compliance with state and local contract requirements, and state and federal law.

6470 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for  
6471 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from  
6472 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or  
6473 investigations of any political subdivision that are necessary to determine honesty and integrity

6474 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of  
6475 financial controls and compliance with the law.

6476 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the  
6477 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may  
6478 initiate an audit or investigation of the public entity subject to the notice to determine  
6479 compliance with Section 11-41-103.

6480 (15) (a) The state auditor may not audit work that the state auditor performed before  
6481 becoming state auditor.

6482 (b) If the state auditor has previously been a responsible official in state government  
6483 whose work has not yet been audited, the Legislature shall:

- 6484 (i) designate how that work shall be audited; and
- 6485 (ii) provide additional funding for those audits, if necessary.

6486 (16) The state auditor shall:

6487 (a) with the assistance, advice, and recommendations of an advisory committee  
6488 appointed by the state auditor from among special district boards of trustees, officers, and  
6489 employees and special service district boards, officers, and employees:

6490 (i) prepare a Uniform Accounting Manual for Special Districts that:

6491 (A) prescribes a uniform system of accounting and uniform budgeting and reporting  
6492 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -  
6493 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service  
6494 District Act;

6495 (B) conforms with generally accepted accounting principles; and

6496 (C) prescribes reasonable exceptions and modifications for smaller districts to the  
6497 uniform system of accounting, budgeting, and reporting;

6498 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to  
6499 reflect generally accepted accounting principles;

6500 (iii) conduct a continuing review and modification of procedures in order to improve  
6501 them;

6502 (iv) prepare and supply each district with suitable budget and reporting forms; and

6503 (v) (A) prepare instructional materials, conduct training programs, and render other  
6504 services considered necessary to assist special districts and special service districts in

6505 implementing the uniform accounting, budgeting, and reporting procedures; and

6506 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title  
6507 63G, Chapter 22, State Training and Certification Requirements; and

6508 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices  
6509 and experiences of specific special districts and special service districts selected by the state  
6510 auditor and make the information available to all districts.

6511 (17) (a) The following records in the custody or control of the state auditor are  
6512 protected records under Title 63G, Chapter 2, Government Records Access and Management  
6513 Act:

6514 (i) records that would disclose information relating to allegations of personal  
6515 misconduct, gross mismanagement, or illegal activity of a past or present governmental  
6516 employee if the information or allegation cannot be corroborated by the state auditor through  
6517 other documents or evidence, and the records relating to the allegation are not relied upon by  
6518 the state auditor in preparing a final audit report;

6519 (ii) records and audit workpapers to the extent the workpapers would disclose the  
6520 identity of an individual who during the course of an audit, communicated the existence of any  
6521 waste of public funds, property, or manpower, or a violation or suspected violation of a law,  
6522 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or  
6523 any recognized entity of the United States, if the information was disclosed on the condition  
6524 that the identity of the individual be protected;

6525 (iii) before an audit is completed and the final audit report is released, records or drafts  
6526 circulated to an individual who is not an employee or head of a governmental entity for the  
6527 individual's response or information;

6528 (iv) records that would disclose an outline or part of any audit survey plans or audit  
6529 program; and

6530 (v) requests for audits, if disclosure would risk circumvention of an audit.

6531 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure  
6532 of records or information that relate to a violation of the law by a governmental entity or  
6533 employee to a government prosecutor or peace officer.

6534 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to  
6535 the state auditor to classify a document as public, private, controlled, or protected under Title

6536 63G, Chapter 2, Government Records Access and Management Act.

6537 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the  
6538 state auditor and the subject of an audit performed by the state auditor as to whether the state  
6539 auditor may release a record, as defined in Section 63G-2-103, to the public that the state  
6540 auditor gained access to in the course of the state auditor's audit but which the subject of the  
6541 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records  
6542 Access and Management Act.

6543 (ii) The state auditor may submit a record dispute to the State Records Committee,  
6544 created in Section 63G-2-501, for a determination of whether the state auditor may, in  
6545 conjunction with the state auditor's release of an audit report, release to the public the record  
6546 that is the subject of the record dispute.

6547 (iii) The state auditor or the subject of the audit may seek judicial review of a State  
6548 Records Committee determination under Subsection (17)(d)(ii), as provided in Section  
6549 63G-2-404.

6550 (18) If the state auditor conducts an audit of an entity that the state auditor has  
6551 previously audited and finds that the entity has not implemented a recommendation made by  
6552 the state auditor in a previous audit, the state auditor shall notify the Legislative Management  
6553 Committee through the Legislative Management Committee's audit subcommittee that the  
6554 entity has not implemented that recommendation.

6555 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state  
6556 privacy officer described in Section 67-3-13.

6557 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that  
6558 another government entity reports, on the financial, operational, and performance metrics for  
6559 the state system of higher education and the state system of public education, including metrics  
6560 in relation to students, programs, and schools within those systems.

6561 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits  
6562 of:

6563 (i) the scholarship granting organization for the Special Needs Opportunity Scholarship  
6564 Program, created in Section 53E-7-402;

6565 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in  
6566 Section 53F-4-302; and

6567 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,  
6568 created in Section [53F-6-402](#).

6569 (b) Nothing in this subsection limits or impairs the authority of the State Board of  
6570 Education to administer the programs described in Subsection (21)(a).

6571 (22) The state auditor shall, based on the information posted by the Office of  
6572 Legislative Research and General Counsel under Subsection [36-12-12.1\(2\)](#), for each policy,  
6573 track and post the following information on the state auditor's website:

6574 (a) the information posted under Subsections [36-12-12.1\(2\)\(a\)](#) through (e);

6575 (b) an indication regarding whether the policy is timely adopted, adopted late, or not  
6576 adopted;

6577 (c) an indication regarding whether the policy complies with the requirements  
6578 established by law for the policy; and

6579 (d) a link to the policy.

6580 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine  
6581 whether a government entity, government official, or government employee has complied with  
6582 a legal obligation directly imposed, by statute, on the government entity, government official,  
6583 or government employee.

6584 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct  
6585 the inquiry requested.

6586 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state  
6587 auditor shall post the results of the inquiry on the state auditor's website.

6588 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple  
6589 determination, without conducting an audit, regarding whether the obligation was fulfilled.

6590 Section 111. Section [67-3-3](#) is amended to read:

6591 **67-3-3. Disbursements of public funds -- Suspension of disbursements --**  
6592 **Procedure upon suspension.**

6593 (1) The state auditor may suspend any disbursement of public funds whenever, in the  
6594 state auditor's opinion, the disbursement is contrary to law.

6595 (2) (a) If the validity of a disbursement described in Subsection (1) is not established  
6596 within six months from the date of original suspension, the state auditor shall refer the matter  
6597 to the attorney general for appropriate action.

6598 (b) If, in the attorney general's opinion, the suspension described in Subsection (2)(a)  
6599 was justified, the attorney general shall immediately notify the state auditor, who shall  
6600 immediately make demand upon the surety of the disbursing or certifying officer.

6601 (c) If the state auditor makes a demand under Subsection (2)(b), the surety shall  
6602 immediately meet the demand and pay into the state treasury by certified check or legal tender  
6603 any amount or amounts disbursed and involved in the suspension.

6604 (3) (a) The state auditor shall ensure that each suspension is in writing.

6605 (b) The state auditor shall:

6606 (i) prepare a form to be known as the notice of suspension;

6607 (ii) ensure that the form contains complete information as to:

6608 (A) the payment suspended;

6609 (B) the reason for the suspension;

6610 (C) the amount of money involved; and

6611 (D) any other information that will clearly establish identification of the payment;

6612 (iii) retain the original of the suspension notice;

6613 (iv) serve one copy of the suspension notice upon:

6614 (A) the disbursing or certifying officer;

6615 (B) any member of the finance commission; and

6616 (C) the surety of the disbursing or certifying officer, except that mailing the copy to the  
6617 surety company constitutes legal service;

6618 (v) attach one copy of the suspension notice to the document under suspension; and

6619 (vi) take receipts entered upon the original suspension notice held by the state auditor  
6620 from the disbursing or certifying officer, the finance commission, and the surety.

6621 (4) (a) Immediately upon any suspension becoming final, the finance commission  
6622 shall:

6623 (i) cause an entry to be made debiting the disbursing or certifying officer with the  
6624 amount of money involved in any suspension notice; and

6625 (ii) credit the account originally charged by the payment.

6626 (b) Upon release of final suspension by the state auditor, the finance commission shall  
6627 make a reversing entry, crediting the disbursing or certifying officer, and like credit shall be  
6628 given in all recoveries from the surety.

6629 (5) (a) In accordance with this Subsection (5), the state auditor may prohibit the access  
6630 of a state or local taxing or fee-assessing unit to money held by the state or in an account of a  
6631 financial institution, if the state auditor determines that the local taxing or fee-assessing unit is  
6632 not in compliance with state law regarding budgeting, expenditures, financial reporting of  
6633 public funds, and transparency.

6634 (b) The state auditor may not withhold funds under Subsection (5)(a) until the state  
6635 auditor:

6636 (i) sends formal notice of noncompliance to the state or local taxing or fee-assessing  
6637 unit; and

6638 (ii) allows the state or local taxing or fee-assessing unit 60 calendar days to:

6639 (A) make the specified corrections; or

6640 (B) demonstrate to the state auditor that the specified corrections are not legally  
6641 required.

6642 (c) If, after receiving notice under Subsection (5)(b), the state or local fee-assessing  
6643 unit does not make the specified corrections and the state auditor does not agree with any  
6644 demonstration under Subsection (5)(b)(ii)(B), the state auditor:

6645 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to  
6646 comply;

6647 (ii) shall provide a recommended timeline for corrective actions;

6648 (iii) may prohibit the taxing or fee-assessing unit from accessing money held by the  
6649 state; and

6650 (iv) may prohibit the taxing or fee-assessing unit from accessing money held in an  
6651 account of a financial institution by:

6652 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that  
6653 the institution prohibit access to the account; or

6654 (B) filing an action in ~~[district court]~~ a court with jurisdiction under Title 78A,  
6655 Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial  
6656 institution from providing the taxing or fee-assessing unit access to an account.

6657 (d) The state auditor shall remove the prohibition on accessing funds described in  
6658 Subsections (5)(c)(iii) and (iv) if:

6659 (i) the state or local taxing or fee-assessing unit makes the specified corrections

6660 described in Subsection (5)(b); or

6661 (ii) the state auditor agrees with a demonstration under Subsection (5)(b)(ii)(B).

6662 Section 112. Section **70A-2-807** is amended to read:

6663 **70A-2-807. Consumer may not waive rights under chapter -- Enforcement --**

6664 **Remedies not exclusive.**

6665 (1) Any waiver by a consumer of rights under this chapter is void.

6666 (2) (a) A consumer may bring an action in [~~district court~~] a court with jurisdiction  
6667 under Title 78A, Judiciary and Judicial Administration, to enforce the consumer's rights under  
6668 this chapter.

6669 (b) The court shall award a consumer who prevails in an action under this chapter  
6670 twice the amount of any pecuniary loss, together with costs, disbursements, reasonable  
6671 attorney's fees, and any equitable relief that the court determines is appropriate.

6672 (3) (a) The attorney general may file an action in [~~district court~~] a court with  
6673 jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this chapter on  
6674 behalf of any consumer or in its own behalf.

6675 (b) In addition to the other remedies provided in this chapter, the attorney general is  
6676 also entitled to an award for reasonable attorney's fees, court costs, and investigative expenses.

6677 (4) This chapter shall not be construed as imposing any liability on an authorized  
6678 dealer or lessor or as creating a cause of action by a consumer against a dealer or lessor, except  
6679 regarding any express warranties made by the dealer or lessor apart from the manufacturer's  
6680 warranties.

6681 (5) Nothing in this chapter shall limit or impair the rights or remedies which are  
6682 otherwise available to a consumer under any other provision of law.

6683 Section 113. Section **70C-8-105** is amended to read:

6684 **70C-8-105. Judicial review.**

6685 (1) (a) Any party aggrieved by any rule, order, temporary order, decision, ruling, or  
6686 other act or failure to act by the department under this title is entitled to judicial review.

6687 (b) Within 30 days after receiving notice of a rule, order, temporary order, decision, or  
6688 other ruling, or within 120 days after the department has failed to act upon a request or  
6689 application, the aggrieved party may file an application for judicial review with [~~a court of~~  
6690 ~~competent jurisdiction~~] a court with jurisdiction under Title 78A, Judiciary and Judicial



6691 Administration.

6692 (c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the aggrieved  
6693 party shall file an application in the county in which the applicant is located or in the Third  
6694 District Court if the application is brought in the district court.

6695 (d) The court may void any rule, order, temporary order, decision, ruling, or other act  
6696 of the department it finds to be arbitrary, capricious, an abuse of discretion, in excess of the  
6697 department's authority, or otherwise contrary to law.

6698 (2) (a) Any party upon showing that it may be subject to potential irreparable injury by  
6699 any proposed rule or order of the department may, without exhausting its administrative  
6700 remedies, apply for a declaratory judgment as to any question of law arising out of the rule or  
6701 order.

6702 (b) The applications shall be filed in the Third District Court.

6703 (3) Any action for judicial review of acts or failures to act of the department shall be  
6704 heard by the court and shall be based on the record made before the department unless the court  
6705 finds good cause to admit additional and otherwise proper evidence.

6706 (4) (a) Filing an application for judicial review does not stay the adoption or  
6707 enforcement of any rule, order, temporary order, decision, or ruling of the department.

6708 (b) The court may expressly stay any rule, order, decision, or ruling of the department  
6709 during the pendency of judicial proceedings challenging them upon terms and conditions it  
6710 deems appropriate after finding that the possible harm to all interested parties is, on balance,  
6711 likely to be less if the stay is imposed, or if the applicant and the department stipulate to the  
6712 imposition of a stay.

6713 Section 114. Section **70D-2-504** is amended to read:

6714 **70D-2-504. Orders.**

6715 (1) If the commissioner determines that a person engaging in business as a lender,  
6716 broker, or servicer is violating, has violated, or the commissioner has reasonable cause to  
6717 believe is about to violate this chapter or a rule of the commissioner made under this chapter,  
6718 the commissioner may:

6719 (a) order the person to cease and desist from committing a further violation; and

6720 (b) in the most serious instances may prohibit the person from continuing to engage in  
6721 business as a lender, broker, or servicer.

6722 (2) (a) If the commissioner determines that a practice that the commissioner alleges is  
6723 unlawful should be enjoined during the pendency of a proceeding incident to an allegation, the  
6724 commissioner may issue a temporary order in accordance with Section 63G-4-502:

6725 (i) at the commencement of the proceedings; or

6726 (ii) at any time after the proceeding commences.

6727 (b) For purposes of Section 63G-4-502, an immediate and significant danger to the  
6728 public health, safety, or welfare exists if the commissioner finds from specific facts supported  
6729 by sworn statement or the records of a person subject to the order that loan applicants or  
6730 mortgagors are otherwise likely to suffer immediate and irreparable injury, loss, or damage  
6731 before a proceeding incident to a final order can be completed.

6732 (3) The commissioner may not award damages or penalties under this chapter against a  
6733 lender, broker, or servicer.

6734 (4) (a) An order issued by the commissioner under this chapter shall:

6735 (i) be in writing;

6736 (ii) be delivered to or served upon the person affected; and

6737 (iii) specify the order's effective date, which may be immediate or at a later date.

6738 (b) An order remains in effect until:

6739 (i) withdrawn by the commissioner; or

6740 (ii) terminated by a court order.

6741 (c) ~~[An order of the commissioner, upon]~~ Upon an application made on or after the  
6742 order's effective date ~~[to the Third District Court, or in any other district court, may be~~  
6743 ~~enforced]~~ to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration,  
6744 the court may enforce an order of the commissioner ex parte and without notice by an order to  
6745 comply entered by the court.

6746 Section 115. Section 72-10-106 is amended to read:

6747 **72-10-106. Enforcement of chapter -- Fees for services by department.**

6748 (1) (a) The department and every county and municipal officer required to enforce state  
6749 laws shall enforce and assist in the enforcement of this chapter.

6750 (b) The department may enforce this chapter by ~~[injunction in the district courts of this~~  
6751 ~~state]~~ seeking an injunction in a court with jurisdiction under Title 78A, Judiciary and Judicial  
6752 Administration.

6753 (c) Other departments and political subdivisions of this state may cooperate with the  
6754 department in the development of aeronautics within this state.

6755 (2) (a) Unless otherwise provided by statute, the department may adopt a schedule of  
6756 fees assessed for services provided by the department.

6757 (b) Each fee shall be reasonable and fair, and shall reflect the cost of the service  
6758 provided.

6759 (c) Each fee established in this manner shall be submitted to and approved by the  
6760 Legislature as part of the department's annual appropriations request.

6761 (d) The department may not charge or collect any fee proposed in this manner without  
6762 approval by the Legislature.

6763 Section 116. Section **72-16-401** is amended to read:

6764 **72-16-401. Penalty for violation.**

6765 (1) If an owner-operator or operator violates a provision of this chapter with respect to  
6766 an amusement ride, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,  
6767 the director may:

6768 (a) deny, suspend, or revoke, in whole or in part, the owner-operator's annual  
6769 amusement ride permit or multi-ride permit for the amusement ride; or

6770 (b) impose fines or administrative penalties in accordance with rules made by the  
6771 committee.

6772 (2) Upon a violation of a provision of this chapter, the director may [~~file an action in~~  
6773 ~~district court~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and  
6774 Judicial Administration, to enjoin the operation of an amusement ride.

6775 Section 117. Section **75-2-105** is amended to read:

6776 **75-2-105. No taker -- Minerals and mineral proceeds.**

6777 (1) As used in this section:

6778 (a) "Mineral" means the same as that term is defined in Section 67-4a-102.

6779 (b) "Mineral proceeds" means the same as that term is defined in Section 67-4a-102.

6780 (c) "Operator" means the same as that term is defined in Section 40-6-2, 40-8-4, or  
6781 40-10-3, and includes any other person holding mineral proceeds of an owner.

6782 (d) "Owner" means the same as that term is defined in Section 38-10-101, 40-6-2, or  
6783 40-8-4.

6784 (e) "Payor" means the same as that term is defined in Section 40-6-2, and includes a  
6785 person who undertakes or has a legal obligation to distribute any mineral proceeds.

6786 (2) If there is no taker under this chapter, the intestate estate passes upon the decedent's  
6787 death to the state for the benefit of the permanent state school fund.

6788 (3) When minerals or mineral proceeds pass to the state pursuant to Subsection (2), the  
6789 Utah School and Institutional Trust Lands Administration shall administer the interests in the  
6790 minerals or mineral proceeds for the support of the common schools pursuant to Sections  
6791 53C-1-102 and 53C-1-302, but may exercise its discretion to abandon or decline to administer  
6792 property of no value or of insufficient value to justify its collection or continued administration.

6793 (4) (a) If a probate or other proceeding has not adjudicated the state's rights under  
6794 Subsection (2), the state, and the Utah School and Institutional Trust Lands Administration  
6795 with respect to any minerals or mineral proceeds referenced in Subsection (3), may bring an  
6796 action [~~in district court in any district in which part of the property related to the minerals or~~  
6797 ~~mineral proceeds is located~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial  
6798 Administration, to quiet title the minerals, mineral proceeds, or property.

6799 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state or the  
6800 Utah School and Institutional Trust Lands Administration, shall bring an action described in  
6801 Subsection (4)(a) in the county in which the property related to the minerals or mineral process  
6802 is located if the action is brought in the district court.

6803 (5) In an action brought under Subsection (4), the [~~district~~] court shall quiet title to the  
6804 minerals, mineral proceeds, or property in the state if:

6805 (a) no interested person appears in the action and demonstrates entitlement to the  
6806 minerals, mineral proceeds, or property after notice has been given pursuant to Section  
6807 78B-6-1303 and in the manner described in Section 75-1-401; and

6808 (b) the requirements of Section 78B-6-1315 are met.

6809 (6) (a) If an operator, owner, or payor determines that minerals or mineral proceeds  
6810 form part of a decedent's intestate estate, and has not located an heir of the decedent, the  
6811 operator, owner, or payor shall submit to the Utah School and Institutional Trust Lands  
6812 Administration the information in the operator's, owner's, or payor's possession concerning the  
6813 identity of the decedent, the results of a good faith search for heirs specified in Section  
6814 75-2-103, the property interest from which the minerals or mineral proceeds derive, and any

6815 potential heir.

6816 (b) The operator, owner, or payor shall submit the information described in Subsection  
6817 (6)(a) within 180 days of acquiring the information.

6818 Section 118. Section **75-2-801** is amended to read:

6819 **75-2-801. Disclaimer of property interests -- Time -- Form -- Effect -- Waiver and**  
6820 **bar -- Remedy not exclusive -- Application.**

6821 (1) A person, or the representative of a person, to whom an interest in or with respect  
6822 to property or an interest therein devolves by whatever means may disclaim it in whole or in  
6823 part by delivering or filing a written disclaimer under this section. The right to disclaim exists  
6824 notwithstanding:

6825 (a) any limitation on the interest of the disclaimant in the nature of a spendthrift  
6826 provision or similar restriction; or

6827 (b) any restriction or limitation on the right to disclaim contained in the governing  
6828 instrument. For purposes of this subsection, the "representative of a person" includes a  
6829 personal representative of a decedent, a conservator of a person with a disability, a guardian of  
6830 a minor or incapacitated person, and an agent acting on behalf of the person within the  
6831 authority of a power of attorney.

6832 (2) The following rules govern the time when a disclaimer shall be filed or delivered:

6833 (a) (i) If the property or interest has devolved to the disclaimant under a testamentary  
6834 instrument or by the laws of intestacy, the disclaimer shall be filed, if of a present interest, not  
6835 later than nine months after the death of the deceased owner or deceased donee of a power of  
6836 appointment and, if of a future interest, not later than nine months after the event determining  
6837 that the taker of the property or interest is finally ascertained and his interest is indefeasibly  
6838 vested.

6839 (ii) The disclaimer shall be filed in [~~the district court of the county~~] a court with  
6840 jurisdiction under Title 78A, Judiciary and Judicial Administration.

6841 (iii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall  
6842 bring an action described in Subsection (2)(a) in the county in which proceedings for the  
6843 administration of the estate of the deceased owner or deceased donee of the power have been  
6844 commenced if the action is brought in the district court.

6845 (iv) A copy of the disclaimer shall be delivered in person or mailed by registered or

6846 certified mail, return receipt requested, to any personal representative or other fiduciary of the  
6847 decedent or donee of the power.

6848 (b) If a property or interest has devolved to the disclaimant under a nontestamentary  
6849 instrument or contract, the disclaimer shall be delivered or filed, if of a present interest, not  
6850 later than nine months after the effective date of the nontestamentary instrument or contract  
6851 and, if of a future interest, not later than nine months after the event determining that the taker  
6852 of the property or interest is finally ascertained and his interest is indefeasibly vested. If the  
6853 person entitled to disclaim does not know of the existence of the interest, the disclaimer shall  
6854 be delivered or filed not later than nine months after the person learns of the existence of the  
6855 interest. The effective date of a revocable instrument or contract is the date on which the  
6856 maker no longer has power to revoke it or to transfer to the maker or another the entire legal  
6857 and equitable ownership of the interest. The disclaimer or a copy thereof shall be delivered in  
6858 person or mailed by registered or certified mail, return receipt requested, to the person who has  
6859 legal title to or possession of the interest disclaimed.

6860 (c) A surviving joint tenant or tenant by the entireties may disclaim as a separate  
6861 interest any property or interest therein devolving to him by right of survivorship. A surviving  
6862 joint tenant or tenant by the entireties may disclaim the entire interest in any property or interest  
6863 therein that is the subject of a joint tenancy or tenancy by the entireties devolving to the  
6864 surviving joint tenant or tenant by the entireties, if the joint tenancy or tenancy by the entireties  
6865 was created by act of a deceased joint tenant or tenant by the entireties, the survivor did not  
6866 join in creating the joint tenancy or tenancy by the entireties, and has not accepted a benefit  
6867 under it.

6868 (d) If real property or an interest therein is disclaimed, a copy of the disclaimer may be  
6869 recorded in the office of the county recorder of the county in which the property or interest  
6870 disclaimed is located.

6871 (3) The disclaimer shall:

6872 (a) describe the property or interest disclaimed;

6873 (b) declare the disclaimer and extent thereof; and

6874 (c) be signed by the disclaimant.

6875 (4) The effects of a disclaimer are:

6876 (a) If property or an interest therein devolves to a disclaimant under a testamentary

6877 instrument, under a power of appointment exercised by a testamentary instrument, or under the  
6878 laws of intestacy, and the decedent has not provided for another disposition of that interest,  
6879 should it be disclaimed, or of disclaimed, or failed interests in general, the disclaimed interest  
6880 devolves as if the disclaimant had predeceased the decedent, but if by law or under the  
6881 testamentary instrument the descendants of the disclaimant would share in the disclaimed  
6882 interest per capita at each generation or otherwise were the disclaimant to predecease the  
6883 decedent, then the disclaimed interest passes per capita at each generation, or passes as directed  
6884 by the governing instrument, to the descendants of the disclaimant who survive the decedent.  
6885 A future interest that takes effect in possession or enjoyment after the termination of the estate  
6886 or interest disclaimed takes effect as if the disclaimant had predeceased the decedent. A  
6887 disclaimer relates back for all purposes to the date of death of the decedent.

6888 (b) If property or an interest therein devolves to a disclaimant under a nontestamentary  
6889 instrument or contract and the instrument or contract does not provide for another disposition  
6890 of that interest, should it be disclaimed, or of disclaimed or failed interests in general, the  
6891 disclaimed interest devolves as if the disclaimant has predeceased the effective date of the  
6892 instrument or contract, but if by law or under the nontestamentary instrument or contract the  
6893 descendants of the disclaimant would share in the disclaimed interest per capita at each  
6894 generation or otherwise were the disclaimant to predecease the effective date of the instrument,  
6895 then the disclaimed interest passes per capita at each generation, or passes as directed by the  
6896 governing instrument, to the descendants of the disclaimant who survive the effective date of  
6897 the instrument. A disclaimer relates back for all purposes to that date. A future interest that  
6898 takes effect in possession or enjoyment at or after the termination of the disclaimed interest  
6899 takes effect as if the disclaimant had died before the effective date of the instrument or contract  
6900 that transferred the disclaimed interest.

6901 (c) The disclaimer or the written waiver of the right to disclaim is binding upon the  
6902 disclaimant or person waiving and all persons claiming through or under either of them.

6903 (5) The right to disclaim property or an interest therein is barred by:

6904 (a) an assignment, conveyance, encumbrance, pledge, or transfer of the property or  
6905 interest, or a contract therefor;

6906 (b) a written waiver of the right to disclaim;

6907 (c) an acceptance of the property or interest or a benefit under it; or

6908 (d) a sale of the property or interest under judicial sale made before the disclaimer is  
6909 made.

6910 (6) This section does not abridge the right of a person to waive, release, disclaim, or  
6911 renounce property or an interest therein under any other statute.

6912 (7) An interest in property that exists on July 1, 1998, as to which, if a present interest,  
6913 the time for filing a disclaimer under this section has not expired or, if a future interest, the  
6914 interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed  
6915 within nine months after July 1, 1998.

6916 Section 119. Section **75-2a-120** is amended to read:

6917 **75-2a-120. Judicial relief.**

6918 A [district] court may enjoin or direct a health care decision, or order other equitable  
6919 relief based on a petition filed by:

6920 (1) a patient;

6921 (2) an agent of a patient;

6922 (3) a guardian of a patient;

6923 (4) a default surrogate of a patient;

6924 (5) a health care provider of a patient;

6925 (6) a health care facility providing care for a patient; or

6926 (7) an individual who meets the requirements of Section [75-2a-108](#).

6927 Section 120. Section **75-5a-102** is amended to read:

6928 **75-5a-102. Definitions.**

6929 As used in this part:

6930 (1) "Adult" means an individual who is 21 years [of age] old or older.

6931 (2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

6932 (3) "Broker" means a person lawfully engaged in the business of effecting transactions  
6933 in securities or commodities for the person's own account or for the accounts of others.

6934 (4) "Conservator" means a person appointed or qualified by a court to act as general,  
6935 limited, or temporary guardian of a minor's property or a person legally authorized to perform  
6936 substantially the same functions.

6937 [~~(5) "Court" means the probate division of the district court for the county in which the~~  
6938 ~~custodian resides.~~]



6939           (5) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial  
6940 Administration.

6941           (6) "Custodial property" means:

6942           (a) any interest in property transferred to a custodian under this part; and

6943           (b) the income from and proceeds of that interest in property.

6944           (7) "Custodian" means a person so designated under Section 75-5a-110 or a successor  
6945 or substitute custodian designated under Section 75-5a-119.

6946           (8) "Financial institution" means a bank, trust company, savings institution, or credit  
6947 union, chartered and supervised under state or federal law.

6948           (9) "Legal representative" means an individual's personal representative or conservator.

6949           (10) "Member of the minor's family" means the minor's parent, stepparent, spouse,  
6950 grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

6951           (11) "Minor" means an individual who is ~~[not yet 21 years of age]~~ under 21 years old.

6952           (12) "Person" means an individual, corporation, organization, or other legal entity.

6953           (13) "Personal representative" means an executor, administrator, successor personal  
6954 representative, or special administrator of a decedent's estate or a person legally authorized to  
6955 perform substantially the same functions.

6956           (14) "State" includes any state of the United States, the district of Columbia, the  
6957 Commonwealth of Puerto Rico, and any territory or possession subject to the legislative  
6958 authority of the United States.

6959           (15) "Transfer" means a transaction that creates custodial property under Section  
6960 75-5a-110.

6961           (16) "Transferor" means a person who makes a transfer under this part.

6962           (17) "Trust company" means a financial institution, corporation, or other legal entity,  
6963 authorized to exercise general trust powers.

6964           Section 121. Section 75-7-105 is amended to read:

6965           **75-7-105. Default and mandatory rules.**

6966           (1) Except as otherwise provided in the terms of the trust, this chapter governs the  
6967 duties and powers of a trustee, relations among trustees, and the rights and interests of a  
6968 beneficiary.

6969           (2) Except as specifically provided in this chapter, the terms of a trust prevail over any

6970 provision of this chapter except:

6971 (a) the requirements for creating a trust;

6972 (b) subject to Sections 75-12-109, 75-12-111, and 75-12-112, the duty of a trustee to  
6973 act in good faith and in accordance with the purposes of the trust;

6974 (c) the requirement that a trust and the terms of the trust be for the benefit of the trust's  
6975 beneficiaries;

6976 (d) the power of the court to modify or terminate a trust under Sections 75-7-410  
6977 through 75-7-416;

6978 (e) the effect of a spendthrift provision, Section 25-6-502, and the rights of certain  
6979 creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift  
6980 and Discretionary Trusts;

6981 (f) the power of the court under Section 75-7-702 to require, dispense with, or modify  
6982 or terminate a bond;

6983 (g) the effect of an exculpatory term under Section 75-7-1008;

6984 (h) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a  
6985 trustee or beneficiary;

6986 (i) periods of limitation for commencing a judicial proceeding; and

6987 (j) the ~~[subject-matter jurisdiction of the court and venue for commencing a proceeding~~  
6988 ~~as provided]~~ jurisdiction and venue requirements for an action involving the trust as described  
6989 in Sections 75-7-203 and 75-7-205.

6990 Section 122. Section 75-7-203 is amended to read:

6991 **75-7-203. Jurisdiction over an action involving a trust.**

6992 ~~[(1) The district court has exclusive jurisdiction of proceedings in this state brought by~~  
6993 ~~a trustee or beneficiary concerning the administration of a trust.]~~

6994 ~~[(2) The district court has concurrent jurisdiction with other courts of this state of other~~  
6995 ~~proceedings involving a trust.]~~

6996 (1) A court of this state has jurisdiction as described in Title 78A, Judiciary and  
6997 Judicial Administration, over an action involving a trust.

6998 ~~[(3)]~~ (2) This section does not preclude judicial or nonjudicial alternative dispute  
6999 resolution.

7000 Section 123. Section 75-7-205 is amended to read:

7001 **75-7-205. Venue.**

7002 [~~(1) Except as otherwise provided in Subsection (2), venue for a judicial proceeding~~  
7003 ~~involving a trust is in the county in which the trust's principal place of administration is or will~~  
7004 ~~be located and, if the trust is created by will and the estate is not yet closed, in the county in~~  
7005 ~~which the decedent's estate is being administered.]~~

7006 [~~(2) If a trust has no trustee, venue for a judicial proceeding for the appointment of a~~  
7007 ~~trustee is in any county of this state in which a beneficiary resides, in any county in which any~~  
7008 ~~trust property is located, and if the trust is created by will, in the county in which the decedent's~~  
7009 ~~estate was or is being administered.]~~

7010 (1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and except as  
7011 provided in Subsection (2), a person shall bring an action involving a trust, if the action is  
7012 brought in the district court, in:

7013 (a) the county in which the trust's principal place of administration is or will be located;  
7014 or

7015 (b) if the trust is created by a will and the estate is not yet closed, the county in which  
7016 the decedent's estate is being administered.

7017 (2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and if a trust has  
7018 no trustee, a person shall bring an action for the appointment of a trustee, if the action is  
7019 brought in the district court, in:

7020 (a) a county of this state in which a beneficiary resides;

7021 (b) a county in which any trust property is located; or

7022 (c) if the trust is created by a will, the county in which the decedent's estate was or is  
7023 being administered.

7024 Section 124. Section **75-11-102** is amended to read:

7025 **75-11-102. Definitions.**

7026 As used in this chapter:

7027 (1) "Account" means an arrangement under a terms of service agreement in which a  
7028 custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides  
7029 goods or services to the user.

7030 (2) "Agent" means an attorney in fact granted authority under a durable or nondurable  
7031 power of attorney.

7032 (3) "Carries" means engages in the transmission of an electronic communication.

7033 (4) "Catalogue of electronic communications" means information that identifies each  
7034 person with which a user has had an electronic communication, the time and date of the  
7035 communication, and the electronic address of the person.

7036 (5) (a) "Conservator" means a person appointed by a court to manage the estate of a  
7037 living individual.

7038 (b) "Conservator" includes a limited conservator.

7039 (6) "Content of an electronic communication" means information concerning the  
7040 substance or meaning of the communication that:

7041 (a) has been sent or received by a user;

7042 (b) is in electronic storage by a custodian providing an electronic communication  
7043 service to the public or is carried or maintained by a custodian providing a remote computing  
7044 service to the public; and

7045 (c) is not readily accessible to the public.

7046 (7) "Court" means [~~the district court~~] a court with jurisdiction under [Title 78A,](#)  
7047 Judiciary and Judicial Administration.

7048 (8) "Custodian" means a person that carries, maintains, processes, receives, or stores a  
7049 digital asset of a user.

7050 (9) "Designated recipient" means a person chosen by a user using an online tool to  
7051 administer digital assets of the user.

7052 (10) (a) "Digital asset" means an electronic record in which an individual has a right or  
7053 interest.

7054 (b) "Digital asset" does not include an underlying asset or liability unless the asset or  
7055 liability is itself an electronic record.

7056 (11) "Electronic" means relating to technology having electrical, digital, magnetic,  
7057 wireless, optical, electromagnetic, or similar capabilities.

7058 (12) "Electronic communication" has the same meaning as the definition in 18 U.S.C.  
7059 Sec. 2510(12).

7060 (13) "Electronic communication service" means a custodian that provides to a user the  
7061 ability to send or receive an electronic communication.

7062 (14) "Fiduciary" means an original, additional, or successor personal representative,

7063 conservator, guardian, agent, or trustee.

7064 (15) (a) "Guardian" means a person appointed by a court to manage the affairs of a  
7065 living individual.

7066 (b) "Guardian" includes a limited guardian.

7067 (16) "Information" means data, text, images, videos, sounds, codes, computer  
7068 programs, software, databases, or the like.

7069 (17) "Online tool" means an electronic service provided by a custodian that allows the  
7070 user, in an agreement distinct from the terms of service agreement between the custodian and  
7071 user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

7072 (18) "Person" means an individual, estate, business or nonprofit entity, public  
7073 corporation, government or governmental subdivision, agency, instrumentality, or other legal  
7074 entity.

7075 (19) "Personal representative" means an executor, administrator, special administrator,  
7076 or person that performs substantially the same function under the law of this state other than  
7077 this chapter.

7078 (20) "Power of attorney" means a record that grants an agent authority to act in the  
7079 place of a principal.

7080 (21) "Principal" means an individual who grants authority to an agent in a power of  
7081 attorney.

7082 (22) (a) "Protected person" means an individual for whom a conservator or guardian  
7083 has been appointed.

7084 (b) "Protected person" includes an individual for whom an application for the  
7085 appointment of a conservator or guardian is pending.

7086 (23) "Record" means information that is inscribed on a tangible medium or that is  
7087 stored in an electronic or other medium and is retrievable in perceivable form.

7088 (24) "Remote computing service" means a custodian that provides to a user computer  
7089 processing services or the storage of digital assets by means of an electronic communications  
7090 system, as defined in 18 U.S.C. Sec. 2510(14).

7091 (25) "Terms of service agreement" means an agreement that controls the relationship  
7092 between a user and a custodian.

7093 (26) (a) "Trustee" means a fiduciary with legal title to property pursuant to an

7094 agreement or declaration that creates a beneficial interest in another.

7095 (b) "Trustee" includes a successor trustee.

7096 (27) "User" means a person that has an account with a custodian.

7097 (28) "Will" includes a codicil, a testamentary instrument that only appoints an  
7098 executor, and an instrument that revokes or revises a testamentary instrument.

7099 Section 125. Section **76-10-1605** is amended to read:

7100 **76-10-1605. Remedies of person injured by a pattern of unlawful activity --**

7101 **Double damages -- Costs, including attorney fees -- Arbitration -- Agency -- Burden of**  
7102 **proof -- Actions by attorney general or county attorney -- Dismissal -- Statute of**  
7103 **limitations -- Authorized orders of a court.**

7104 (1) A person injured in his person, business, or property by a person engaged in  
7105 conduct forbidden by any provision of Section **76-10-1603** may [~~sue in an appropriate district~~  
7106 ~~court and recover twice the damages he sustains~~] bring an action in a court with jurisdiction  
7107 under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the  
7108 person sustains, regardless of whether:

7109 (a) the injury is separate or distinct from the injury suffered as a result of the acts or  
7110 conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or

7111 (b) the conduct has been adjudged criminal by any court of the state or of the United  
7112 States.

7113 (2) A party who prevails on a cause of action brought under this section recovers the  
7114 cost of the suit, including reasonable attorney fees.

7115 (3) All actions arising under this section which are grounded in fraud are subject to  
7116 arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

7117 (4) In all actions under this section, a principal is liable for actual damages for harm  
7118 caused by an agent acting within the scope of either his employment or apparent authority. A  
7119 principal is liable for double damages only if the pattern of unlawful activity alleged and  
7120 proven as part of the cause of action was authorized, solicited, requested, commanded,  
7121 undertaken, performed, or recklessly tolerated by the board of directors or a high managerial  
7122 agent acting within the scope of his employment.

7123 (5) In all actions arising under this section, the burden of proof is clear and convincing  
7124 evidence.

7125 (6) The attorney general, county attorney, or, if within a prosecution district, the district  
7126 attorney may maintain actions under this section on behalf of the state, the county, or any  
7127 person injured by a person engaged in conduct forbidden by any provision of Section  
7128 76-10-1603, to prevent, restrain, or remedy injury as defined in this section and may recover  
7129 the damages and costs allowed by this section.

7130 (7) In all actions under this section, the elements of each claim or cause of action shall  
7131 be stated with particularity against each defendant.

7132 (8) If an action, claim, or counterclaim brought or asserted by a private party under this  
7133 section is dismissed prior to trial or disposed of on summary judgment, or if it is determined at  
7134 trial that there is no liability, the prevailing party shall recover from the party who brought the  
7135 action or asserted the claim or counterclaim the amount of its reasonable expenses incurred  
7136 because of the defense against the action, claim, or counterclaim, including a reasonable  
7137 attorney's fee.

7138 (9) An action or proceeding brought under this section shall be commenced within  
7139 three years after the conduct prohibited by Section 76-10-1603 terminates or the cause of action  
7140 accrues, whichever is later. This provision supersedes any limitation to the contrary.

7141 (10) (a) In any action brought under this section, [~~the district court has jurisdiction to~~]  
7142 the court may prevent, restrain, or remedy injury as defined by this section by issuing  
7143 appropriate orders after making provisions for the rights of innocent persons.

7144 (b) Before liability is determined in any action brought under this section, the [~~district~~]  
7145 court may:

7146 (i) issue restraining orders and injunctions;

7147 (ii) require satisfactory performance bonds or any other bond it considers appropriate  
7148 and necessary in connection with any property or any requirement imposed upon a party by the  
7149 court; and

7150 (iii) enter any other order the court considers necessary and proper.

7151 (c) After a determination of liability, the [~~district~~] court may, in addition to granting the  
7152 relief allowed in Subsection (1), do any one or all of the following:

7153 (i) order any person to divest himself of any interest in or any control, direct or indirect,  
7154 of any enterprise;

7155 (ii) impose reasonable restrictions on the future activities or investments of any person,

7156 including prohibiting any person from engaging in the same type of endeavor as the enterprise  
7157 engaged in, to the extent the Utah Constitution and the Constitution of the United States  
7158 permit; or

7159 (iii) order the dissolution or reorganization of any enterprise.

7160 (d) However, if an action is brought to obtain any relief provided by this section, and if  
7161 the conduct prohibited by Section 76-10-1603 has for its pattern of unlawful activity acts or  
7162 conduct illegal under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court  
7163 may not enter any order that would amount to a prior restraint on the exercise of an affected  
7164 party's rights under the First Amendment to the Constitution of the United States, or Article I,  
7165 Sec. 15 of the Utah Constitution. The court shall, upon the request of any affected party, and  
7166 upon the notice to all parties, prior to the issuance of any order provided for in this subsection,  
7167 and at any later time, hold hearings as necessary to determine whether any materials at issue are  
7168 obscene or pornographic and to determine if there is probable cause to believe that any act or  
7169 conduct alleged violates Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222. In  
7170 making its findings the court shall be guided by the same considerations required of a court  
7171 making similar findings in criminal cases brought under Section 76-10-1204, 76-10-1205,  
7172 76-10-1206, or 76-10-1222, including, but not limited to, the definitions in Sections  
7173 76-10-1201, 76-10-1203, and 76-10-1216, and the exemptions in Section 76-10-1226.

7174 Section 126. Section 78A-1-103.5 (Effective 07/01/24) is amended to read:

7175 **78A-1-103.5 (Effective 07/01/24). Number of Business and Chancery Court**  
7176 **judges -- Disqualification or recusal of a Business and Chancery Court judge.**

7177 (1) The Business and Chancery Court shall consist of one judge.

7178 (2) If there are fewer than three judges for the Business and Chancery Court under  
7179 Subsection (1), the presiding officer of the Judicial Council shall designate a pool of two  
7180 district court judges to preside over actions in the Business and Chancery Court.

7181 (3) A district court judge designated under Subsection (2) may preside over an action  
7182 when each Business and Chancery Court judge is unable to preside over an action due to  
7183 recusal or disqualification.

7184 Section 127. Section 78A-5-102 is amended to read:

7185 **78A-5-102. Jurisdiction of the district court -- Appeals.**

7186 (1) Except as otherwise provided by the Utah Constitution or by statute, the district



7187 court has original jurisdiction in all matters civil and criminal.

7188 (2) A district court judge may:

7189 (a) issue all extraordinary writs and other writs necessary to carry into effect the district

7190 court judge's orders, judgments, and decrees~~[-]~~; and

7191 (b) preside over an action for which the Business and Chancery Court has jurisdiction

7192 if:

7193 (i) the district court judge is designated by the presiding officer of the Judicial Council

7194 to preside over an action in the Business and Chancery Court as described in Section

7195 78A-1-103.5; and

7196 (ii) a Business and Chancery Court judge is unable to preside over the action due to

7197 recusal or disqualification.

7198 (3) The district court has jurisdiction:

7199 (a) over matters of lawyer discipline consistent with the rules of the Supreme Court~~[-]~~;

7200 ~~[(4)]~~ (b) ~~[The district court has jurisdiction]~~ over all matters properly filed in the circuit

7201 court prior to July 1, 1996~~[-]~~;

7202 (c) to enforce foreign protective orders as described in Subsection 78B-7-303(8);

7203 (d) to enjoin a violation of Title 58, Chapter 37, Utah Controlled Substances Act;

7204 (e) over a petition seeking to terminate parental rights as described in Section

7205 78B-6-112;

7206 (f) except as provided in Subsection 78A-6-103(2)(a)(xiv), an adoption proceeding;

7207 and

7208 (g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4,

7209 Declaratory Judgments;

7210 ~~[(5)]~~ (4) The district court has appellate jurisdiction over judgments and orders of the

7211 justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance

7212 with Section 78A-8-106.

7213 ~~[(6) Jurisdiction over appeals from the final orders, judgments, and decrees of the~~

7214 ~~district court is described in Sections 78A-3-102 and 78A-4-103.]~~

7215 ~~[(7)]~~ (5) The district court has jurisdiction to review:

7216 ~~[(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,~~

7217 ~~Administrative Procedures Act, and shall comply with the requirements of that chapter in the~~

7218 district court's review of agency adjudicative proceedings; and]

7219 [~~(b)~~ municipal administrative proceedings in accordance with Section ~~10-3-703.7~~.]

7220 (a) a municipal administrative proceeding as described in Section 10-3-703.7;

7221 (b) a decision resulting from a formal adjudicative proceeding by the State Tax

7222 Commission as described in Section 59-1-601;

7223 (c) except as provided in Section 63G-4-402, a final agency action resulting from an

7224 informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative

7225 Procedures Act; and

7226 (d) by trial de novo, a final order of the Department of Transportation resulting from

7227 formal and informal adjudicative proceedings under Title 72, Chapter 7, Part 2, Junkyard

7228 Control Act.

7229 (6) The district court has original and exclusive jurisdiction over an action brought

7230 under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

7231 [~~(8)~~] (7) Notwithstanding Section 78A-7-106, the district court has original jurisdiction

7232 over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an

7233 ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

7234 (a) there is no justice court with territorial jurisdiction;

7235 (b) the offense occurred within the boundaries of the municipality in which the district

7236 courthouse is located and that municipality has not formed, or has not formed and then

7237 dissolved, a justice court; or

7238 (c) the offense is included in an indictment or information covering a single criminal

7239 episode alleging the commission of a felony or a class A misdemeanor by an individual who is

7240 18 years old or older [-].

7241 [~~(9)~~] (8) If a district court has jurisdiction in accordance with Subsection [~~(5)~~, ~~(8)(a)~~, or

7242 ~~(8)(b)~~] (4), (7)(a), or (7)(b), the district court has jurisdiction over an offense listed in

7243 Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17

7244 years old.

7245 [~~(10)~~] (9) The district court has subject matter jurisdiction over an action under Title

7246 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the

7247 district court.

7248 [~~(11)~~] (10) (a) The district court has subject matter jurisdiction over a criminal action

7249 that the justice court transfers to the district court.

7250 (b) Notwithstanding Subsection [78A-7-106\(1\)](#), the district court has original  
7251 jurisdiction over any refiled case of a criminal action transferred to the district court if the  
7252 district court dismissed the transferred case without prejudice.

7253 (11) The Supreme Court and Court of Appeals have jurisdiction over an appeal from a  
7254 final order, judgment, and decree of the district court as described in Sections [78A-3-102](#) and  
7255 [78A-4-103](#).

7256 Section 128. Section **78A-5a-101 (Effective 07/01/24)** is amended to read:

7257 **78A-5a-101 (Effective 07/01/24). Definitions.**

7258 (1) "Action" means a lawsuit or case commenced in a court.

7259 (2) (a) "Asset" means property of all kinds, real or personal and tangible or intangible.

7260 (b) "Asset" includes:

7261 (i) cash, except for any reasonable compensation or salary for services rendered;

7262 (ii) stock or other investments;

7263 (iii) goodwill;

7264 (iv) an ownership interest;

7265 (v) a license;

7266 (vi) a cause of action; and

7267 (vii) any similar property.

7268 (3) "Beneficial shareholder" means the same as that term is defined in Section

7269 [16-10a-1301](#).

7270 (4) "Blockchain" means [~~a cryptographically secured, chronological, and decentralized~~  
7271 ~~consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other~~  
7272 ~~interaction]~~ the same as that term is defined in Section [63A-16-108](#).

7273 (5) "Blockchain technology" means computer software or hardware or collections of  
7274 computer software or hardware, or both, that utilize or enable a blockchain.

7275 (6) "Board" means the board of directors or trustees of a corporation.

7276 (7) "Business" means any enterprise carried on for the purpose of gain or economic  
7277 profit.

7278 (8) (a) "Business organization" means an organization in any form that is primarily  
7279 engaged in business.

- 7280 (b) "Business organization" includes:
- 7281 (i) an association;
- 7282 (ii) a corporation;
- 7283 (iii) a joint stock company;
- 7284 (iv) a joint venture;
- 7285 (v) a limited liability company;
- 7286 (vi) a mutual fund trust;
- 7287 (vii) a partnership; or
- 7288 (viii) any other similar form of an organization described in Subsections (8)(b)(i)
- 7289 through (vii).
- 7290 (c) "Business organization" does not include a governmental entity as defined in
- 7291 Section [63G-7-102](#).
- 7292 (9) "Claim" means a written demand or assertion in an action.
- 7293 (10) "Commercial tenant" means the same as that term is defined in Section
- 7294 [78B-6-801](#).
- 7295 ~~[(10)]~~ (11) "Consumer contract" means a contract entered into by a consumer for the
- 7296 purchase of goods or services for personal, family, or household purposes.
- 7297 ~~[(11)]~~ (12) "Court" means the Business and Chancery Court established in Section
- 7298 [78A-5a-102](#).
- 7299 ~~[(12)]~~ (13) "Decentralized autonomous organization" means ~~[an organization that is~~
- 7300 ~~created by a smart contract deployed on a permissionless blockchain that implements specific~~
- 7301 ~~decision-making or governance rules enabling individuals to coordinate themselves in a~~
- 7302 ~~decentralized fashion]~~ the same as that term is defined in Section [48-5-101](#).
- 7303 ~~[(13)]~~ (14) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec.
- 7304 436.1.
- 7305 ~~[(14)]~~ (15) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec.
- 7306 436.1.
- 7307 (16) "Governmental entity" means the same as that term is defined in Section
- 7308 [63G-7-102](#).
- 7309 ~~[(15)]~~ (17) "Health care" means the same as that term is defined in Section [78B-3-403](#).
- 7310 ~~[(16)]~~ (18) "Health care provider" means the same as that term is defined in Section

7311 78B-3-403.

7312 [(17)] (19) "Monetary damages" does not include:

7313 (a) punitive or exemplary damages;

7314 (b) prejudgment or postjudgment interest; or

7315 (c) attorney fees or costs.

7316 [(18)] (20) "Officer" means an individual designated by a board, or other governing  
7317 body of a business organization, to act on behalf of the business organization.

7318 [(19)] (21) "Owner" means a person who, directly or indirectly, owns or controls an  
7319 ownership interest in a business organization regardless of whether the person owns or controls  
7320 the ownership interest through another person, a power of attorney, or another business  
7321 organization.

7322 [(20)] (22) "Ownership interest" means an interest owned in a business organization,  
7323 including any shares, membership interest, partnership interest, or governance or transferable  
7324 interest.

7325 [(21) "Permissionless blockchain" means a public distributed ledger that allows an  
7326 individual to transact and produce blocks in accordance with the blockchain protocol, whereby  
7327 the validity of the block is not determined by the identity of the producer.]

7328 [(22)] (23) "Personal injury" means a physical or mental injury, including wrongful  
7329 death.

7330 [(23)] (24) "Professional" means an individual whose profession requires a license,  
7331 registration, or certification on the basis of experience, education, testing, or training.

7332 (25) (a) "Provisional remedy" means a temporary order by a court while an action is  
7333 pending.

7334 (b) "Provisional remedy" includes a preliminary injunction, a temporary restraining  
7335 order, a prejudgment writ, or an appointment of a receiver.

7336 [(24)] (26) "Security" means the same as that term is defined in Section 61-1-13.

7337 [(25)] (27) "Shareholder" means the record shareholder or the beneficial shareholder.

7338 [(26) "Smart contract" means code deployed on a permissionless blockchain that  
7339 consists of a set of predefined instructions executed in a distributed manner by the nodes of an  
7340 underlying blockchain network that produces a change on the blockchain network.]

7341 [(27)] (28) "Record shareholder" means the same as that term is defined in Section

7342 16-10a-1301.

7343 [~~28~~] (29) "Trustee" means a person that holds or administers an ownership interest on  
7344 behalf of a third party.

7345 Section 129. Section **78A-5a-103 (Effective 10/01/24)** is amended to read:

7346 **78A-5a-103 (Effective 10/01/24). Concurrent jurisdiction of the Business and**  
7347 **Chancery Court -- Exceptions.**

7348 (1) The Business and Chancery Court has jurisdiction, concurrent with the district  
7349 court, over an action:

7350 (a) seeking monetary damages of at least \$300,000 or seeking solely equitable relief;  
7351 and

7352 (b) (i) with a claim arising from:

7353 (A) a breach of a contract;

7354 (B) a breach of a fiduciary duty;

7355 (C) a dispute over the internal affairs or governance of a business organization;

7356 (D) the sale, merger, or dissolution of a business organization;

7357 (E) the sale of substantially all of the assets of a business organization;

7358 (F) the receivership or liquidation of a business organization;

7359 (G) a dispute over liability or indemnity between or among owners of the same  
7360 business organization;

7361 (H) a dispute over liability or indemnity of an officer or owner of a business  
7362 organization;

7363 (I) a tortious or unlawful act committed against a business organization, including an  
7364 act of unfair competition, tortious interference, or misrepresentation or fraud;

7365 (J) a dispute between a business organization and an insurer regarding a commercial  
7366 insurance policy;

7367 (K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

7368 (L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade  
7369 Secrets Act;

7370 (M) the misappropriation of intellectual property;

7371 (N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or  
7372 confidentiality agreement, regardless of whether the agreement is oral or written;

- 7373 (O) a relationship between a franchisor and a franchisee;
- 7374 (P) the purchase or sale of a security or an allegation of security fraud;
- 7375 (Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous  
7376 organization;
- 7377 (R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or
- 7378 (S) a contract with a forum selection clause for a chancery, business, or commercial  
7379 court of this state or any other state;
- 7380 (ii) with a malpractice claim concerning services that a professional provided to a  
7381 business organization; [or]
- 7382 (iii) that is a shareholder derivative action[:]; or
- 7383 (iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4,  
7384 Declaratory Judgments.
- 7385 [~~(2) The Business and Chancery Court may exercise supplemental jurisdiction over all~~  
7386 ~~claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1),~~  
7387 ~~except that the Business and Chancery Court may not exercise jurisdiction over:]~~
- 7388 (2) Except as provided in Subsection (3), the Business and Chancery Court may  
7389 exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of  
7390 the Business and Chancery Court under Subsection (1) if the claim arises from the same set of  
7391 facts or circumstances as the action.
- 7392 (3) The Business and Chancery Court may not exercise supplemental jurisdiction over:
- 7393 (a) any claim arising from:
- 7394 (i) a consumer contract;
- 7395 (ii) a personal injury, including [any] a personal injury relating to or arising out of  
7396 health care rendered or which should have been rendered by the health care provider;
- 7397 [~~(iii) a wrongful termination of employment or a prohibited or discriminatory~~  
7398 ~~employment practice;]~~
- 7399 [~~(iv)] (iii) a violation of Title 13, Chapter 7, Civil Rights;~~
- 7400 (iv) Title 20A, Election Code;
- 7401 (v) Title 30, Husband and Wife;
- 7402 (vi) Title 63G, Chapter 4, Administrative Procedures Act;
- 7403 (vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

7404 (viii) Title 78B, Chapter 6, Part 5, Eminent Domain;  
7405 (ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is  
7406 brought against a commercial tenant;  
7407 (x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;  
7408 (xi) Title 78B, Chapter 12, Utah Child Support Act;  
7409 (xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement  
7410 Act;  
7411 (xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;  
7412 (xiv) Title 78B, Chapter 15, Utah Uniform Parentage Act;  
7413 (xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or  
7414 (xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and  
7415 Visitation Act; [~~or~~]  
7416 (b) any action in which a governmental entity is a party; or  
7417 ~~[(b)]~~ (c) any criminal matter, unless the criminal matter is an act or omission of  
7418 contempt that occurs in an action before the Business and Chancery Court.  
7419 (4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise  
7420 supplemental jurisdiction over a claim that is barred under Subsection (3):  
7421 (a) if the claim is a compulsory counterclaim;  
7422 (b) if there would be a material risk of inconsistent outcomes if the claim were tried in  
7423 a separate action; or  
7424 (c) solely to resolve a request for a provisional remedy related to the claim before the  
7425 Business and Chancery Court transfers the claim as described in Subsection (5).  
7426 (5) If an action contains a claim for which the Business and Chancery Court may not  
7427 exercise supplemental jurisdiction under this section, the Business and Chancery Court shall  
7428 bifurcate the action and transfer any claim for which the Business and Chancery Court does not  
7429 have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial  
7430 Administration.  
7431 (6) Before the Business and Chancery Court transfers a claim as described in  
7432 Subsection (5), the Business and Chancery Court may resolve:  
7433 (a) all claims for which the Business and Chancery Court has jurisdiction; and  
7434 (b) any request for a provisional remedy related to a claim that is being transferred.



7435 Section 130. Section **78A-5a-104 (Effective 07/01/24)** is amended to read:

7436 **78A-5a-104 (Effective 07/01/24). Trier of fact and law -- Demand for jury trial.**

7437 (1) The Business and Chancery Court is the trier of fact and law in an action before the  
7438 Business and Chancery Court.

7439 (2) ~~[The]~~ Notwithstanding Section [78A-5a-103](#), the Business and Chancery Court shall  
7440 transfer an action, or any claim in an action, to the district court if:

7441 (a) a party to the action demands a trial by jury in accordance with the Utah Rules of  
7442 [Civil Procedure] Business and Chancery Procedure; and

7443 (b) the Business and Chancery Court finds the party that made the demand has the right  
7444 to a trial by jury on a claim in the action.

7445 (3) Before the Business and Chancery Court transfers an action or a claim under  
7446 Subsection (2), the Business and Chancery Court may:

7447 (a) bifurcate the action and resolve all claims in which the party does not have a right  
7448 to a trial by jury; and

7449 (b) administrate and adjudicate the action or claim being transferred prior to a trial by  
7450 jury, including any pleading, provisional remedy, discovery, or motion.

7451 Section 131. Section **78A-5a-204 (Effective 07/01/24)** is amended to read:

7452 **78A-5a-204 (Effective 07/01/24). Location of the Business and Chancery Court --**  
7453 **Court facilities -- Costs.**

7454 ~~[(1) The Business and Chancery Court is located in Salt Lake City.]~~

7455 ~~[(2)]~~ (1) The Business and Chancery Court may perform any of the Business and  
7456 Chancery Court's functions in any location within the state.

7457 ~~[(3)]~~ (2) The Judicial Council shall provide, from appropriations made by the  
7458 Legislature, court space suitable for the conduct of court business for the Business and  
7459 Chancery Court.

7460 ~~[(4)]~~ (3) The Judicial Council may, in order to carry out the Judicial Council's  
7461 obligation to provide facilities for the Business and Chancery Court, lease space to be used by  
7462 the Business and Chancery Court.

7463 ~~[(5)]~~ (4) A lease or reimbursement for the Business and Chancery Court must comply  
7464 with the standards of the Division of Facilities Construction and Management that are  
7465 applicable to state agencies.

7466 [(6)] (5) The cost of salaries, travel, and training required for the discharge of the  
7467 duties of judges, secretaries of judges or court executives, court executives, and court reporters  
7468 for the Business and Chancery Court are paid from appropriations made by the Legislature.

7469 Section 132. Section **78A-6-103** is amended to read:

7470 **78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions --**  
7471 **Findings -- Transfer of a case from another court.**

7472 (1) Except as otherwise provided by Sections [78A-5-102.5](#) and [78A-7-106](#), the juvenile  
7473 court has original jurisdiction over:

7474 (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,  
7475 state, or federal law, that was committed by a child;

7476 (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,  
7477 state, or federal law, that was committed by an individual:

7478 (i) who is under 21 years old at the time of all court proceedings; and

7479 (ii) who was under 18 years old at the time the offense was committed; and

7480 (c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state  
7481 law, that was committed:

7482 (i) by an individual:

7483 (A) who was 18 years old and enrolled in high school at the time of the offense; and

7484 (B) who is under 21 years old at the time of all court proceedings; and

7485 (ii) on school property where the individual was enrolled:

7486 (A) when school was in session; or

7487 (B) during a school-sponsored activity, as defined in ~~[Subsection]~~ Section [53G-8-211](#).

7488 (2) The juvenile court has original jurisdiction over:

7489 (a) any proceeding concerning:

7490 (i) a child who is an abused child, neglected child, or dependent child;

7491 (ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child  
7492 Protective Orders;

7493 (iii) the appointment of a guardian of the individual or other guardian of a minor who  
7494 comes within the court's jurisdiction under other provisions of this section;

7495 (iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

7496 (v) the termination of parental rights in accordance with Title 80, Chapter 4,

7497 Termination and Restoration of Parental Rights, including termination of residual parental  
7498 rights and duties;

7499 (vi) the treatment or commitment of a minor who has an intellectual disability;

7500 (vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in  
7501 accordance with Section 30-1-9;

7502 (viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

7503 (ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

7504 (x) the treatment or commitment of a child with a mental illness;

7505 (xi) the commitment of a child to a secure drug or alcohol facility in accordance with  
7506 Section 26B-5-204;

7507 (xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6,  
7508 Part 4, Competency;

7509 (xiii) de novo review of final agency actions resulting from an informal adjudicative  
7510 proceeding as provided in Section 63G-4-402;

7511 (xiv) adoptions conducted in accordance with the procedures described in Title 78B,  
7512 Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order  
7513 terminating the rights of a parent and finds that adoption is in the best interest of the child;

7514 (xv) an ungovernable or runaway child who is referred to the juvenile court by the  
7515 Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the  
7516 Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

7517 (A) is beyond the control of the child's parent, guardian, or custodian to the extent that  
7518 the child's behavior or condition endangers the child's own welfare or the welfare of others; or  
7519 (B) has run away from home; and

7520 (xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an  
7521 adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to  
7522 comply with a promise to appear and bring a child to the juvenile court;

7523 (b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and  
7524 Expungement; and

7525 (c) the extension of a nonjudicial adjustment under Section 80-6-304.

7526 (3) The juvenile court has original jurisdiction over a petition for special findings under  
7527 Section 80-3-505.

7528 (4) It is not necessary for a minor to be adjudicated for an offense or violation of the  
7529 law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection  
7530 (2)(a)(xvi), (b), or (c).

7531 (5) This section does not restrict the right of access to the juvenile court by private  
7532 agencies or other persons.

7533 (6) The juvenile court has jurisdiction of all magistrate functions relative to cases  
7534 arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

7535 (7) The juvenile court has jurisdiction to make a finding of substantiated,  
7536 unsubstantiated, or without merit, in accordance with Section 80-3-404.

7537 (8) The juvenile court has jurisdiction over matters transferred to the juvenile court by  
7538 another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

7539 (9) The juvenile court has jurisdiction to enforce foreign protection orders as described  
7540 in Subsection 78B-7-303(8).

7541 Section 133. Section 78A-7-106 is amended to read:

7542 **78A-7-106. Jurisdiction.**

7543 (1) (a) Except for an offense for which the district court has original jurisdiction under  
7544 Subsection [~~78A-5-102(8)~~] 78A-5-102(7) or an offense for which the juvenile court has  
7545 original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction  
7546 over class B and C misdemeanors, violation of ordinances, and infractions committed within  
7547 the justice court's territorial jurisdiction by an individual who is 18 years old or older.

7548 (b) A justice court has original jurisdiction over the following offenses committed  
7549 within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

7550 (i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver  
7551 Licensing Act; and

7552 (ii) class B and C misdemeanor and infraction violations of:

7553 (A) Title 23A, Wildlife Resources Act;

7554 (B) Title 41, Chapter 1a, Motor Vehicle Act;

7555 (C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving  
7556 Under the Influence and Reckless Driving;

7557 (D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and  
7558 Operators Act;

7559 (E) Title 41, Chapter 22, Off-highway Vehicles;  
7560 (F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;  
7561 (G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;  
7562 (H) Title 73, Chapter 18b, Water Safety; and  
7563 (I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators  
7564 Act.

7565 (2) Except for an offense for which the district court has exclusive jurisdiction under  
7566 Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under  
7567 Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses  
7568 committed within the justice court's territorial jurisdiction by an individual who is 16 or 17  
7569 years old:

7570 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver  
7571 Licensing Act; and

7572 (b) class B and C misdemeanor and infraction violations of:

7573 (i) Title 23A, Wildlife Resources Act;

7574 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

7575 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving  
7576 Under the Influence and Reckless Driving;

7577 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and  
7578 Operators Act;

7579 (v) Title 41, Chapter 22, Off-highway Vehicles;

7580 (vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section  
7581 73-18-12;

7582 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

7583 (viii) Title 73, Chapter 18b, Water Safety; and

7584 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and  
7585 Operators Act.

7586 (3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake,  
7587 or reservoir, whether natural or man-made.

7588 (b) An offense is committed within the territorial jurisdiction of a justice court if:

7589 (i) conduct constituting an element of the offense or a result constituting an element of

7590 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is  
7591 itself unlawful;

7592 (ii) either an individual committing an offense or a victim of an offense is located  
7593 within the court's jurisdiction at the time the offense is committed;

7594 (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs  
7595 within the court's jurisdiction;

7596 (iv) an individual commits any act constituting an element of an inchoate offense  
7597 within the court's jurisdiction, including an agreement in a conspiracy;

7598 (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another  
7599 individual in the planning or commission of an offense within the court's jurisdiction;

7600 (vi) the investigation of the offense does not readily indicate in which court's  
7601 jurisdiction the offense occurred, and:

7602 (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft  
7603 passing within the court's jurisdiction;

7604 (B) the offense is committed on or in any body of water bordering on or within this  
7605 state if the territorial limits of the justice court are adjacent to the body of water;

7606 (C) an individual who commits theft exercises control over the affected property within  
7607 the court's jurisdiction; or

7608 (D) the offense is committed on or near the boundary of the court's jurisdiction;

7609 (vii) the offense consists of an unlawful communication that was initiated or received  
7610 within the court's jurisdiction; or

7611 (viii) jurisdiction is otherwise specifically provided by law.

7612 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may  
7613 transfer the case to the juvenile court for further proceedings if the justice court judge  
7614 determines and the juvenile court concurs that the best interests of the defendant would be  
7615 served by the continuing jurisdiction of the juvenile court.

7616 (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,  
7617 Small Claims Courts, if a defendant resides in or the debt arose within the territorial  
7618 jurisdiction of the justice court.

7619 (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as  
7620 that term is defined in Section [77-36-1](#).

7621 (b) If a justice court has jurisdiction over a criminal action involving a domestic  
 7622 violence offense and the criminal action is set for trial, the prosecuting attorney or the  
 7623 defendant may file a notice of transfer in the justice court to transfer the criminal action from  
 7624 the justice court to the district court.

7625 (c) If a justice court receives a notice of transfer from the prosecuting attorney or the  
 7626 defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action  
 7627 to the district court.

7628 Section 134. Section **78B-6-105** is amended to read:

7629 **78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction**  
 7630 **over nonresidents -- Time for filing.**

7631 (1) [~~An adoption proceeding shall be commenced by filing a petition in~~  
 7632 Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an  
 7633 adoption proceeding in a court with jurisdiction under [Title 78A, Judiciary and Judicial](#)  
 7634 Administration:

7635 (a) [~~the district court in the district]~~ in the county where the prospective adoptive  
 7636 parent resides;

7637 (b) if the prospective adoptive parent is not a resident of this state, [~~the district court in~~  
 7638 ~~the district]~~ in the county where:

7639 (i) the adoptee was born;

7640 (ii) the adoptee resides on the day on which the petition is filed; or

7641 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

7642 or

7643 (c) [~~the juvenile court as provided in Subsection [78A-6-103\(2\)\(a\)\(xiv\)](#) and]~~ if the  
 7644 adoption proceeding is brought in the juvenile court as described in Subsection

7645 [78A-6-103\(2\)\(a\)\(xiv\)](#), in accordance with Section [78A-6-350](#).

7646 (2) All orders, decrees, agreements, and notices in an adoption proceeding shall be  
 7647 filed with the clerk of the court where the adoption proceeding is commenced under Subsection  
 7648 (1).

7649 (3) A petition for adoption:

7650 (a) may be filed before the birth of a child;

7651 (b) may be filed before or after the adoptee is placed in the home of the petitioner for

7652 the purpose of adoption; and

7653 (c) shall be filed no later than 30 days after the day on which the adoptee is placed in  
7654 the home of the petitioners for the purpose of adoption, unless:

7655 (i) the time for filing has been extended by the court; or

7656 (ii) the adoption is arranged by a child-placing agency in which case the agency may  
7657 extend the filing time.

7658 (4) (a) If a person whose consent for the adoption is required under Section 78B-6-120  
7659 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state  
7660 shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,  
7661 provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

7662 (b) The notice may not include the name of:

7663 (i) a prospective adoptive parent; or

7664 (ii) an unmarried mother without her consent.

7665 (5) Service of notice described in Subsection (6) shall vest the court with jurisdiction  
7666 over the person served in the same manner and to the same extent as if the person served was  
7667 served personally within the state.

7668 (6) In the case of service outside the state, service completed not less than five days  
7669 before the time set in the notice for appearance of the person served is sufficient to confer  
7670 jurisdiction.

7671 (7) Computation of periods of time not otherwise set forth in this section shall be made  
7672 in accordance with the Utah Rules of Civil Procedure.

7673 Section 135. Section 78B-6-112 is amended to read:

7674 **78B-6-112. District court jurisdiction over termination of parental rights**  
7675 **proceedings.**

7676 (1) A [~~district court has jurisdiction to terminate parental rights in a child if the party~~  
7677 ~~that filed the petition is~~] party may bring a petition seeking to terminate parental rights in the  
7678 child for the purpose of facilitating the adoption of the child in a court with jurisdiction under  
7679 Title 78A, Judiciary and Judicial Administration.

7680 (2) A petition to terminate parental rights under this section may be:

7681 (a) joined with a proceeding on an adoption petition; or

7682 (b) filed as a separate proceeding before or after a petition to adopt the child is filed.



7683 (3) A court may enter a final order terminating parental rights before a final decree of  
7684 adoption is entered.

7685 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to  
7686 proceedings to terminate parental rights as described in Section [78A-6-103](#).

7687 (b) [~~This section does not grant jurisdiction to a district court to~~] A court may not  
7688 terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a  
7689 pending abuse, neglect, dependency, or termination of parental rights proceeding.

7690 (5) The [~~district~~] court may terminate an individual's parental rights in a child if:

7691 (a) the individual executes a voluntary consent to adoption, or relinquishment for  
7692 adoption, of the child, in accordance with:

7693 (i) the requirements of this chapter; or

7694 (ii) the laws of another state or country, if the consent is valid and irrevocable;

7695 (b) the individual is an unmarried biological father who is not entitled to consent to  
7696 adoption, or relinquishment for adoption, under Section [78B-6-120](#) or [78B-6-121](#);

7697 (c) the individual:

7698 (i) received notice of the adoption proceeding relating to the child under Section  
7699 [78B-6-110](#); and

7700 (ii) failed to file a motion for relief, under Subsection [78B-6-110\(6\)](#), within 30 days  
7701 after the day on which the individual was served with notice of the adoption proceeding;

7702 (d) the court finds, under Section [78B-15-607](#), that the individual is not a parent of the  
7703 child; or

7704 (e) the individual's parental rights are terminated on grounds described in Title 80,  
7705 Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best  
7706 interests of the child.

7707 (6) The court shall appoint an indigent defense service provider in accordance with  
7708 Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action  
7709 initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental  
7710 Rights, or whose parental rights are subject to termination under this section.

7711 (7) If a county incurs expenses in providing indigent defense services to an indigent  
7712 individual facing any action initiated by a private party under Title 80, Chapter 4, Termination  
7713 and Restoration of Parental Rights, or termination of parental rights under this section, the

7714 county may apply for reimbursement from the Utah Indigent Defense Commission in  
7715 accordance with Section [78B-22-406](#).

7716 (8) A petition filed under this section is subject to the procedural requirements of this  
7717 chapter.

7718 Section 136. Section **78B-6-401** is amended to read:

7719 **78B-6-401. Power to issue declaratory judgment -- Form -- Effect.**

7720 [~~(1) Each district court~~]

7721 (1) (a) A court with jurisdiction under Title 78A, Judiciary and Judicial  
7722 Administration, has the power to issue declaratory judgments determining rights, status, and  
7723 other legal relations within its respective jurisdiction.

7724 (b) An action or proceeding may not be open to objection on the ground that a  
7725 declaratory judgment or decree is prayed for.

7726 (2) The declaration may be either affirmative or negative in form and effect and shall  
7727 have the force and effect of a final judgment or decree.

7728 Section 137. Section **78B-6-408** is amended to read:

7729 **78B-6-408. Rights, status, legal relations under instruments, or statutes may be**  
7730 **determined.**

7731 A person with an interest in a deed, will, or written contract, or whose rights, status, or  
7732 other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may  
7733 request the [~~district~~] court to determine any question of construction or validity arising under  
7734 the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights,  
7735 status, or other legal relations.

7736 Section 138. Section **78B-6-1238** is amended to read:

7737 **78B-6-1238. Clerk of court to be custodian.**

7738 (1) If the security of the proceeds of the sale is taken, or when an investment of any  
7739 proceeds is made, it shall be done, except as otherwise provided, in the name of the clerk of the  
7740 [~~district~~] court.

7741 (2) The clerk of the court shall hold the security for the use and benefit of the parties  
7742 interested, subject to an order of the court.

7743 *The following section is affected by a coordination clause at the end of this bill.*

7744 Section 139. **Repealer.**

7745 This bill repeals:

7746 Section [17D-3-104](#), District court jurisdiction.

7747 Section [78B-12-103](#), District court jurisdiction.

7748 Section 140. **Effective date.**

7749 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

7750 (2) The actions affecting Section [78A-5a-103](#) (Effective 10/01/24) take effect on  
7751 October 1, 2024.

7752 Section 141. **Coordinating H.B. 300 with H.B. 342.**

7753 If H.B. 300, Court Amendments, and H.B. 342, Electronic Information Privacy  
7754 Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the  
7755 changes to Section [13-63-301](#) in H.B. 342 supersede the changes to Section [13-63-301](#) in H.B.  
7756 300.

7757 Section 142. **Coordinating H.B. 300 with S.B. 95**

7758 If H.B. 300, Court Amendments, and S.B. 95, Domestic Relations Recodification, both  
7759 pass and become law, the Legislature intends that, on September 1, 2024, the amendments to  
7760 Section [78B-12-103](#) in S.B. 95 supersede the amendments to Section [78B-12-103](#) in H.B. 300.