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

1	COURT AMENDMENTS
2	2024 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Brady Brammer
5	Senate Sponsor: Kirk A. Cullimore
6 7	
7	LONG TITLE
8	General Description:
9	This bill amends provisions related to courts.
10	Highlighted Provisions:
11	This bill:
12	<ul> <li>amends provisions related to a district court;</li> </ul>
13	<ul> <li>amends provisions related to court venue;</li> </ul>
14	<ul> <li>addresses the effect of the consolidation of counties on actions, proceedings, and</li> </ul>
15	matters pending in the juvenile court;
16	<ul> <li>addresses actions pending in the juvenile court for a new county;</li> </ul>
17	<ul> <li>clarifies the role and duties of a constable;</li> </ul>
18	<ul> <li>clarifies the jurisdiction of the district court;</li> </ul>
19	<ul> <li>amends the definition of a public official in Title 63G, Chapter 23, Property</li> </ul>
20	Donated to State by Public Official, to address a judge of a juvenile court or the
21	Business and Chancery Court;
22	<ul> <li>allows the presiding officer of the Judicial Council to establish a pool of two district</li> </ul>
23	court judges to preside over actions in the Business and Chancery Court when there
24	are fewer than three judges for the Business and Chancery Court and a Business and
25	Chancery Court judge is unable to preside over an action due to recusal or

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26	disqualification;
27	<ul> <li>amends the jurisdiction of the district court to address a district court judge</li> </ul>
28	presiding over an action in the Business and Chancery Court;
29	<ul> <li>amends the definitions related to the Business and Chancery Court;</li> </ul>
30	<ul> <li>amends the jurisdiction of the Business and Chancery Court;</li> </ul>
31	<ul> <li>allows the Business and Chancery Court to resolve all claims for which the</li> </ul>
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	<ul> <li>clarifies that the Business and Chancery Court is required to transfer an action or</li> </ul>
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	<ul> <li>removes the requirement that the Business and Chancery Court is located in Salt</li> </ul>
40	Lake City;
41	<ul> <li>clarifies the jurisdiction of the juvenile court;</li> </ul>
42	<ul> <li>repeals statutes related to district court jurisdiction; and</li> </ul>
43	<ul> <li>makes technical and conforming changes.</li> </ul>
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
58 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	<b>19-6-115</b> , as renumbered and amended by Laws of Utah 1991, Chapter 112
87	<b>19-6-206</b> , as renumbered and amended by Laws of Utah 1991, Chapter 112
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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	<b>26B-3-1110</b> , as renumbered and amended by Laws of Utah 2023, Chapter 306
100	<b>26B-3-1114</b> , as renumbered and amended by Laws of Utah 2023, Chapter 306
101	<b>26B-3-1115</b> , as renumbered and amended by Laws of Utah 2023, Chapter 306
102	<b>31A-22-305</b> , as last amended by Laws of Utah 2023, Chapters 69, 185 and 327
103	<b>31A-22-305.3</b> , 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	<b>34A-6-202</b> , 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	<b>38-9a-201</b> , 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 07/01/24), 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

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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	78A-10a-501 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and
186	last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
187	78A-10a-502 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and
188	last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
189	78A-10a-503 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and
190	last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
191	78A-10a-504 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and
192	last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
193	78A-10a-505 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and
194	last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
195	78B-6-105, as last amended by Laws of Utah 2023, Chapter 115
196	78B-6-112, as last amended by Laws of Utah 2021, Chapter 262
197	78B-6-401, as renumbered and amended by Laws of Utah 2008, Chapter 3
198	78B-6-408, as renumbered and amended by Laws of Utah 2008, Chapter 3
199	78B-6-1238, as renumbered and amended by Laws of Utah 2008, Chapter 3
200	REPEALS:
201	17D-3-104, as enacted by Laws of Utah 2008, Chapter 360
202	78B-12-103, as renumbered and amended by Laws of Utah 2008, Chapter 3
203	Utah Code Sections Affected By Coordination Clause:
204	13-63-301, as enacted by Laws of Utah 2023, Chapter 498
205	78B-12-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330
206	
207	Be it enacted by the Legislature of the state of Utah:
208	Section 1. Section 4-32-112 is amended to read:
209	4-32-112. Judicial review of orders enforcing chapter.
210	(1) Any party aggrieved by an order issued under Subsection 4-32-109(4) or under

211 Subsection 4-32-110(1), (2), or (3) may obtain judicial review.

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

215 [(3)] (2) All proceedings for the enforcement of this chapter, or to restrain violations of 216 this chapter, shall be by and in the name of this state.

217 Section 2. Section 8-5-2 is amended to read:

218

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

219 (1) If [either] the grantee, or person claiming through the grantee, fails to comply with 220 the demand or notice, the municipality or cemetery maintenance district may bring an action in 221 [the district court of the county in which the cemetery is located] a court with jurisdiction under 222 Title 78A. Judiciary and Judicial Administration, against all parties who have not responded to 223 the notice for the purpose of terminating the rights of the parties in the lots or parcels and 224 restoring the lots or parcels to the municipality or cemetery maintenance district free of any 225 right, title, or interest of the grantee, persons claiming through the grantee, their heirs, or 226 assigns.

- 227 (2) Any action to reclaim title to grave sites, parcels, or lots shall be brought and 228 determined in the same manner as actions concerning other real property.
- (3) The portion of any grave site, lot, or parcel in which a body is buried may not be included in any action to revest title to the lot, site, or parcel in the municipality or cemetery maintenance district, and the grave site in which a body is interred shall remain undisturbed together with any adjoining property so as to allow the proper approach to the grave site.
- 233 Section 3. Section **10-2-710** is amended to read:

# 234 10-2-710. Limitation on jurisdiction of court to consider disincorporation 235 petition.

[No district court has jurisdiction to] <u>A court may not</u> consider a petition seeking
disincorporation of a municipality or to order an election based upon the submission of such a
petition if:

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

(2) the disincorporation petition is filed with the court less than two years after the dateof an election held to decide the question of dissolution of the municipality which the petition

243	seeks to dissolve.
244	Section 4. Section <b>10-3-208</b> is amended to read:
245	10-3-208. Campaign finance disclosure in municipal election.
246	(1) Unless a municipality adopts by ordinance more stringent definitions, the following
247	are defined terms for purposes of this section:
248	(a) "Agent of a candidate" means:
249	(i) a person acting on behalf of a candidate at the direction of the reporting entity;
250	(ii) a person employed by a candidate in the candidate's capacity as a candidate;
251	(iii) the personal campaign committee of a candidate;
252	(iv) a member of the personal campaign committee of a candidate in the member's
253	capacity as a member of the personal campaign committee of the candidate; or
254	(v) a political consultant of a candidate.
255	(b) "Anonymous contribution limit" means for each calendar year:
256	(i) \$50; or
257	(ii) an amount less than \$50 that is specified in an ordinance of the municipality.
258	(c) (i) "Candidate" means a person who:
259	(A) files a declaration of candidacy for municipal office; or
260	(B) receives contributions, makes expenditures, or gives consent for any other person
261	to receive contributions or make expenditures to bring about the person's nomination or
262	election to a municipal office.
263	(ii) "Candidate" does not mean a person who files for the office of judge.
264	(d) (i) "Contribution" means any of the following when done for political purposes:
265	(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of
266	value given to a candidate;
267	(B) an express, legally enforceable contract, promise, or agreement to make a gift,
268	subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or
269	anything of value to the candidate;
270	(C) any transfer of funds from another reporting entity to the candidate;
271	(D) compensation paid by any person or reporting entity other than the candidate for
272	personal services provided without charge to the candidate;
273	(E) a loan made by a candidate deposited to the candidate's own campaign; and

274	(F) an in-kind contribution.
275	(ii) "Contribution" does not include:
276	(A) services provided by an individual volunteering a portion or all of the individual's
277	time on behalf of the candidate if the services are provided without compensation by the
278	candidate or any other person;
279	(B) money lent to the candidate by a financial institution in the ordinary course of
280	business; or
281	(C) goods or services provided for the benefit of a candidate at less than fair market
282	value that are not authorized by or coordinated with the candidate.
283	(e) "Coordinated with" means that goods or services provided for the benefit of a
284	candidate are provided:
285	(i) with the candidate's prior knowledge, if the candidate does not object;
286	(ii) by agreement with the candidate;
287	(iii) in coordination with the candidate; or
288	(iv) using official logos, slogans, and similar elements belonging to a candidate.
289	(f) (i) "Expenditure" means any of the following made by a candidate or an agent of the
290	candidate on behalf of the candidate:
291	(A) any disbursement from contributions, receipts, or from an account described in
292	Subsection (3)(a);
293	(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
294	or anything of value made for political purposes;
295	(C) an express, legally enforceable contract, promise, or agreement to make any
296	purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
297	value for a political purpose;
298	(D) compensation paid by a candidate for personal services rendered by a person
299	without charge to a reporting entity;
300	(E) a transfer of funds between the candidate and a candidate's personal campaign
301	committee as defined in Section 20A-11-101; or
302	(F) goods or services provided by a reporting entity to or for the benefit of the
303	candidate for political purposes at less than fair market value.
304	(ii) "Expenditure" does not include:

305	(A) services provided without compensation by an individual volunteering a portion or
306	all of the individual's time on behalf of a candidate; or
307	(B) money lent to a candidate by a financial institution in the ordinary course of
308	business.
309	(g) "In-kind contribution" means anything of value other than money, that is accepted
310	by or coordinated with a candidate.
311	(h) (i) "Political consultant" means a person who is paid by a candidate, or paid by
312	another person on behalf of and with the knowledge of the candidate, to provide political
313	advice to the candidate.
314	(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i),
315	where the person:
316	(A) has already been paid, with money or other consideration;
317	(B) expects to be paid in the future, with money or other consideration; or
318	(C) understands that the person may, in the discretion of the candidate or another
319	person on behalf of and with the knowledge of the candidate, be paid in the future, with money
320	or other consideration.
321	(i) "Political purposes" means an act done with the intent or in a way to influence or
322	tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
323	against any candidate or a person seeking a municipal office at any caucus, political
324	convention, or election.
325	(j) "Reporting entity" means:
326	(i) a candidate;
327	(ii) a committee appointed by a candidate to act for the candidate;
328	(iii) a person who holds an elected municipal office;
329	(iv) a party committee as defined in Section 20A-11-101;
330	(v) a political action committee as defined in Section 20A-11-101;
331	(vi) a political issues committee as defined in Section 20A-11-101;
332	(vii) a corporation as defined in Section 20A-11-101; or
333	(viii) a labor organization as defined in Section 20A-11-1501.
334	(2) (a) A municipality may adopt an ordinance establishing campaign finance
335	disclosure requirements for a candidate that are more stringent than the requirements provided

<ul> <li>(b) The municipality may adopt definitions that are more stringent than those provided</li> <li>in Subsection (1).</li> <li>(c) If a municipality fails to adopt a campaign finance disclosure ordinance described</li> <li>in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained</li> <li>in Subsections (3) through (7).</li> <li>(a) shall deposit a contribution in a separate campaign account in a financial institution;</li> <li>and</li> <li>(b) may not deposit or mingle any campaign contributions received into a personal or</li> <li>business account.</li> <li>(4) (a) In a year in which a municipal primary is held, each candidate who will</li> <li>participate in the municipal primary shall file a campaign finance statement with the municipal</li> <li>clerk or recorder no later than seven days before the day described in Subsection</li> <li>20A-1-201.5(2).</li> <li>(b) Each candidate who is not eliminated at a municipal primary election shall file a</li> <li>campaign finance statement with the municipal general election is held;</li> <li>(i) 28 days before the day on which the municipal general election is held;</li> <li>(ii) seven days before the day on which the municipal general election is held;</li> <li>(c) Each candidate for municipal office who is eliminated at a municipal primary</li> <li>election shall file with the municipal elerk or recorder a campaign finance statement within 30</li> <li>days after the day on which the municipal general election is held.</li> <li>(c) Each candidate for municipal primary election for a race, each candidate who</li> <li>will participate in that race shall file a campaign finance statement with the municipal general election is held;</li> <li>(a) 28 days before the day on which the municipal general election is held;</li> <li>(b) seven days before the day on which the municipal general election is held;</li> <li>(c) 51 f a municipality does not conduct a primary election for a race, each candidate who</li> <li>will participate i</li></ul>	336	in Subsections (3) through (7).
<ul> <li>(c) If a municipality fails to adopt a campaign finance disclosure ordinance described</li> <li>in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained</li> <li>in Subsections (3) through (7).</li> <li>(a) Each candidate:</li> <li>(a) shall deposit a contribution in a separate campaign account in a financial institution;</li> <li>and</li> <li>(b) may not deposit or mingle any campaign contributions received into a personal or</li> <li>business account.</li> <li>(4) (a) In a year in which a municipal primary is held, each candidate who will</li> <li>participate in the municipal primary shall file a campaign finance statement with the municipal</li> <li>clerk or recorder no later than seven days before the day described in Subsection</li> <li>20A-1-201.5(2).</li> <li>(b) Each candidate who is not eliminated at a municipal primary election shall file a</li> <li>campaign finance statement with the municipal clerk or recorder no later than:</li> <li>(i) 28 days before the day on which the municipal general election is held;</li> <li>(ii) seven days before the day on which the municipal general election is held;</li> <li>(c) Each candidate for municipal primary election for a race, each candidate who</li> <li>will participate in that race shall file a campaign finance statement with the municipal clerk or recorder no later than:</li> <li>(c) So days after the day on which the municipal general election is held.</li> <li>(d) If a municipality does not conduct a primary election for a race, each candidate who</li> <li>will participate in that race shall file a campaign finance statement with the municipal clerk or</li> <li>recorder no later than:</li> <li>(a) 28 days before the day on which the municipal general election is held;</li> <li>(b) seven days before the day on which the municipal general election is held;</li> <li>(c) Each candidate for unnicipal primary election for a race, each candidate who</li> <li>will participate in that race shall file a campaign finance</li></ul>	337	(b) The municipality may adopt definitions that are more stringent than those provided
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<ul> <li>election shall file with the municipal clerk or recorder a campaign finance statement within 30 days after the day on which the municipal primary election is held.</li> <li>(5) If a municipality does not conduct a primary election for a race, each candidate who will participate in that race shall file a campaign finance statement with the municipal clerk or recorder no later than:</li> <li>(a) 28 days before the day on which the municipal general election is held;</li> <li>(b) seven days before the day on which the municipal general election is held; and</li> <li>(c) 30 days after the day on which the municipal general election is held.</li> <li>(d) Each campaign finance statement described in Subsection (4) or (5) shall:</li> </ul>	355	(iii) 30 days after the day on which the municipal general election is held.
<ul> <li>days after the day on which the municipal primary election is held.</li> <li>(5) If a municipality does not conduct a primary election for a race, each candidate who</li> <li>will participate in that race shall file a campaign finance statement with the municipal clerk or</li> <li>recorder no later than:</li> <li>(a) 28 days before the day on which the municipal general election is held;</li> <li>(b) seven days before the day on which the municipal general election is held; and</li> <li>(c) 30 days after the day on which the municipal general election is held.</li> <li>(6) Each campaign finance statement described in Subsection (4) or (5) shall:</li> </ul>	356	(c) Each candidate for municipal office who is eliminated at a municipal primary
<ul> <li>(5) If a municipality does not conduct a primary election for a race, each candidate who</li> <li>will participate in that race shall file a campaign finance statement with the municipal clerk or</li> <li>recorder no later than:</li> <li>(a) 28 days before the day on which the municipal general election is held;</li> <li>(b) seven days before the day on which the municipal general election is held; and</li> <li>(c) 30 days after the day on which the municipal general election is held.</li> <li>(6) Each campaign finance statement described in Subsection (4) or (5) shall:</li> </ul>	357	election shall file with the municipal clerk or recorder a campaign finance statement within 30
<ul> <li>will participate in that race shall file a campaign finance statement with the municipal clerk or</li> <li>recorder no later than:</li> <li>(a) 28 days before the day on which the municipal general election is held;</li> <li>(b) seven days before the day on which the municipal general election is held; and</li> <li>(c) 30 days after the day on which the municipal general election is held.</li> <li>(6) Each campaign finance statement described in Subsection (4) or (5) shall:</li> </ul>	358	days after the day on which the municipal primary election is held.
<ul> <li>recorder no later than:</li> <li>(a) 28 days before the day on which the municipal general election is held;</li> <li>(b) seven days before the day on which the municipal general election is held; and</li> <li>(c) 30 days after the day on which the municipal general election is held.</li> <li>(6) Each campaign finance statement described in Subsection (4) or (5) shall:</li> </ul>	359	(5) If a municipality does not conduct a primary election for a race, each candidate who
<ul> <li>(a) 28 days before the day on which the municipal general election is held;</li> <li>(b) seven days before the day on which the municipal general election is held; and</li> <li>(c) 30 days after the day on which the municipal general election is held.</li> <li>(6) Each campaign finance statement described in Subsection (4) or (5) shall:</li> </ul>	360	will participate in that race shall file a campaign finance statement with the municipal clerk or
<ul> <li>363 (b) seven days before the day on which the municipal general election is held; and</li> <li>364 (c) 30 days after the day on which the municipal general election is held.</li> <li>365 (6) Each campaign finance statement described in Subsection (4) or (5) shall:</li> </ul>	361	recorder no later than:
<ul> <li>364 (c) 30 days after the day on which the municipal general election is held.</li> <li>365 (6) Each campaign finance statement described in Subsection (4) or (5) shall:</li> </ul>	362	(a) 28 days before the day on which the municipal general election is held;
365 (6) Each campaign finance statement described in Subsection (4) or (5) shall:	363	(b) seven days before the day on which the municipal general election is held; and
	364	(c) 30 days after the day on which the municipal general election is held.
366 (a) except as provided in Subsection (6)(b):	365	(6) Each campaign finance statement described in Subsection (4) or (5) shall:
	366	(a) except as provided in Subsection (6)(b):

367	(i) report all of the candidate's itemized and total:
368	(A) contributions, including in-kind and other nonmonetary contributions, received up
369	to and including five days before the campaign finance statement is due, excluding a
370	contribution previously reported; and
371	(B) expenditures made up to and including five days before the campaign finance
372	statement is due, excluding an expenditure previously reported; and
373	(ii) identify:
374	(A) for each contribution, the amount of the contribution and the name of the donor, if
375	known; and
376	(B) for each expenditure, the amount of the expenditure and the name of the recipient
377	of the expenditure; or
378	(b) report the total amount of all contributions and expenditures if the candidate
379	receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.
380	(7) Within 30 days after receiving a contribution that is cash or a negotiable
381	instrument, exceeds the anonymous contribution limit, and is from a donor whose name is
382	unknown, a candidate shall disburse the amount of the contribution to:
383	(a) the treasurer of the state or a political subdivision for deposit into the state's or
384	political subdivision's general fund; or
385	(b) an organization that is exempt from federal income taxation under Section
386	501(c)(3), Internal Revenue Code.
387	(8) (a) A municipality may, by ordinance:
388	(i) provide an anonymous contribution limit less than \$50;
389	(ii) require greater disclosure of contributions or expenditures than is required in this
390	section; and
391	(iii) impose additional penalties on candidates who fail to comply with the applicable
392	requirements beyond those imposed by this section.
393	(b) A candidate is subject to the provisions of this section and not the provisions of an
394	ordinance adopted by the municipality under Subsection (8)(a) if:
395	(i) the municipal ordinance establishes requirements or penalties that differ from those
396	established in this section; and
397	(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the

398	ordinance as required in Subsection (9).
399	(9) Each municipal clerk or recorder shall, at the time the candidate for municipal
400	office files a declaration of candidacy, and again 35 days before each municipal general
401	election, notify the candidate in writing of:
402	(a) the provisions of statute or municipal ordinance governing the disclosure of
403	contributions and expenditures;
404	(b) the dates when the candidate's campaign finance statement is required to be filed;
405	and
406	(c) the penalties that apply for failure to file a timely campaign finance statement,
407	including the statutory provision that requires removal of the candidate's name from the ballot
408	for failure to file the required campaign finance statement when required.
409	(10) Notwithstanding any provision of Title 63G, Chapter 2, Government Records
410	Access and Management Act, the municipal clerk or recorder shall:
411	(a) make each campaign finance statement filed by a candidate available for public
412	inspection and copying no later than one business day after the statement is filed; and
413	(b) make the campaign finance statement filed by a candidate available for public
414	inspection by:
414 415	<ul><li>inspection by:</li><li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's</li></ul>
415	(i) (A) posting an electronic copy or the contents of the statement on the municipality's
415 416	(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and
415 416 417	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the</li> </ul>
415 416 417 418	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> </ul>
<ul><li>415</li><li>416</li><li>417</li><li>418</li><li>419</li></ul>	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> <li>(ii) submitting a copy of the statement to the lieutenant governor for posting on the</li> </ul>
<ul> <li>415</li> <li>416</li> <li>417</li> <li>418</li> <li>419</li> <li>420</li> </ul>	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> <li>(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two</li> </ul>
<ul> <li>415</li> <li>416</li> <li>417</li> <li>418</li> <li>419</li> <li>420</li> <li>421</li> </ul>	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> <li>(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.</li> </ul>
<ul> <li>415</li> <li>416</li> <li>417</li> <li>418</li> <li>419</li> <li>420</li> <li>421</li> <li>422</li> </ul>	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> <li>(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.</li> <li>(11) (a) If a candidate fails to timely file a campaign finance statement required under</li> </ul>
<ul> <li>415</li> <li>416</li> <li>417</li> <li>418</li> <li>419</li> <li>420</li> <li>421</li> <li>422</li> <li>423</li> </ul>	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> <li>(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.</li> <li>(11) (a) If a candidate fails to timely file a campaign finance statement required under Subsection (4) or (5), the municipal clerk or recorder:</li> </ul>
<ul> <li>415</li> <li>416</li> <li>417</li> <li>418</li> <li>419</li> <li>420</li> <li>421</li> <li>422</li> <li>423</li> <li>424</li> </ul>	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> <li>(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.</li> <li>(11) (a) If a candidate fails to timely file a campaign finance statement required under Subsection (4) or (5), the municipal clerk or recorder:</li> <li>(i) may send an electronic notice to the candidate that states:</li> </ul>
<ul> <li>415</li> <li>416</li> <li>417</li> <li>418</li> <li>419</li> <li>420</li> <li>421</li> <li>422</li> <li>423</li> <li>424</li> <li>425</li> </ul>	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> <li>(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.</li> <li>(11) (a) If a candidate fails to timely file a campaign finance statement required under Subsection (4) or (5), the municipal clerk or recorder:</li> <li>(i) may send an electronic notice to the candidate that states:</li> <li>(A) that the candidate failed to timely file the campaign finance statement; and</li> </ul>
<ul> <li>415</li> <li>416</li> <li>417</li> <li>418</li> <li>419</li> <li>420</li> <li>421</li> <li>422</li> <li>423</li> <li>424</li> <li>425</li> <li>426</li> </ul>	<ul> <li>(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and</li> <li>(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or</li> <li>(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.</li> <li>(11) (a) If a candidate fails to timely file a campaign finance statement required under Subsection (4) or (5), the municipal clerk or recorder:</li> <li>(i) may send an electronic notice to the candidate that states:</li> <li>(A) that the candidate fails to file the report within 24 hours after the deadline for</li> </ul>

429	(b) The municipal clerk or recorder shall disqualify a candidate and inform the
430	appropriate election official that the candidate is disqualified if the candidate fails to file a
431	campaign finance statement described in Subsection (4) or (5) within 24 hours after the
432	deadline for filing the report.
433	(c) If a candidate is disqualified under Subsection (11)(b), the election official:
434	(i) shall:
435	(A) notify every opposing candidate for the municipal office that the candidate is
436	disqualified;
437	(B) send an email notification to each voter who is eligible to vote in the municipal
438	election office race for whom the election official has an email address informing the voter that
439	the candidate is disqualified and that votes cast for the candidate will not be counted;
440	(C) post notice of the disqualification on a public website; and
441	(D) if practicable, remove the candidate's name from the ballot by blacking out the
442	candidate's name before the ballots are delivered to voters; and
443	(ii) may not count any votes for that candidate.
444	(12) An election official may fulfill the requirements described in Subsection (11)(c)(i)
445	in relation to a mailed ballot, including a military overseas ballot, by including with the ballot a
446	written notice:
447	(a) informing the voter that the candidate is disqualified; or
448	(b) directing the voter to a public website to inform the voter whether a candidate on
449	the ballot is disqualified.
450	(13) Notwithstanding Subsection (11)(b), a candidate who timely files each campaign
451	finance statement required under Subsection (4) or (5) is not disqualified if:
452	(a) the statement details accurately and completely the information required under
453	Subsection (6), except for inadvertent omissions or insignificant errors or inaccuracies; and
454	(b) the omissions, errors, or inaccuracies are corrected in an amended report or in the
455	next scheduled report.
456	(14) A candidate for municipal office who is disqualified under Subsection (11)(b)
457	shall file with the municipal clerk or recorder a complete and accurate campaign finance
458	statement within 30 days after the day on which the candidate is disqualified.
459	(15) A campaign finance statement required under this section is considered filed if it

- is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.
  (16) (a) A private party in interest may bring a civil action in [district court] a court
  with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the
- 463 provisions of this section or an ordinance adopted under this section.
- (b) In a civil action under Subsection (16)(a), the court may award costs and attorneyfees to the prevailing party.

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

467

### 10-7-32. Actions to recover taxes.

468 (1) It shall also be competent for any municipality to bring a civil action against any
469 party owning or operating any such railway liable to pay such taxes to recover the amount
470 thereof, or any part thereof, delinquent and unpaid, in any court having jurisdiction of the
471 amount, and obtain judgment and have execution therefor, and no property, real or personal,
472 shall be exempt from any such execution; provided, that real estate may not be levied upon by
473 execution except by execution out of the [district] court on judgment therein, or transcript of
474 judgment filed therein, as is now or hereafter may be provided by law.

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

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

480 5

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

### 481 **10-7-66.** Fines and forfeitures to be paid to treasurer -- Exceptions.

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

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

487 10-11-3. Neglect of property owners -- Removal or abatement by municipality -488 Costs of removal or abatement -- Notice -- File action or lien -- Property owner objection.

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

491	Section 10-11-2, a municipal inspector may:
492	(i) at the expense of the municipality, employ necessary assistance to enter the property
493	and destroy, remove, or abate one or more items or conditions identified in a written notice
494	described in Section 10-11-2; and
495	(ii) (A) prepare an itemized statement in accordance with Subsection (1)(b); and
496	(B) mail to the owner of record according to the records of the county recorder a copy
497	of the statement demanding payment within 30 days after the day on which the statement is
498	post-marked.
499	(b) The statement described in Subsection (1)(a)(ii)(A) shall:
500	(i) include:
501	(A) the address of the property described in Subsection (1)(a);
502	(B) an itemized list of and demand for payment for all expenses, including
503	administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and
504	(C) the address of the municipal treasurer where payment may be made for the
505	expenses; and
506	(ii) notify the property owner:
507	(A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a
508	lien on the property in accordance with Section 10-11-4;
509	(B) that the owner may file a written objection to all or part of the statement within 20
510	days after the day of the statement post-mark; and
511	(C) where the owner may file the objection, including the municipal office and address.
512	(c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed
513	by certified mail addressed to the property owner's of record last-known address according to
514	the records of the county recorder.
515	(d) (i) A municipality may file a notice of a lien, including a copy of the statement
516	described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the
517	county recorder of the county in which the property is located.
518	(ii) If a municipality files a notice of a lien indicating that the municipality intends to
519	certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section
520	10-11-4, the municipality shall file for record in the county recorder's office a release of the lien
521	after all amounts owing are paid.

522	(2) (a) If an owner fails to file a timely written objection as described in Subsection
523	(1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the
524	municipality may:
525	(i) file an action in [district court] a court with jurisdiction under Title 78A, Judiciary
526	and Judicial Administration; or
527	(ii) certify the past due costs and expenses to the county treasurer of the county in
528	which the property is located in accordance with Section 10-11-4.
529	(b) If a municipality pursues collection of the costs in accordance with Subsection
530	(2)(a)(i) or (4)(a), the municipality may:
531	(i) sue for and receive judgment for all removal and destruction costs, including
532	administrative costs, and reasonable attorney fees, interest, and court costs; and
533	(ii) execute on the judgment in the manner provided by law.
534	(3) (a) If a property owner files an objection in accordance with Subsection (1)(b)(ii),
535	the municipality shall:
536	(i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings
537	Act; and
538	(ii) mail or deliver notice of the hearing date and time to the property owner.
539	(b) At the hearing described in Subsection (3)(a)(i), the municipality shall review and
540	determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i).
541	(c) The property owner shall pay any actual cost due after a decision by the
542	municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within
543	30 days after the day on which the hearing is held.
544	(4) If the property owner fails to pay in accordance with Subsection (3)(c), the
545	municipality may:
546	(a) file an action in [district court] a court with jurisdiction under Title 78A, Judiciary
547	and Judicial Administration, for the actual cost determined under Subsection (3)(b); or
548	(b) certify the past due costs and expenses to the county treasurer of the county in
549	which the property is located in accordance with Section 10-11-4.
550	(5) This section does not affect or limit:
551	(a) a municipal governing body's power to pass an ordinance as described in Section
552	10-3-702; or

553	(b) a criminal or civil penalty imposed by a municipality in accordance with Section
554	10-3-703.
555	Section 8. Section <b>11-13-309</b> is amended to read:
556	11-13-309. Venue for civil action No trial de novo.
557	[ <del>(1) Any</del> ]
558	(1) (a) A person may bring a civil action seeking to challenge, enforce, or otherwise
559	have reviewed, any order of the board, or any alleviation contract[, shall be brought only in the
560	district court for the county within which is located the candidate to which the order or contract
561	pertains. If the candidate is the state of Utah, the action shall be brought in the district court for
562	Salt Lake County].
563	(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if a person brings
564	an action described in Subsection (1)(a) in the district court, the person shall bring the action
565	<u>in:</u>
566	(a) the county in which the candidate, to which the order or contract pertains, is
567	located; or
568	(b) Salt Lake County if the candidate is the state of Utah.
569	(3) Any action brought in any judicial district shall be ordered transferred to the court
570	where venue is proper under this section.
571	[(2)] (4) In any civil action seeking to challenge, enforce, or otherwise review, any
572	order of the board, a trial de novo may not be held.
573	(5) The matter shall be considered on the record compiled before the board, and the
574	findings of fact made by the board may not be set aside by the [district] court unless the board
575	clearly abused its discretion.
576	Section 9. Section 13-11-6 is amended to read:
577	13-11-6. Service of process.
578	(1) In addition to any other method provided by rule or statute, personal jurisdiction
579	over a supplier may be acquired in a civil action or proceeding instituted in [the district court] $\underline{a}$
580	court of this state by the service of process as provided in Subsection (3).
581	(2) (a) A supplier that engages in any act or practice in this state governed by this
582	chapter, or engages in a consumer transaction subject to this chapter, may designate an agent
583	upon whom service of process may be made in the state.

584	(b) A designation of an agent under Subsection (2)(a) shall be in writing and filed with
585	the Division of Corporations and Commercial Code.
586	(c) An agent designated under this Subsection (2) shall be a resident of or a corporation
587	authorized to do business in the state.
588	(3) (a) Subject to Subsection (3)(b), process upon a supplier may be served as provided
589	in Section 16-17-301 if:
590	(i) a designation is not made and filed under Subsection (2); or
591	(ii) process cannot be served in the state upon the designated agent.
592	(b) Service upon a supplier is not effective unless the plaintiff promptly mails a copy of
593	the process and pleadings by registered or certified mail to the defendant at the defendant's last
594	reasonably ascertainable address.
595	(c) The plaintiff shall file an affidavit of compliance with this section:
596	(i) with the clerk of the court; and
597	(ii) on or before the return day of the process, if any, or within any future time the court
598	allows.
599	Section 10. Section <b>13-11a-4</b> is amended to read:
600	13-11a-4. Injunctive relief Damages Attorney fees Corrective advertising
601	Notification required.
	- Notification required.
602	[(1) The district courts of this state have jurisdiction over any supplier as to any act or
602 603	-
	[(1) The district courts of this state have jurisdiction over any supplier as to any act or
603	[(1) The district courts of this state have jurisdiction over any supplier as to any act or practice in this state governed by this chapter or as to any claim arising from a deceptive trade
603 604	[(1) The district courts of this state have jurisdiction over any supplier as to any act or practice in this state governed by this chapter or as to any claim arising from a deceptive trade practice as defined in this chapter.]
603 604 605	[(1) The district courts of this state have jurisdiction over any supplier as to any act or practice in this state governed by this chapter or as to any claim arising from a deceptive trade practice as defined in this chapter.] [(2)] (1) (a) (i) Any person or the state may [maintain an action] bring an action in a
603 604 605 606	[(1) The district courts of this state have jurisdiction over any supplier as to any act or practice in this state governed by this chapter or as to any claim arising from a deceptive trade practice as defined in this chapter.] [(2)] (1) (a) (i) Any person or the state may [maintain an action] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin a
603 604 605 606 607	[(1) The district courts of this state have jurisdiction over any supplier as to any act or practice in this state governed by this chapter or as to any claim arising from a deceptive trade practice as defined in this chapter.] [(2)] (1) (a) (i) Any person or the state may [maintain an action] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin a continuance of any act in violation of this chapter and, if injured by the act, for the recovery of
603 604 605 606 607 608	[(1) The district courts of this state have jurisdiction over any supplier as to any act or practice in this state governed by this chapter or as to any claim arising from a deceptive trade practice as defined in this chapter.] [(2)] (1) (a) (i) Any person or the state may [maintain an action] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin a continuance of any act in violation of this chapter and, if injured by the act, for the recovery of damages.
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<ul> <li>603</li> <li>604</li> <li>605</li> <li>606</li> <li>607</li> <li>608</li> <li>609</li> <li>610</li> <li>611</li> </ul>	[(1) The district courts of this state have jurisdiction over any supplier as to any act or practice in this state governed by this chapter or as to any claim arising from a deceptive trade practice as defined in this chapter.] [(2)] (1) (a) (i) Any person or the state may [maintain an action] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin a continuance of any act in violation of this chapter and, if injured by the act, for the recovery of damages. (ii) If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this chapter, it shall enjoin the defendant from continuance of the violation.

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615 (ii) The court shall award [attorneys'] attorney fees to the prevailing party. 616  $\left[\frac{3}{2}\right]$  (2) The court may order the defendant to promulgate corrective advertising by the 617 same media and with the same distribution and frequency as the advertising found to violate 618 this chapter. 619  $\left[\frac{4}{4}\right]$  (3) The remedies of this section are in addition to remedies otherwise available 620 for the same conduct under state or local law. 621  $\left[\frac{(5)}{(4)}\right]$  (4) (a) No action for injunctive relief may be brought for a violation of this 622 chapter unless the complaining person first gives notice of the alleged violation to the 623 prospective defendant and provides the prospective defendant an opportunity to promulgate a 624 correction notice by the same media as the allegedly violating advertisement. 625 (b) If the prospective defendant does not promulgate a correction notice within 10 days of receipt of the notice, the complaining person may file a lawsuit under this chapter. 626 627 Section 11. Section **13-11a-6** is amended to read: 628 13-11a-6. Truth in music advertising -- Exemptions -- Penalties. 629 (1) A person may not advertise or conduct a live musical performance by a performing 630 group by using a false, deceptive, or otherwise misleading affiliation between a performing 631 group and a recording group of the same name. 632 (2) This section does not apply to: 633 (a) a performing group that is the registrant and owner of a registered federal service 634 mark for the group name; 635 (b) a performance by a performing group that is clearly identified in all advertising and 636 promotional materials as a salute or tribute; (c) a performing group at least one member of which was a member of the recording 637 638 group and has a legal right to use of the group name; 639 (d) the advertising does not relate to a live musical performance occurring in this state; 640 or 641 (e) a performance authorized in writing by the recording group. 642  $\left[\frac{3}{3}\right]$  (a) This section may be enforced by bringing an action in the district court for any 643 county in which the live musical performance is advertised or conducted.] 644 (3) (a) A person may enforce this section by bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration. 645

646	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
647	bring an action described in Subsection (3)(a) in the county in which the live musical
648	performance is advertised or conducted if the person brings the action in the district court.
649	[(b)] (c) A party injured by a violation of this section may obtain an injunction and
650	recover actual damages.
651	[(c)] (d) The prevailing party in an action under Subsection (3)(a) may be awarded
652	costs and attorney fees.
653	Section 12. Section 13-12-7 is amended to read:
654	13-12-7. Equitable relief Attorney fees and costs Action for failure to renew
655	Damages limited.
656	[The district courts for the district wherein the dealer resides or wherein the dealership
657	was to be established shall have jurisdiction over any action involving a violation of this act.]
658	(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person may
659	bring an action regarding a violation of this chapter in the county where the dealer resides or
660	the dealership was to be established if the person brings the action in the district court.
661	(2) In addition to such relief as may be available at common law, the [courts] court
662	may grant such equitable relief, both interim and final, as may be necessary to remedy those
663	violations including declaratory judgments, injunctive relief, and punitive damages as well as
664	actual damages.
665	(3) The prevailing party may, in the court's sole discretion, be awarded [attorney's]
666	attorney fees and expert witness fees in addition to such other relief as the court may deem
667	equitable.
668	(4) In any action for failure to renew an agreement, damages shall be limited to actual
669	damages, including the value of the dealer's equity in the dealership, together with reasonable
670	[attorney's] attorney fees and costs.
671	Section 13. Section 13-21-8 is amended to read:
672	13-21-8. Burden of proving exception Penalties Court's criminal and
673	equitable jurisdiction Prosecution.
674	(1) (a) Any waiver by a buyer of any part of this chapter is void.
675	(b) Any attempt by a credit services organization to have a buyer waive rights given by
676	this chapter is a violation of this chapter.

677	(2) In any proceeding involving this chapter, the burden of proving an exemption or an
678	exception from a definition is upon the person claiming the exemption or exception.
679	(3) (a) Any person who violates this chapter is guilty of a class A misdemeanor.
680	(b) [Any district court of this state has jurisdiction to] A court with jurisdiction under
681	Title 78A, Judiciary and Judicial Administration, may restrain and enjoin [the] a violation of
682	this chapter.
683	(4) The attorney general, any county attorney, any district attorney, or any city attorney
684	may prosecute misdemeanor actions or institute injunctive or civil proceedings, or both, under
685	this chapter.
686	(5) The remedies, duties, prohibitions, and penalties of this chapter are not exclusive
687	and are in addition to all other causes of action, remedies, and penalties provided by law.
688	(6) (a) In addition to other penalties under this section, the division director may issue a
689	cease and desist order and impose an administrative fine of up to \$2,500 for each violation of
690	this chapter.
691	(b) All money received through administrative fines imposed under this section shall
692	be deposited [in] into the Consumer Protection Education and Training Fund created by
693	Section 13-2-8.
693 694	Section 13-2-8. Section 14. Section 13-22-3 is amended to read:
694	Section 14. Section 13-22-3 is amended to read:
694 695	Section 14. Section 13-22-3 is amended to read: 13-22-3. Investigative and enforcement powers Education.
694 695 696	<ul> <li>Section 14. Section 13-22-3 is amended to read:</li> <li>13-22-3. Investigative and enforcement powers Education.</li> <li>(1) The division may make any investigation it considers necessary to determine</li> </ul>
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694 695 696 697 698 699 700 701 702	<ul> <li>Section 14. Section 13-22-3 is amended to read:</li> <li>13-22-3. Investigative and enforcement powers Education.</li> <li>(1) The division may make any investigation it considers necessary to determine</li> <li>whether any person is violating, has violated, or is about to violate any provision of this chapter or any rule made or order issued under this chapter. As part of the investigation, the division may: <ul> <li>(a) require a person to file a statement in writing;</li> <li>(b) administer oaths, subpoena witnesses and compel their attendance, take evidence, and examine under oath any person in connection with an investigation; and</li> </ul> </li> </ul>
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694 695 697 698 699 700 701 702 703 704	<ul> <li>Section 14. Section 13-22-3 is amended to read:</li> <li>13-22-3. Investigative and enforcement powers Education.</li> <li>(1) The division may make any investigation it considers necessary to determine</li> <li>whether any person is violating, has violated, or is about to violate any provision of this chapter or any rule made or order issued under this chapter. As part of the investigation, the division may: <ul> <li>(a) require a person to file a statement in writing;</li> <li>(b) administer oaths, subpoena witnesses and compel their attendance, take evidence, and examine under oath any person in connection with an investigation; and</li> <li>(c) require the production of any books, papers, documents, merchandise, or other material relevant to the investigation.</li> </ul> </li> </ul>
<ul> <li>694</li> <li>695</li> <li>696</li> <li>697</li> <li>698</li> <li>699</li> <li>700</li> <li>701</li> <li>702</li> <li>703</li> <li>704</li> <li>705</li> </ul>	<ul> <li>Section 14. Section 13-22-3 is amended to read:</li> <li>13-22-3. Investigative and enforcement powers Education.</li> <li>(1) The division may make any investigation it considers necessary to determine</li> <li>whether any person is violating, has violated, or is about to violate any provision of this chapter or any rule made or order issued under this chapter. As part of the investigation, the division may: <ul> <li>(a) require a person to file a statement in writing;</li> <li>(b) administer oaths, subpoena witnesses and compel their attendance, take evidence, and examine under oath any person in connection with an investigation; and</li> <li>(c) require the production of any books, papers, documents, merchandise, or other material relevant to the investigation.</li> <li>(2) Whenever it appears to the director that substantial evidence exists that any person</li> </ul> </li> </ul>

708	chapter, the director may do any of the following in addition to other specific duties under this
709	chapter:
710	(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the
711	director may issue an order to cease and desist from engaging in the act or practice or from
712	doing any act in furtherance of the activity; or
713	(b) the director may bring an action in [the appropriate district court of this state] a
714	court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin the
715	acts or practices constituting the violation or to enforce compliance with this chapter or any
716	rule made or order issued under this chapter.
717	(3) Whenever it appears to the director by a preponderance of the evidence that a
718	person has engaged in or is engaging in any act or practice prohibited in this chapter or
719	constituting a violation of this chapter or any rule made or order issued under this chapter, the
720	director may assess an administrative fine of up to \$500 per violation up to \$10,000 for any
721	series of violations arising out of the same operative facts.
722	(4) Upon a proper showing, the court hearing an action brought under Subsection
723	(2)(b) may:
724	(a) issue an injunction;
725	(b) enter a declaratory judgment;
726	(c) appoint a receiver for the defendant or the defendant's assets;
727	(d) order disgorgement of any money received in violation of this chapter;
728	(e) order rescission of agreements violating this chapter;
729	(f) impose a fine of not more than \$2,000 for each violation of this chapter; and
730	(g) impose a civil penalty, or any other relief the court considers just.
731	(5) (a) In assessing the amount of a fine or penalty under Subsection $(3)$ , $(4)(f)$ , or
732	(4)(g), the director or court imposing the fine or penalty shall consider the gravity of the
733	violation and the intent of the violator.
734	(b) If it does not appear by a preponderance of the evidence that the violator acted in
735	bad faith or with intent to harm the public, the director or court shall excuse payment of the
736	fine or penalty.
737	(6) The division may provide or contract to provide public education and voluntary
738	education for applicants and registrants under this chapter. The education may be in the form

739	of publications, advertisements, seminars, courses, or other appropriate means. The scope of
740	the education may include:
741	(a) the requirements, prohibitions, and regulated practices under this chapter;
742	(b) suggestions for effective financial and organizational practices for charitable
743	organizations;
744	(c) charitable giving and solicitation;
745	(d) potential problems with solicitations and fraudulent or deceptive practices; and
746	(e) any other matter relevant to the subject of this chapter.
747	Section 15. Section 13-44-301 is amended to read:
748	13-44-301. Enforcement Confidentiality agreement Penalties.
749	(1) The attorney general may enforce this chapter's provisions.
750	(2) (a) Nothing in this chapter creates a private right of action.
751	(b) Nothing in this chapter affects any private right of action existing under other law,
752	including contract or tort.
753	(3) A person who violates this chapter's provisions is subject to a civil penalty of:
754	(a) no greater than \$2,500 for a violation or series of violations concerning a specific
755	consumer; and
756	(b) no greater than \$100,000 in the aggregate for related violations concerning more
757	than one consumer, unless:
758	(i) the violations concern:
759	(A) 10,000 or more consumers who are residents of the state; and
760	(B) 10,000 or more consumers who are residents of other states; or
761	(ii) the person agrees to settle for a greater amount.
762	(4) (a) In addition to the penalties provided in Subsection (3), the attorney general may
763	seek, in an action brought under this chapter:
764	(i) injunctive relief to prevent future violations of this chapter; and
765	(ii) attorney fees and costs.
766	[(b) The attorney general shall bring an action under this chapter in:]
767	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
768	general brings an action under this chapter in the district court, the attorney general shall bring
769	the action in:

770	(i) [the district court located in] Salt Lake City; or
771	(ii) [the district court for the district] the county in which resides a consumer who is
772	affected by the violation.
773	(5) The attorney general shall deposit any amount received under Subsection (3), (4),
774	or (10) into the Attorney General Litigation Fund created in Section 76-10-3114.
775	(6) In enforcing this chapter, the attorney general may:
776	(a) investigate the actions of any person alleged to violate Section 13-44-201 or
777	13-44-202;
778	(b) subpoena a witness;
779	(c) subpoena a document or other evidence;
780	(d) require the production of books, papers, contracts, records, or other information
781	relevant to an investigation;
782	(e) conduct an adjudication in accordance with Title 63G, Chapter 4, Administrative
783	Procedures Act, to enforce a civil provision under this chapter; and
784	(f) enter into a confidentiality agreement in accordance with Subsection (7).
785	(7) (a) If the attorney general has reasonable cause to believe that an individual is in
786	possession, custody, or control of information that is relevant to enforcing this chapter, the
787	attorney general may enter into a confidentiality agreement with the individual.
788	(b) In a civil action brought under this chapter, a court may issue a confidentiality order
789	that incorporates the confidentiality agreement described in Subsection (7)(a).
790	(c) A confidentiality agreement entered into under Subsection (7)(a) or a
791	confidentiality order issued under Subsection (7)(b) may:
792	(i) address a procedure;
793	(ii) address testimony taken, a document produced, or material produced under this
794	section;
795	(iii) provide whom may access testimony taken, a document produced, or material
796	produced under this section;
797	(iv) provide for safeguarding testimony taken, a document produced, or material
798	produced under this section; or
799	(v) require that the attorney general:
800	(A) return a document or material to an individual; or

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- (B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance
  with Section 63G-2-604, destroy the document or material at a designated time.
  - (8) A subpoena issued under Subsection (6) may be served by certified mail.
- 804 (9) A person's failure to respond to a request or subpoena from the attorney general
  805 under Subsection (6)(b), (c), or (d) is a violation of this chapter.
- (10) (a) The attorney general may inspect and copy all records related to the business
  conducted by the person alleged to have violated this chapter, including records located outside
  the state.
- (b) For records located outside of the state, the person who is found to have violated
  this chapter shall pay the attorney general's expenses to inspect the records, including travel
  costs.
- (c) Upon notification from the attorney general of the attorney general's intent to
  inspect records located outside of the state, the person who is found to have violated this
  chapter shall pay the attorney general \$500, or a higher amount if \$500 is estimated to be
  insufficient, to cover the attorney general's expenses to inspect the records.
- (d) To the extent an amount paid to the attorney general by a person who is found to
  have violated this chapter is not expended by the attorney general, the amount shall be refunded
  to the person who is found to have violated this chapter.
- (e) The Division of Corporations and Commercial Code or any other relevant entity
  shall revoke any authorization to do business in this state of a person who fails to pay any
  amount required under this Subsection (10).
- (11) (a) Subject to Subsection (11)(c), the attorney general shall keep confidential a
  procedure agreed to, testimony taken, a document produced, or material produced under this
  section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the
  individual who agreed to the procedure, provided testimony, produced the document, or
  produced material waives confidentiality in writing.
- (b) Subject to Subsections (11)(c) and (11)(d), the attorney general may use, in an
  enforcement action taken under this section, testimony taken, a document produced, or material
  produced under this section to the extent the use is not restricted or prohibited by a
  confidentiality agreement or a confidentiality order.
- 831
- (c) The attorney general may use, in an enforcement action taken under this section,

832	testimony taken, a document produced, or material produced under this section that is restricted
833	or prohibited from use by a confidentiality agreement or a confidentiality order if the individual
834	who provided testimony or produced the document or material waives the restriction or
835	prohibition in writing.
836	(d) The attorney general may disclose testimony taken, a document produced, or
837	material produced under this section, without consent of the individual who provided the
838	testimony or produced the document or material, or the consent of an individual being
839	investigated, to:
840	(i) a grand jury; or
841	(ii) a federal or state law enforcement officer, if the person from whom the information
842	was obtained is notified 20 days or greater before the day on which the information is
843	disclosed, and the federal or state law enforcement officer certifies that the federal or state law
844	enforcement officer will:
845	(A) maintain the confidentiality of the testimony, document, or material; and
846	(B) use the testimony, document, or material solely for an official law enforcement
847	purpose.
848	(12) (a) An administrative action filed under this chapter shall be commenced no later
849	than 10 years after the day on which the alleged breach of system security last occurred.
850	(b) A civil action under this chapter shall be commenced no later than five years after
851	the day on which the alleged breach of system security last occurred.
852	Section 16. Section <b>13-45-401</b> is amended to read:
853	13-45-401. Enforcement Confidentiality agreement Penalties.
854	(1) The attorney general may enforce the provisions of this chapter.
855	(2) A person who violates a provision of this chapter is subject to a civil fine of:
856	(a) no greater than \$2,500 for a violation or series of violations concerning a specific
857	consumer; and
858	(b) no greater than \$100,000 in the aggregate for related violations concerning more
859	than one consumer, unless:
860	(i) the violations concern:
861	(A) 10,000 or more consumers who are residents of the state; and
862	(B) 10,000 or more consumers who are residents of other states; or

863	(ii) the person agrees to settle for a greater amount.
864	(3) (a) In addition to the penalties provided in Subsection (2), the attorney general may
865	seek, in an action brought under this chapter:
866	(i) injunctive relief to prevent future violations of this chapter; and
867	(ii) attorney fees and costs.
868	[(b) The attorney general shall bring an action under this chapter in:]
869	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
870	general brings an action under this chapter in the district court, the attorney general shall bring
871	the action in:
872	(i) [the district court located in] Salt Lake City; or
873	(ii) [the district court for the district] the county in which resides a consumer who is the
874	subject of a credit report on which a violation occurs.
875	(4) The attorney general shall deposit any amount received under Subsection (2) or (3)
876	into the Attorney General Litigation Fund created in Section 76-10-3114.
877	(5) (a) If the attorney general has reasonable cause to believe that an individual is in
878	possession, custody, or control of information that is relevant to enforcing this chapter, the
879	attorney general may enter into a confidentiality agreement with the individual.
880	(b) In a civil action brought under this chapter, a court may issue a confidentiality order
881	that incorporates the confidentiality agreement described in Subsection (5)(a).
882	(c) A confidentiality agreement entered into under Subsection (5)(a) or a
883	confidentiality order issued under Subsection (5)(b) may:
884	(i) address a procedure;
885	(ii) address testimony taken, a document produced, or material produced under this
886	section;
887	(iii) provide whom may access testimony taken, a document produced, or material
888	produced under this section;
889	(iv) provide for safeguarding testimony taken, a document produced, or material
890	produced under this section; or
891	(v) require that the attorney general:
892	(A) return a document or material to an individual; or
893	(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance

894 with Section 63G-2-604, destroy the document or material at a designated time.

- (6) (a) Subject to Subsection (6)(c), the attorney general shall keep confidential a
  procedure agreed to, testimony taken, a document produced, or material produced under this
  section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the
  individual who agreed to the procedure, provided testimony, or produced the document or
  material waives confidentiality in writing.
- (b) Subject to Subsections (6)(c) and (6)(d), the attorney general may use, in an
  enforcement action taken under this section, testimony taken, a document produced, or material
  produced under this section to the extent the use is not restricted or prohibited by a
  confidentiality agreement or a confidentiality order.
- 904 (c) The attorney general may use, in an enforcement action taken under this section,
  905 testimony taken, a document produced, or material produced under this section that is restricted
  906 or prohibited from use by a confidentiality agreement or a confidentiality order if the individual
  907 who provided testimony, produced the document, or produced the material waives the
  908 restriction or prohibition in writing.
- 909 (d) The attorney general may disclose testimony taken, a document produced, or
  910 material produced under this section, without consent of the individual who provided the
  911 testimony, produced the document, or produced the material, or without the consent of an
  912 individual being investigated, to:
- 913 (i) a grand jury; or
- (ii) a federal or state law enforcement officer, if the person from whom the information
  was obtained is notified 20 days or greater before the day on which the information is
  disclosed, and the federal or state law enforcement officer certifies that the federal or state law
  enforcement officer will:
- 918

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

- 919 (B) use the testimony, document, or material solely for an official law enforcement920 purpose.
- 921 (7) A civil action filed under this chapter shall be commenced no later than five years922 after the day on which the alleged violation last occurred.
- 923 The following section is affected by a coordination clause at the end of this bill.
- 924 Section 17. Section **13-63-301** is amended to read:

925	13-63-301. Private right of action.
926	(1) Beginning March 1, 2024, a person may bring an action in a court with jurisdiction
927	under Title 78A, Judiciary and Judicial Administration, against a person that does not comply
928	with a requirement of Part 1, General Requirements.
929	[(2) A suit filed under the authority of this section shall be filed in the district court for
930	the district in which a person bringing the action resides.]
931	(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall
932	bring an action described in Subsection (1) in the county in which the person bringing the
933	action resides if the person brings the action in the district court.
934	(3) If a court finds that a person has violated a provision of Part 1, General
935	Requirements, the person who brings an action under this section is entitled to:
936	(a) an award of reasonable attorney fees and court costs; and
937	(b) an amount equal to the greater of:
938	(i) \$2,500 per each incident of violation; or
939	(ii) actual damages for financial, physical, and emotional harm incurred by the person
940	bringing the action, if the court determines that the harm is a direct consequence of the
941	violation or violations.
942	Section 18. Section <b>13-63-501</b> is amended to read:
943	13-63-501. Private right of action for harm to a minor Rebuttable presumption
944	of harm and causation.
945	(1) Beginning March 1, 2024, a person may bring an action [under this section] in a
946	court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a social
947	media company to recover damages incurred after March 1, 2024 by a Utah minor account
948	holder for any addiction, financial, physical, or emotional harm suffered as a consequence of
949	using or having an account on the social media company's social media platform.
950	[(2) A suit filed under the authority of this section shall be filed in the district court for
951	the district in which the Utah minor account holder resides.]
952	(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall
953	bring an action described in Subsection (1) in the county in which the Utah minor account
954	holder resides if the person brings the action in the district court.
955	(3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder

955 (3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder

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has been harmed as a consequence of using or having an account on the social mediacompany's social media platform, the minor seeking relief under this section is entitled to:

- 958 (a) an award of reasonable attorney fees and court costs; and
- (b) an amount equal to the greater of:
- 960 (i) \$2,500 per each incident of harm; or

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

964 (4) If a Utah minor account holder seeking recovery of damages under this section is
965 under the age of 16, there shall be a rebuttable presumption that the harm actually occurred and
966 that the harm was a caused as a consequence of using or having an account on the social media
967 company's social media platform.

968

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

969

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

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

- 975 (a) the director engaged in fraudulent or dishonest conduct or gross abuse of authority976 or discretion with respect to the corporation; and
- 977

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

978 (2) The court that removes a director may bar the director from reelection for a period979 prescribed by the court.

980 (3) If shareholders commence a proceeding under Subsection (1), they shall make the981 corporation a party defendant.

982 (4) A director who is removed pursuant to this section may deliver to the division for983 filing a statement to that effect pursuant to Section 16-10a-1608.

- 984 Section 20. Section **17-2-106** is amended to read:
- 985 **17-2-106.** Effect of consolidation.
- 986 (1) All territory included within the boundaries of the originating county becomes,

987 upon consolidation, the territory of the consolidating county.

- (2) The precincts and school districts existing in the originating county continue and
  become precincts and school districts in the consolidating county and remain as then organized
  until changed in the manner provided by law, and the officers of those precincts and school
  districts hold their respective offices until the expiration of the applicable terms.
- (3) The ownership of all property, both real and personal, held and owned by theoriginating county at the time of consolidation is vested in the consolidating county.
- (4) The terms of all county officers in the originating county terminate and cease on the
  day the consolidation takes effect, and those officers shall immediately deliver to the
  corresponding officers of the consolidating county all books, records, and papers of the
  originating county.
- (5) Any person who is confined under lawful commitment in the county jail of the
  originating county, or otherwise lawfully held to answer for alleged violation of any of the
  criminal laws of this state, shall be immediately delivered to the sheriff of the consolidating
  county, and such person shall be confined in its county jail for the unexpired term of the
  sentence or held as specified in the commitment.
- 1003 (6) (a) All criminal proceedings pending in the originating county shall be prosecuted1004 to judgment and execution in the consolidating county.
- (b) All offenses committed in the originating county before consolidation that have notbeen prosecuted shall be prosecuted in the consolidating county.
- 1007 (7) All actions, proceedings, and matters pending in:
- (a) the district court of the originating county may be proceeded with in the district
   court of the consolidating county[-]; and
- 1010 (b) the juvenile court of the originating county may be proceeded with in the juvenile
  1011 court of the consolidating county.
- 1012 (8) All indebtedness of the originating county are transferred to and become the
  1013 indebtedness of the consolidating county with the same effect as if it had been incurred by the
  1014 consolidating county.
- 1015 Section 21. Section 17-3-7 is amended to read:
- 1016 **17-3-7. Pending civil and criminal actions.**
- 1017 (1) All civil and criminal actions [which shall be] that are pending in the territory

1018	embraced in [such] a new county shall be prosecuted to judgment and execution [therein, and
1019	all] in the new county.
1020	(2) All actions pending in the district court or the juvenile court in any county shall be
1021	prosecuted to judgment and execution in the county in which the same are pending, subject to
1022	change of venue as provided by law.
1023	Section 22. Section 17-16-6.5 is amended to read:
1024	17-16-6.5. Campaign financial disclosure in county elections.
1025	(1) (a) A county shall adopt an ordinance establishing campaign finance disclosure
1026	requirements for:
1027	(i) candidates for county office; and
1028	(ii) candidates for local school board office who reside in that county.
1029	(b) The ordinance required by Subsection (1)(a) shall include:
1030	(i) a requirement that each candidate for county office or local school board office
1031	report the candidate's itemized and total campaign contributions and expenditures at least once
1032	within the two weeks before the election and at least once within two months after the election;
1033	(ii) a definition of "contribution" and "expenditure" that requires reporting of
1034	nonmonetary contributions such as in-kind contributions and contributions of tangible things;
1035	(iii) a requirement that the financial reports identify:
1036	(A) for each contribution, the name of the donor of the contribution, if known, and the
1037	amount of the contribution; and
1038	(B) for each expenditure, the name of the recipient and the amount of the expenditure;
1039	(iv) a requirement that a candidate for county office or local school board office
1040	deposit a contribution in a separate campaign account [in] into a financial institution;
1041	(v) a prohibition against a candidate for county office or local school board office
1042	depositing or mingling any contributions received into a personal or business account; and
1043	(vi) a requirement that a candidate for county office who receives a contribution that is
1044	cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown,
1045	shall, within 30 days after receiving the contribution, disburse the amount of the contribution
1046	to:
1047	(A) the treasurer of the state or a political subdivision for deposit into the state's or
1048	political subdivision's general fund; or

1049 (B) an organization that is exempt from federal income taxation under Section1050 501(c)(3), Internal Revenue Code.

1051 (c) (i) As used in this Subsection (1)(c), "account" means an account in a financial 1052 institution:

1053 (A) that is not described in Subsection (1)(b)(iv); and

(B) into which or from which a person who, as a candidate for an office, other than a
county office for which the person files a declaration of candidacy or federal office, or as a
holder of an office, other than a county office for which the person files a declaration of
candidacy or federal office, deposits a contribution or makes an expenditure.

(ii) The ordinance required by Subsection (1)(a) shall include a requirement that a
candidate for county office or local school board office include on a financial report filed in
accordance with the ordinance a contribution deposited in or an expenditure made from an
account:

1062

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

1063 (B) that has not been reported under a statute or ordinance that governs the account.

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

1068

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

1069 (a) shall deposit a contribution [in] into a separate campaign account in a financial
 1070 institution; and

1071 (b) may not deposit or mingle any contributions received into a personal or business1072 account.

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

1076 (a) seven days before the date of the regular general election, reporting each
1077 contribution and each expenditure as of 10 days before the date of the regular general election;
1078 and

1079 (b) no later than 30 days after the date of the regular general election.

1080	(5) (a) The statement filed seven days before the regular general election shall include:
1081	(i) a list of each contribution received by the candidate, and the name of the donor, if
1082	known; and
1083	(ii) a list of each expenditure for political purposes made during the campaign period,
1084	and the recipient of each expenditure.
1085	(b) The statement filed 30 days after the regular general election shall include:
1086	(i) a list of each contribution received after the cutoff date for the statement filed seven
1087	days before the election, and the name of the donor; and
1088	(ii) a list of all expenditures for political purposes made by the candidate after the
1089	cutoff date for the statement filed seven days before the election, and the recipient of each
1090	expenditure.
1091	(6) (a) As used in this Subsection (6), "account" means an account in a financial
1092	institution:
1093	(i) that is not described in Subsection (3)(a); and
1094	(ii) into which or from which a person who, as a candidate for an office, other than a
1095	county office for which the person filed a declaration of candidacy or federal office, or as a
1096	holder of an office, other than a county office for which the person filed a declaration of
1097	candidacy or federal office, deposits a contribution or makes an expenditure.
1098	(b) A county office candidate and a local school board office candidate shall include on
1099	any campaign financial statement filed in accordance with Subsection (4) or (5):
1100	(i) a contribution deposited [in] into an account:
1101	(A) since the last campaign finance statement was filed; or
1102	(B) that has not been reported under a statute or ordinance that governs the account; or
1103	(ii) an expenditure made from an account:
1104	(A) since the last campaign finance statement was filed; or
1105	(B) that has not been reported under a statute or ordinance that governs the account.
1106	(7) Within 30 days after receiving a contribution that is cash or a negotiable
1107	instrument, exceeds \$50, and is from a donor whose name is unknown, a county office
1108	candidate shall disburse the amount of the contribution to:
1109	(a) the treasurer of the state or a political subdivision for deposit into the state's or
1110	political subdivision's general fund; or

1111	(b) an organization that is exempt from federal income taxation under Section
1112	501(c)(3), Internal Revenue Code.
1113	(8) Candidates for elective office in any county, and candidates for local school board
1114	office, who are eliminated at a primary election shall file a signed campaign financial statement
1115	containing the information required by this section not later than 30 days after the primary
1116	election.
1117	(9) Any person who fails to comply with this section is guilty of an infraction.
1118	(10) (a) Counties may, by ordinance, enact requirements that:
1119	(i) require greater disclosure of campaign contributions and expenditures; and
1120	(ii) impose additional penalties.
1121	(b) The requirements described in Subsection (10)(a) apply to a local school board
1122	office candidate who resides in that county.
1123	(11) If a candidate fails to file an interim report due before the election, the county
1124	clerk:
1125	(a) may send an electronic notice to the candidate and the political party of which the
1126	candidate is a member, if any, that states:
1127	(i) that the candidate failed to timely file the report; and
1128	(ii) that, if the candidate fails to file the report within 24 hours after the deadline for
1129	filing the report, the candidate will be disqualified and the political party will not be permitted
1130	to replace the candidate; and
1131	(b) impose a fine of \$100 on the candidate.
1132	(12) (a) The county clerk shall disqualify a candidate and inform the appropriate
1133	election officials that the candidate is disqualified if the candidate fails to file an interim report
1134	described in Subsection (11) within 24 hours after the deadline for filing the report.
1135	(b) The political party of a candidate who is disqualified under Subsection (12)(a) may
1136	not replace the candidate.
1137	(c) A candidate who is disqualified under Subsection (12)(a) shall file with the county
1138	clerk a complete and accurate campaign finance statement within 30 days after the day on
1139	which the candidate is disqualified.
1140	(13) If a candidate is disqualified under Subsection (12)(a), the election official:
1141	(a) shall:

1142	(i) notify every opposing candidate for the county office that the candidate is
1143	disqualified;
1144	(ii) send an email notification to each voter who is eligible to vote in the county
1145	election office race for whom the election official has an email address informing the voter that
1146	the candidate is disqualified and that votes cast for the candidate will not be counted;
1147	(iii) post notice of the disqualification on the county's website; and
1148	(iv) if practicable, remove the candidate's name from the ballot by blacking out the
1149	candidate's name before the ballots are delivered to voters; and
1150	(b) may not count any votes for that candidate.
1151	(14) An election official may fulfill the requirement described in Subsection (13)(a) in
1152	relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a
1153	written notice directing the voter to the county's website to inform the voter whether a
1154	candidate on the ballot is disqualified.
1155	(15) A candidate is not disqualified if:
1156	(a) the candidate files the interim reports described in Subsection (11) no later than 24
1157	hours after the applicable deadlines for filing the reports;
1158	(b) the reports are completed, detailing accurately and completely the information
1159	required by this section except for inadvertent omissions or insignificant errors or inaccuracies;
1160	and
1161	(c) the omissions, errors, or inaccuracies are corrected in an amended report or in the
1162	next scheduled report.
1163	(16) (a) A report is considered timely filed if:
1164	(i) the report is received in the county clerk's office no later than midnight, Mountain
1165	Time, at the end of the day on which the report is due;
1166	(ii) the report is received in the county clerk's office with a United States Postal Service
1167	postmark three days or more before the date that the report was due; or
1168	(iii) the candidate has proof that the report was mailed, with appropriate postage and
1169	addressing, three days before the report was due.
1170	(b) For a county clerk's office that is not open until midnight at the end of the day on
1171	which a report is due, the county clerk shall permit a candidate to file the report via email or
1172	another electronic means designated by the county clerk.

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1173	(17) (a) Any private party in interest may bring [a civil action in district court] an
1174	action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to
1175	enforce the provisions of this section or any ordinance adopted under this section.
1176	(b) In a civil action filed under Subsection (17)(a), the court shall award costs and
1177	attorney fees to the prevailing party.
1178	(18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records
1179	Access and Management Act, the county clerk shall:
1180	(a) make each campaign finance statement filed by a candidate available for public
1181	inspection and copying no later than one business day after the statement is filed; and
1182	(b) make the campaign finance statement filed by a candidate available for public
1183	inspection by:
1184	(i) (A) posting an electronic copy or the contents of the statement on the county's
1185	website no later than seven business days after the statement is filed; and
1186	(B) verifying that the address of the county's website has been provided to the
1187	lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or
1188	(ii) submitting a copy of the statement to the lieutenant governor for posting on the
1189	website established by the lieutenant governor under Section 20A-11-103 no later than two
1190	business days after the statement is filed.
1191	Section 23. Section 17-25-1 is amended to read:
1192	17-25-1. General powers and duties.
1193	(1) [Every] $\underline{A}$ constable shall:
1194	(a) attend the justice courts within [his] the constable's city or county when required by
1195	contract or court order; and
1196	(b) execute, serve, and return all process directed or delivered to [him] the constable by
1197	a judge of the justice court serving the city or county, or by any competent authority within the
1198	limits of this section.
1199	[(2) Any constable may serve any process throughout the state.]
1200	(2) A constable may:
1201	(a) serve any process throughout the state; and
1202	(b) carry out all other functions associated with a constable.

1203 (3) A constable shall serve exclusively as an agent for:

1204	(a) the state, city, or county that has a contract with the constable; or
1205	(b) the court authorizing or directing the constable.
1206	(4) Except as otherwise provided in this part, a constable may not serve as an agent, or
1207	be deemed to be serving as an agent, for a person that is not described in Subsection (3).
1208	Section 24. Section 17-50-103 is amended to read:
1209	17-50-103. Use of "county" prohibited Legal action to compel compliance.
1210	(1) For purposes of this section:
1211	(a) (i) "Existing local entity" means a special district, special service district, or other
1212	political subdivision of the state created before May 1, 2000.
1213	(ii) "Existing local entity" does not include a county, city, town, or school district.
1214	(b) (i) "New local entity" means a city, town, school district, special district, special
1215	service district, or other political subdivision of the state created on or after May 1, 2000.
1216	(ii) "New local entity" does not include a county.
1217	(c) (i) "Special district" means a special district under Title 17B, Limited Purpose
1218	Local Government Entities - Special Districts, that:
1219	(A) by statute is a political and corporate entity separate from the county that created
1220	the special district; and
1221	(B) by statute is not subject to the direction and control of the county that created the
1222	special district.
1223	(ii) The county legislative body's statutory authority to appoint members to the
1224	governing body of a special district does not alone make the special district subject to the
1225	direction and control of that county.
1226	(2) (a) A new local entity may not use the word "county" in its name.
1227	(b) After January 1, 2005, an existing local entity may not use the word "county" in its
1228	name unless the county whose name is used by the existing local entity gives its written
1229	consent.
1230	(3) A county with a name similar to the name of a new local entity or existing local
1231	entity in violation of this section may bring legal action in [district court] a court with
1232	jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel compliance with
1233	this section.
1234	Section 25. Section <b>17B-1-313</b> is amended to read:

1235	17B-1-313. Publication of notice of board resolution or action Contest period
1236	No contest after contest period.
1237	(1) After the board of trustees of a special district adopts a resolution or takes other
1238	action on behalf of the district, the board may provide for the publication of a notice of the
1239	resolution or other action.
1240	(2) Each notice under Subsection (1) shall:
1241	(a) include, as the case may be:
1242	(i) the language of the resolution or a summary of the resolution; or
1243	(ii) a description of the action taken by the board;
1244	(b) state that:
1245	(i) any person in interest may file an action in [district court] a court with jurisdiction
1246	under Title 78A, Judiciary and Judicial Administration, to contest the regularity, formality, or
1247	legality of the resolution or action within 30 days after the date of publication; and
1248	(ii) if the resolution or action is not contested by filing an action in [district court] $\underline{a}$
1249	court within the 30-day period, no one may contest the regularity, formality, or legality of the
1250	resolution or action after the expiration of the 30-day period; and
1251	(c) be published for the special district, as a class A notice under Section $63G-30-102$ ,
1252	for at least 30 days.
1253	(3) For a period of 30 days after the date of the publication, any person in interest may
1254	contest the regularity, formality, or legality of the resolution or other action by filing an action
1255	in [district court] a court with jurisdiction under Title 78A, Judiciary and Judicial
1256	Administration.
1257	(4) After the expiration of the 30-day period under Subsection (3), no one may contest
1258	the regularity, formality, or legality of the resolution or action for any cause.
1259	Section 26. Section <b>17C-1-102</b> is amended to read:
1260	17C-1-102. Definitions.
1261	As used in this title:
1262	(1) "Active project area" means a project area that has not been dissolved in accordance
1263	with Section 17C-1-702.
1264	(2) "Adjusted tax increment" means the percentage of tax increment, if less than
1265	100%, that an agency is authorized to receive:

1266	(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax
1267	increment under Subsection 17C-1-403(3);
1268	(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax
1269	increment under Section 17C-1-406;
1270	(c) under a project area budget approved by a taxing entity committee; or
1271	(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's
1272	tax increment.
1273	(3) "Affordable housing" means housing owned or occupied by a low or moderate
1274	income family, as determined by resolution of the agency.
1275	(4) "Agency" or "community reinvestment agency" means a separate body corporate
1276	and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community
1277	development and renewal agency under previous law:
1278	(a) that is a political subdivision of the state;
1279	(b) that is created to undertake or promote project area development as provided in this
1280	title; and
1281	(c) whose geographic boundaries are coterminous with:
1282	(i) for an agency created by a county, the unincorporated area of the county; and
1283	(ii) for an agency created by a municipality, the boundaries of the municipality.
1284	(5) "Agency funds" means money that an agency collects or receives for agency
1285	operations, implementing a project area plan or an implementation plan as defined in Section
1286	17C-1-1001, or other agency purposes, including:
1287	(a) project area funds;
1288	(b) income, proceeds, revenue, or property derived from or held in connection with the
1289	agency's undertaking and implementation of project area development or agency-wide project
1290	development as defined in Section 17C-1-1001;
1291	(c) a contribution, loan, grant, or other financial assistance from any public or private
1292	source;
1293	(d) project area incremental revenue as defined in Section 17C-1-1001; or
1294	(e) property tax revenue as defined in Section 17C-1-1001.
1295	(6) "Annual income" means the same as that term is defined in regulations of the
1296	United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as

1297	amended or as superseded by replacement regulations.
1298	(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.
1299	(8) "Base taxable value" means, unless otherwise adjusted in accordance with
1300	provisions of this title, a property's taxable value as shown upon the assessment roll last
1301	equalized during the base year.
1302	(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year
1303	during which the assessment roll is last equalized:
1304	(a) for a pre-July 1, 1993, urban renewal or economic development project area plan,
1305	before the project area plan's effective date;
1306	(b) for a post-June 30, 1993, urban renewal or economic development project area
1307	plan, or a community reinvestment project area plan that is subject to a taxing entity
1308	committee:
1309	(i) before the date on which the taxing entity committee approves the project area
1310	budget; or
1311	(ii) if taxing entity committee approval is not required for the project area budget,
1312	before the date on which the community legislative body adopts the project area plan;
1313	(c) for a project on an inactive airport site, after the later of:
1314	(i) the date on which the inactive airport site is sold for remediation and development;
1315	or
1316	(ii) the date on which the airport that operated on the inactive airport site ceased
1317	operations; or
1318	(d) for a community development project area plan or a community reinvestment
1319	project area plan that is subject to an interlocal agreement, as described in the interlocal
1320	agreement.
1321	(10) "Basic levy" means the portion of a school district's tax levy constituting the
1322	minimum basic levy under Section 59-2-902.
1323	(11) "Board" means the governing body of an agency, as described in Section
1324	17C-1-203.
1325	(12) "Budget hearing" means the public hearing on a proposed project area budget
1326	required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
1327	Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection

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1328 17C-5-302(2)(e) for a community reinvestment project area budget. 1329 (13) "Closed military base" means land within a former military base that the Defense 1330 Base Closure and Realignment Commission has voted to close or realign when that action has 1331 been sustained by the president of the United States and Congress. 1332 (14) "Combined incremental value" means the combined total of all incremental values 1333 from all project areas, except project areas that contain some or all of a military installation or 1334 inactive industrial site, within the agency's boundaries under project area plans and project area 1335 budgets at the time that a project area budget for a new project area is being considered. 1336 (15) "Community" means a county or municipality. 1337 (16) "Community development project area plan" means a project area plan adopted 1338 under Chapter 4, Part 1, Community Development Project Area Plan. 1339 (17) "Community legislative body" means the legislative body of the community that 1340 created the agency. 1341 (18) "Community reinvestment project area plan" means a project area plan adopted 1342 under Chapter 5, Part 1, Community Reinvestment Project Area Plan. 1343 (19) "Contest" means to file a written complaint in [the district court of the] a court 1344 with jurisdiction under Title 78A, Judiciary and Judicial Administration, and in a county in 1345 which the agency is located if the action is filed in the district court. 1346 (20) "Development impediment" means a condition of an area that meets the 1347 requirements described in Section 17C-2-303 for an urban renewal project area or Section 1348 17C-5-405 for a community reinvestment project area. 1349 (21) "Development impediment hearing" means a public hearing regarding whether a 1350 development impediment exists within a proposed: 1351 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 1352 17C-2-302; or 1353 (b) community reinvestment project area under Section 17C-5-404. 1354 (22) "Development impediment study" means a study to determine whether a 1355 development impediment exists within a survey area as described in Section 17C-2-301 for an 1356 urban renewal project area or Section 17C-5-403 for a community reinvestment project area. 1357 (23) "Economic development project area plan" means a project area plan adopted 1358 under Chapter 3, Part 1, Economic Development Project Area Plan.

1359 (24) "Fair share ratio" means the ratio derived by: 1360 (a) for a municipality, comparing the percentage of all housing units within the 1361 municipality that are publicly subsidized income targeted housing units to the percentage of all 1362 housing units within the county in which the municipality is located that are publicly 1363 subsidized income targeted housing units; or 1364 (b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing 1365 1366 units to the percentage of all housing units within the whole county that are publicly subsidized 1367 income targeted housing units. 1368 (25) "Family" means the same as that term is defined in regulations of the United 1369 States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended 1370 or as superseded by replacement regulations. 1371 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry use. (27) "Hazardous waste" means any substance defined, regulated, or listed as a 1372 1373 hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, 1374 or toxic substance, or identified as hazardous to human health or the environment, under state 1375 or federal law or regulation. 1376 (28) "Housing allocation" means project area funds allocated for housing under Section 1377 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412. 1378 (29) "Housing fund" means a fund created by an agency for purposes described in 1379 Section 17C-1-411 or 17C-1-412 that is comprised of: 1380 (a) project area funds, project area incremental revenue as defined in Section 1381 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the 1382 purposes described in Section 17C-1-411; or 1383 (b) an agency's housing allocation. 1384 (30) (a) "Inactive airport site" means land that: 1385 (i) consists of at least 100 acres; 1386 (ii) is occupied by an airport: 1387 (A) (I) that is no longer in operation as an airport; or 1388 (II) (Aa) that is scheduled to be decommissioned; and 1389 (Bb) for which a replacement commercial service airport is under construction; and

1390	(B) that is owned or was formerly owned and operated by a public entity; and
1391	(iii) requires remediation because:
1392	(A) of the presence of hazardous waste or solid waste; or
1393	(B) the site lacks sufficient public infrastructure and facilities, including public roads,
1394	electric service, water system, and sewer system, needed to support development of the site.
1395	(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land
1396	described in Subsection (30)(a).
1397	(31) (a) "Inactive industrial site" means land that:
1398	(i) consists of at least 1,000 acres;
1399	(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
1400	facility; and
1401	(iii) requires remediation because of the presence of hazardous waste or solid waste.
1402	(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
1403	described in Subsection (31)(a).
1404	(32) "Income targeted housing" means housing that is owned or occupied by a family
1405	whose annual income is at or below 80% of the median annual income for a family within the
1406	county in which the housing is located.
1407	(33) "Incremental value" means a figure derived by multiplying the marginal value of
1408	the property located within a project area on which tax increment is collected by a number that
1409	represents the adjusted tax increment from that project area that is paid to the agency.
1410	(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
1411	established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.
1412	(35) (a) "Local government building" means a building owned and operated by a
1413	community for the primary purpose of providing one or more primary community functions,
1414	including:
1415	(i) a fire station;
1416	(ii) a police station;
1417	(iii) a city hall; or
1418	(iv) a court or other judicial building.
1419	(b) "Local government building" does not include a building the primary purpose of
1420	which is cultural or recreational in nature.

1421	(36) "Major transit investment corridor" means the same as that term is defined in
1422	Section 10-9a-103.
1423	(37) "Marginal value" means the difference between actual taxable value and base
1424	taxable value.
1425	(38) "Military installation project area" means a project area or a portion of a project
1426	area located within a federal military installation ordered closed by the federal Defense Base
1427	Realignment and Closure Commission.
1428	(39) "Municipality" means a city, town, or metro township as defined in Section
1429	10-2a-403.
1430	(40) "Participant" means one or more persons that enter into a participation agreement
1431	with an agency.
1432	(41) "Participation agreement" means a written agreement between a person and an
1433	agency that:
1434	(a) includes a description of:
1435	(i) the project area development that the person will undertake;
1436	(ii) the amount of project area funds the person may receive; and
1437	(iii) the terms and conditions under which the person may receive project area funds;
1438	and
1439	(b) is approved by resolution of the board.
1440	(42) "Plan hearing" means the public hearing on a proposed project area plan required
1441	under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection
1442	17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d)
1443	for a community development project area plan, or Subsection 17C-5-104(3)(e) for a
1444	community reinvestment project area plan.
1445	(43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or
1446	after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project
1447	area plan's adoption.
1448	(44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July
1449	1, 1993, whether or not amended subsequent to the project area plan's adoption.
1450	(45) "Private," with respect to real property, means property not owned by a public
1451	entity or any other governmental entity.

1452 (46) "Project area" means the geographic area described in a project area plan within 1453 which the project area development described in the project area plan takes place or is 1454 proposed to take place. 1455 (47) "Project area budget" means a multiyear projection of annual or cumulative 1456 revenues and expenses and other fiscal matters pertaining to a project area prepared in 1457 accordance with: 1458 (a) for an urban renewal project area, Section 17C-2-201; 1459 (b) for an economic development project area. Section 17C-3-201: 1460 (c) for a community development project area, Section 17C-4-204; or 1461 (d) for a community reinvestment project area, Section 17C-5-302. 1462 (48) "Project area development" means activity within a project area that, as 1463 determined by the board, encourages, promotes, or provides development or redevelopment for 1464 the purpose of implementing a project area plan, including: 1465 (a) promoting, creating, or retaining public or private jobs within the state or a 1466 community; 1467 (b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements; 1468 1469 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or 1470 remediating environmental issues; 1471 (d) providing residential, commercial, industrial, public, or other structures or spaces, 1472 including recreational and other facilities incidental or appurtenant to the structures or spaces; 1473 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating 1474 existing structures; 1475 (f) providing open space, including streets or other public grounds or space around 1476 buildings; 1477 (g) providing public or private buildings, infrastructure, structures, or improvements; 1478 (h) relocating a business; 1479 (i) improving public or private recreation areas or other public grounds; 1480 (j) eliminating a development impediment or the causes of a development impediment; 1481 (k) redevelopment as defined under the law in effect before May 1, 2006; or 1482 (1) any activity described in this Subsection (48) outside of a project area that the board

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1483 determines to be a benefit to the project area.

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

1487 (50) "Project area funds collection period" means the period of time that:

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

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

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

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

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, PrivilegeTax.

1502 (53) "Public entity" means:

1503 (a) the United States, including an agency of the United States;

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

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

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

1513

(55) "Record property owner" or "record owner of property" means the owner of real

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1514	property, as shown on the records of the county in which the property is located, to whom the
1515	property's tax notice is sent.
1516	(56) "Sales and use tax revenue" means revenue that is:
1517	(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;
1518	and
1519	(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.
1520	(57) "Superfund site":
1521	(a) means an area included in the National Priorities List under the Comprehensive
1522	Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and
1523	(b) includes an area formerly included in the National Priorities List, as described in
1524	Subsection (57)(a), but removed from the list following remediation that leaves on site the
1525	waste that caused the area to be included in the National Priorities List.
1526	(58) "Survey area" means a geographic area designated for study by a survey area
1527	resolution to determine whether:
1528	(a) one or more project areas within the survey area are feasible; or
1529	(b) a development impediment exists within the survey area.
1530	(59) "Survey area resolution" means a resolution adopted by a board that designates a
1531	survey area.
1532	(60) "Taxable value" means:
1533	(a) the taxable value of all real property a county assessor assesses in accordance with
1534	Title 59, Chapter 2, Part 3, County Assessment, for the current year;
1535	(b) the taxable value of all real and personal property the commission assesses in
1536	accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and
1537	(c) the year end taxable value of all personal property a county assessor assesses in
1538	accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's
1539	tax rolls of the taxing entity.
1540	(61) (a) "Tax increment" means the difference between:
1541	(i) the amount of property tax revenue generated each tax year by a taxing entity from
1542	the area within a project area designated in the project area plan as the area from which tax
1543	increment is to be collected, using the current assessed value of the property and each taxing
1544	entity's current certified tax rate as defined in Section 59-2-924; and

1545	(ii) the amount of property tax revenue that would be generated from that same area
1546	using the base taxable value of the property and each taxing entity's current certified tax rate as
1547	defined in Section 59-2-924.
1548	(b) "Tax increment" does not include taxes levied and collected under Section
1549	59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:
1550	(i) the project area plan was adopted before May 4, 1993, whether or not the project
1551	area plan was subsequently amended; and
1552	(ii) the taxes were pledged to support bond indebtedness or other contractual
1553	obligations of the agency.
1554	(62) "Taxing entity" means a public entity that:
1555	(a) levies a tax on property located within a project area; or
1556	(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.
1557	(63) "Taxing entity committee" means a committee representing the interests of taxing
1558	entities, created in accordance with Section 17C-1-402.
1559	(64) "Unincorporated" means not within a municipality.
1560	(65) "Urban renewal project area plan" means a project area plan adopted under
1561	Chapter 2, Part 1, Urban Renewal Project Area Plan.
1562	Section 27. Section 17C-2-304 is amended to read:
1563	17C-2-304. Challenging a development impediment determination Time limit
1564	De novo review.
1565	(1) If the board makes a development impediment determination under Subsection
1566	17C-2-102(1)(a)(ii)(B) and that determination is approved by resolution adopted by the taxing
1567	entity committee, a record owner of property located within the proposed urban renewal project
1568	area may challenge the determination by [filing an action with the district court for the county
1569	in which the property is located] bringing an action in a court with jurisdiction under Title 78A,
1570	Judiciary and Judicial Administration.
1571	(2) A person shall file a challenge under Subsection (1) within 30 days after the taxing
1572	entity committee approves the board's development impediment determination.
1573	(3) In each action under this section, the [district] court shall review the development
1574	impediment determination under the standards of review provided in Subsection 10-9a-801(3).
1575	Section 28. Section <b>17C-5-406</b> is amended to read:

1576	17C-5-406. Challenging a finding of development impediment determination
1577	Time limit Standards governing court review.
1578	(1) If a board makes a development impediment determination under Subsection
1579	17C-5-402(2)(c)(ii), a record owner of property located within the survey area may challenge
1580	the determination by [filing an action in the district court in the county in which the property is
1581	located] bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial
1582	Administration, no later than 30 days after the day on which the board makes the
1583	determination.
1584	(2) In an action under this section:
1585	(a) the agency shall transmit to the [district] court the record of the agency's
1586	proceedings, including any minutes, findings, determinations, orders, or transcripts of the
1587	agency's proceedings;
1588	(b) the [district] court shall review the development impediment determination under
1589	the standards of review provided in Subsection 10-9a-801(3); and
1590	(c) (i) if there is a record:
1591	(A) the [district] court's review is limited to the record provided by the agency; and
1592	(B) the [district] court may not accept or consider any evidence outside the record of
1593	the agency, unless the evidence was offered to the agency and the district court determines that
1594	the agency improperly excluded the evidence; or
1595	(ii) if there is no record, the [district] court may call witnesses and take evidence.
1596	Section 29. Section 17D-1-212 is amended to read:
1597	17D-1-212. Action to challenge the creation of a special service district or a
1598	service to be provided.
1599	(1) A person may [file an action in district court] bring an action in a court with
1600	jurisdiction under Title 78A, Judiciary and Judicial Administration, challenging the creation of
1601	a special service district or a service that a special service district is proposed to provide if:
1602	(a) the person filed a written protest under Section 17D-1-206;
1603	(b) the person:
1604	(i) (A) is a registered voter within the special service district; and
1605	(B) alleges in the action that the procedures used to create the special service district
1606	violated applicable law; or

1607	(ii) (A) is an owner of property included within the boundary of the special service
1608	district; and
1609	(B) alleges in the action that:
1610	(I) the person's property will not be benefitted by a service that the special service
1611	district is proposed to provide; or
1612	(II) the procedures used to create the special service district violated applicable law;
1613	and
1614	(c) the action is filed within 30 days after the date that the legislative body adopts a
1615	resolution or ordinance creating the special service district.
1616	(2) If an action is not filed within the time specified under Subsection (1), a registered
1617	voter or an owner of property located within the special service district may not contest the
1618	creation of the special service district or a service that the special service district is proposed to
1619	provide.
1620	Section 30. Section 17D-2-602 is amended to read:
1621	17D-2-602. Contesting the legality of a resolution or other proceeding No cause
1622	of action after contest period.
1623	(1) For a period of 30 days after publication of a resolution or other proceeding under
1624	Subsection 17D-2-601(1) or a notice under Subsection 17D-2-601(2), any person in interest
1625	may [file an action in district court] bring an action in a court with jurisdiction under Title 78A,
1626	Judiciary and Judicial Administration, contesting the regularity, formality, or legality of:
1627	(a) a resolution or other proceeding;
1628	(b) any bonds or a lease agreement authorized by a resolution or other proceeding; or
1629	(c) any provision made for the security or payment of local building authority bonds or
1630	lease agreement.
1631	(2) After the period referred to in Subsection (1), no one may have a cause of action to
1632	contest for any reason the regularity, formality, or legality of any of the matters listed in
1633	Subsection (1).
1634	Section 31. Section <b>17D-4-305</b> is amended to read:
1635	17D-4-305. Action to contest tax, fee, or proceeding Requirements Exclusive
1636	remedy Bonds, taxes, and fees incontestable.
1637	(1) A person who contests a tax or fee or any proceeding to create a public

1638	infrastructure district, levy a tax, or impose a fee may bring a civil action against the public
1639	infrastructure district or the creating entity to:
1640	(a) set aside the proceeding; or
1641	(b) enjoin the levy, imposition, or collection of a tax or fee.
1642	(2) The person bringing an action described in Subsection (1):
1643	(a) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, shall bring the
1644	action in [the district court with jurisdiction] in the county in which the public infrastructure
1645	district is located if the person brings the action in the district court; and
1646	(b) may not bring the action against or serve a summons relating to the action on the
1647	public infrastructure district more than 30 days after the effective date of the:
1648	(i) creation of the public infrastructure district, if the challenge is to the creation of the
1649	public infrastructure district; or
1650	(ii) tax or fee, if the challenge is to a tax or fee.
1651	(3) An action under Subsection (1) is the exclusive remedy of a person who:
1652	(a) claims an error or irregularity in a tax or fee or in any proceeding to create a public
1653	infrastructure district, levy a tax, or impose a fee; or
1654	(b) challenges a bondholder's right to repayment.
1655	(4) After the expiration of the 30-day period described in Subsection (2)(b):
1656	(a) a bond issued or to be issued with respect to a public infrastructure district and any
1657	tax levied or fee imposed becomes incontestable against any person who has not brought an
1658	action and served a summons in accordance with this section;
1659	(b) a person may not bring a suit to:
1660	(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or
1661	enforcement of a tax or fee; or
1662	(ii) attack or question in any way the legality of a bond, tax, or fee; and
1663	(c) a court may not inquire into the matters described in Subsection (4)(b).
1664	(5) (a) This section does not insulate a public infrastructure district from a claim of
1665	misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).
1666	(b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus
1667	is the sole form of relief available to a party challenging the misuse of funds.
1668	(ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal

1669	charges against or the prosecution of a party for the misuse of funds.
1670	Section 32. Section <b>18-1-4</b> is amended to read:
1671	18-1-4. Use of arbitration in personal injury from dog attack cases.
1672	(1) A person injured as a result of a dog attack may elect to submit all third party
1673	bodily injury claims to arbitration by filing a notice of the submission of the claim to binding
1674	arbitration in a [district] court if:
1675	(a) the claimant or the claimant's representative has:
1676	(i) previously and timely filed a complaint in a [district] court that includes a third
1677	party bodily injury claim; and
1678	(ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
1679	has been answered; and
1680	(b) the notice required under Subsection (1)(a)(ii) is filed while the action under
1681	Subsection (1)(a)(i) is still pending.
1682	(2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
1683	party submitting the claim or the party's representative is limited to an arbitration award that
1684	may not exceed \$50,000 in addition to any medical premise benefits and any claim for property
1685	damage.
1686	(b) A party who elects to proceed against a defendant under this section:
1687	(i) waives the right to obtain a judgment against the personal assets of the defendant;
1688	and
1689	(ii) is limited to recovery only against available limits of insurance coverage.
1690	(3) A claim for punitive damages may not be made in an arbitration proceeding under
1691	Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial
1692	de novo under Subsection (11).
1693	(4) (a) A party who has elected arbitration under this section may rescind the party's
1694	election if the rescission is made within:
1695	(i) 90 days after the election to arbitrate; and
1696	(ii) no less than 30 days before any scheduled arbitration hearing.
1697	(b) A party seeking to rescind an election to arbitrate under this Subsection (4) shall:
1698	(i) file a notice of the rescission of the election to arbitrate with the [district] court in
1699	which the matter was filed; and

1700	(ii) send copies of the notice of the rescission of the election to arbitrate to all counsel
1701	of record to the action.
1702	(c) All discovery completed in anticipation of the arbitration hearing shall be available
1703	for use by the parties as allowed by the Utah Rules of Civil Procedure and the Utah Rules of
1704	Evidence.
1705	(d) A party who has elected to arbitrate under this section and then rescinded the
1706	election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this
1707	section again.
1708	(5) (a) Unless otherwise agreed to by the parties or by order of the court, an arbitration
1709	process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.
1710	(b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be
1711	completed within 150 days after the date arbitration is elected under this section or the date the
1712	answer is filed, whichever is longer.
1713	(6) (a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
1714	arbitration under this section shall be resolved by a single arbitrator.
1715	(b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall
1716	agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of
1717	the defendant.
1718	(c) If the parties are unable to agree on a single arbitrator as required under Subsection
1719	(6)(b), the parties shall select a panel of three arbitrators.
1720	(d) If the parties select a panel of three arbitrators under Subsection (6)(c):
1721	(i) each side shall select one arbitrator; and
1722	(ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional
1723	arbitrator to be included in the panel.
1724	(7) Unless otherwise agreed to in writing:
1725	(a) each party shall pay an equal share of the fees and costs of the arbitrator selected
1726	under Subsection (6)(a); and
1727	(b) if an arbitration panel is selected under Subsection (6)(d):
1728	(i) each party shall pay the fees and costs of the arbitrator selected by that party's side;
1729	and
1730	(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected

1731 under Subsection (6)(d)(ii). 1732 (8) Except as otherwise provided in this section and unless otherwise agreed to in 1733 writing by the parties, an arbitration proceeding conducted under this section shall be governed 1734 by Title 78B, Chapter 11, Utah Uniform Arbitration Act. 1735 (9) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and 1736 the Utah Rules of Evidence apply to the arbitration proceeding. 1737 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied 1738 liberally with the intent of concluding the claim in a timely and cost-efficient manner. 1739 (c) Discovery shall be conducted in accordance with the Utah Rules of Civil Procedure 1740 and shall be subject to the jurisdiction of the [district] court in which the matter is filed. 1741 (d) Dispositive motions shall be filed, heard, and decided by the [district] court prior to 1742 the arbitration proceeding in accordance with the court's scheduling order. 1743 (10) A written decision by a single arbitrator or by a majority of the arbitration panel 1744 shall constitute a final decision. 1745 (11) An arbitration award issued under this section shall be the final resolution of all 1746 bodily injury claims between the parties and may be reduced to judgment by the court upon 1747 motion and notice unless: 1748 (a) either party, within 20 days after service of the arbitration award: 1749 (i) files a notice requesting a trial de novo in the [district] court; and 1750 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo 1751 under Subsection (11)(a)(i); or 1752 (b) the arbitration award has been satisfied. 1753 (12) (a) Upon filing a notice requesting a trial de novo under Subsection (11): 1754 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90 1755 days shall be allowed for further discovery; 1756 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice 1757 of appeal; and 1758 (iii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil 1759 Procedure and the Utah Rules of Evidence in the [district] court. 1760 (b) In accordance with the Utah Rules of Civil Procedure, either party may request a 1761 jury trial with a request for trial de novo filed under Subsection (11).

1762	(13) (a) If the plaintiff, as the moving party in a trial de novo requested under
1763	Subsection (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than
1764	the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.
1765	(b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall
1766	include:
1767	(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
1768	(ii) the costs of expert witnesses and depositions.
1769	(c) An award of costs under this Subsection (13) may not exceed \$6,000.
1770	(14) (a) If a defendant, as the moving party in a trial de novo requested under
1771	Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award,
1772	the defendant is responsible for all of the nonmoving party's costs.
1773	(b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall
1774	include:
1775	(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
1776	(ii) the costs of expert witnesses and depositions.
1777	(c) An award of costs under this Subsection (14) may not exceed \$6,000.
1778	(15) For purposes of determining whether a party's verdict is greater or less than the
1779	arbitration award under Subsections (13) and (14), a court may not consider any recovery or
1780	other relief granted on a claim for damages if the claim for damages was not disclosed in:
1781	(a) writing prior to the arbitration proceeding; or
1782	(b) response to discovery contrary to the Utah Rules of Civil Procedure.
1783	(16) If a [district] court determines, upon a motion of the nonmoving party, that the
1784	moving party's use of the trial de novo process was filed in bad faith, as described in Section
1785	78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving party.
1786	(17) Nothing in this section is intended to affect or prevent any first party claim from
1787	later being brought under any first party insurance policy under which the injured person is a
1788	covered person.
1789	(18) (a) If a defendant requests a trial de novo under Subsection (11), the total verdict
1790	at trial may not exceed \$15,000 above any available limits of insurance coverage and the total
1791	verdict may not exceed \$65,000.
1792	(b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may

1793 not exceed \$50,000. 1794 (19) All arbitration awards issued under this section shall bear postjudgment interest 1795 pursuant to Section 15-1-4. 1796 Section 33. Section 19-4-109 is amended to read: 1797 19-4-109. Violations -- Penalties -- Reimbursement for expenses. 1798 (1) As used in this section, "criminal negligence" means the same as that term is 1799 defined in Section 76-2-103. 1800 (2) (a) A person who violates this chapter, a rule or order issued under the authority of 1801 this chapter, or the terms of a permit or other administrative authorization issued under the 1802 authority of this chapter is subject to an administrative penalty: 1803 (i) not to exceed \$1.000 per day per violation, with respect to a public water system 1804 serving a population of less than 10,000 individuals; or 1805 (ii) exactly \$1,000 per day per violation, with respect to a public water system serving 1806 a population of more than 10,000 individuals. 1807 (b) In all cases, each day of violation is considered a separate violation. 1808 (3) The director may assess and make a demand for payment of an administrative 1809 penalty under this section and may compromise or settle that penalty. 1810 (4) To make a demand for payment of an administrative penalty assessed under this 1811 section, the director shall issue a notice of agency action, specifying, in addition to the 1812 requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative 1813 Procedures Act: 1814 (a) the date, facts, and nature of each act or omission charged; (b) the provision of the statute, rule, order, permit, or administrative authorization that 1815 1816 is alleged to have been violated; 1817 (c) each penalty that the director proposes to assess, together with the amount and date 1818 of effect of that penalty; and 1819 (d) that failure to pay the penalty or respond may result in a civil action for collection. 1820 (5) A person notified according to Subsection (4) may request an adjudicative 1821 proceeding. 1822 (6) Upon request by the director, the attorney general may institute a civil action to 1823 collect a penalty assessed under this section.

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1824 (7) (a) A person who, with criminal negligence, violates any rule or order made or 1825 issued pursuant to this chapter, or with criminal negligence fails to take corrective action 1826 required by an order, is guilty of a class B misdemeanor and subject to a fine of not more than 1827 \$5,000 per day for each day of violation. 1828 (b) In addition, the person is subject, in a civil proceeding, to a penalty of not more 1829 than \$5,000 per day for each day of violation. 1830 (8) (a) The director may bring a civil action for appropriate relief, including a 1831 permanent or temporary injunction, for a violation for which the director is authorized to issue 1832 a compliance order under Section 19-4-107. (b) [The] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director 1833 1834 shall bring an action under this Subsection (8) in the [district court] county where the violation 1835 occurs if the director brings the action in a district court. 1836 (9) (a) The attorney general is the legal advisor for the board and the director and shall 1837 defend them in an action or proceeding brought against the board or director. 1838 (b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or 1839 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or 1840 criminal, requested by the director, to abate a condition that exists in violation of, or to 1841 prosecute for the violation of, or to enforce the laws or the standards, orders, and rules of the 1842 board or the director issued under this chapter. (c) The director may initiate action under this section and be represented by the 1843 1844 attorney general. 1845 (10) If a person fails to comply with a cease and desist order that is not subject to a stay 1846 pending administrative or judicial review, the director may initiate an action for and be entitled 1847 to injunctive relief to prevent further or continued violation of the order. 1848 (11) A bond may not be required for injunctive relief under this chapter. 1849 (12) (a) Except as provided in Subsection (12)(b), a penalty assessed and collected 1850 under the authority of this section shall be deposited into the General Fund. 1851 (b) The department may reimburse itself and local governments from money collected 1852 from civil penalties for extraordinary expenses incurred in environmental enforcement 1853 activities. 1854 (c) The department shall regulate reimbursements by making rules that define:

1855	(i) qualifying environmental enforcement activities; and
1856	(ii) qualifying extraordinary expenses.
1857	Section 34. Section <b>19-4-113</b> is amended to read:
1858	19-4-113. Water source protection ordinance.
1859	(1) As used in this section, "municipality" means the same as that term is defined in
1860	Section 10-1-104.
1861	(2) (a) Before May 3, 2010, a first or second class county shall:
1862	(i) adopt an ordinance in compliance with this section after:
1863	(A) considering the rules established by the board to protect a watershed or water
1864	source used by a public water system;
1865	(B) consulting with a wholesale water supplier or retail water supplier whose drinking
1866	water source is within the county's jurisdiction;
1867	(C) considering the effect of the proposed ordinance on:
1868	(I) agriculture production within an agricultural protection area created under Title 17,
1869	Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas; and
1870	(II) a manufacturing, industrial, or mining operation within the county's jurisdiction;
1871	and
1872	(D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public
1873	Meetings Act; and
1874	(ii) file a copy of the ordinance with the board.
1875	(b) A municipality in a first or second class county may adopt an ordinance that a first
1876	or second class county is required to adopt by this section by following the procedures and
1877	requirements of this section.
1878	(3) (a) A county ordinance adopted in accordance with this section applies to the
1879	incorporated and unincorporated areas of the county unless a municipality adopts an ordinance
1880	in accordance with this section.
1881	(b) A municipal ordinance adopted in accordance with this section supercedes, within
1882	the municipality's jurisdiction, a county ordinance adopted in accordance with this section.
1883	(4) An ordinance required or authorized by this section at a minimum shall:
1884	(a) designate a drinking water source protection zone in accordance with Subsection
1885	(5) for a groundwater source that is:

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1886	(i) used by a public water system; and
1887	(ii) located within the county's or municipality's jurisdiction;
1888	(b) contain a zoning provision regulating the storage, handling, use, or production of a
1889	hazardous or toxic substance within a drinking water source protection zone designated under
1890	Subsection (4)(a); and
1891	(c) authorize a retail water supplier or wholesale water supplier to seek enforcement of
1892	the ordinance provision required by Subsections (4)(a) and (b) in a [district court located within
1893	the county or municipality] court with jurisdiction under Title 78A, Judiciary and Judicial
1894	Administration, if the county or municipality:
1895	(i) notifies the retail water supplier or wholesale water supplier within 10 days of
1896	receiving notice of a violation of the ordinance that the county or municipality will not seek
1897	enforcement of the ordinance; or
1898	(ii) does not seek enforcement within two days of a notice of violation of the ordinance
1899	when the violation may cause irreparable harm to the groundwater source.
1900	(5) A county shall designate a drinking water source protection zone required by
1901	Subsection (4)(a) within:
1902	(a) a 100 foot radius from the groundwater source; and
1903	(b) a 250 day groundwater time of travel to the groundwater source if the supplier
1904	calculates the time of travel in the public water system's drinking water source protection plan
1905	in accordance with board rules.
1906	(6) A zoning provision required by Subsection (4)(b) is not subject to Subsection
1907	17-41-402(3).
1908	(7) An ordinance authorized by Section $10-8-15$ supercedes an ordinance required or
1909	authorized by this section to the extent that the ordinances conflict.
1910	(8) The board shall provide information, guidelines, and technical resources to a county
1911	or municipality preparing and implementing an ordinance in accordance with this section.
1912	(9) A third, fourth, fifth, or sixth class county or a municipality located within a third,
1913	fourth, fifth, or sixth class county may adopt an ordinance in accordance with this section to
1914	establish a drinking water source protection zone and take any other action allowed under this
1915	section.
1916	Section 35. Section 19-5-115 is amended to read:

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1917 19-5-115. Violations -- Penalties -- Civil actions by director -- Ordinances and 1918 rules of political subdivisions -- Acts of individuals. 1919 (1) As used in this section: 1920 (a) "Criminal negligence" means the same as that term is defined in Section 76-2-103. 1921 (b) "Knowingly" means the same as that term is defined in Section 76-2-103. 1922 (c) "Organization" means a legal entity, other than a government, established or 1923 organized for any purpose, and includes a corporation, company, association, firm, partnership, 1924 joint stock company, foundation, institution, trust, society, union, or any other association of 1925 persons. 1926 (d) "Serious bodily injury" means bodily injury that involves a substantial risk of death, 1927 unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted 1928 loss or impairment of the function of a bodily member, organ, or mental faculty. 1929 (e) "Willfully" means the same as that term is defined in Section 76-2-103. 1930 (2) A person who violates this chapter, or any permit, rule, or order adopted under this 1931 chapter, upon a showing that the violation occurred, is subject in a civil proceeding to a civil 1932 penalty not to exceed \$10,000 per day of violation. 1933 (3) (a) A person is guilty of a class A misdemeanor and is subject to imprisonment 1934 under Section 76-3-204 and a fine not exceeding \$25,000 per day who, with criminal 1935 negligence: 1936 (i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any 1937 condition or limitation included in a permit issued under Subsection 19-5-107(3); 1938 (ii) violates Section 19-5-113; (iii) violates a pretreatment standard or toxic effluent standard for publicly owned 1939 1940 treatment works; or 1941 (iv) manages sewage sludge in violation of this chapter or rules adopted under this 1942 chapter. 1943 (b) A person is guilty of a third degree felony and is subject to imprisonment under 1944 Section 76-3-203 and a fine not to exceed \$50,000 per day of violation who knowingly: 1945 (i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any 1946 condition or limitation included in a permit issued under Subsection 19-5-107(3); 1947 (ii) violates Section 19-5-113;

1948	(iii) violates a pretreatment standard or toxic effluent standard for publicly owned
1949	treatment works; or
1950	(iv) manages sewage sludge in violation of this chapter or rules adopted under this
1951	chapter.
1952	(4) A person is guilty of a third degree felony and subject to imprisonment under
1953	Section 76-3-203 and shall be punished by a fine not exceeding \$10,000 per day of violation if
1954	that person knowingly:
1955	(a) makes a false material statement, representation, or certification in any application,
1956	record, report, plan, or other document filed or required to be maintained under this chapter, or
1957	by any permit, rule, or order issued under this chapter; or
1958	(b) falsifies, tampers with, or knowingly renders inaccurate a monitoring device or
1959	method required to be maintained under this chapter.
1960	(5) (a) A person is guilty of a second degree felony and, upon conviction, is subject to
1961	imprisonment under Section 76-3-203 and a fine of not more than \$250,000 if that person:
1962	(i) knowingly violates this chapter, or any permit, rule, or order adopted under this
1963	chapter; and
1964	(ii) knows at that time that the person is placing another person in imminent danger of
1965	death or serious bodily injury.
1966	(b) If a person is an organization, the organization shall, upon conviction of violating
1967	Subsection (5)(a), be subject to a fine of not more than \$1,000,000.
1968	(c) (i) A defendant who is an individual is considered to have acted knowingly if:
1969	(A) the defendant's conduct placed another person in imminent danger of death or
1970	serious bodily injury; and
1971	(B) the defendant was aware of or believed that there was an imminent danger of death
1972	or serious bodily injury to another person.
1973	(ii) Knowledge possessed by a person other than the defendant may not be attributed to
1974	the defendant.
1975	(iii) Circumstantial evidence may be used to prove that the defendant possessed actual
1976	knowledge, including evidence that the defendant took affirmative steps to be shielded from
1977	receiving relevant information.
1978	(d) (i) It is an affirmative defense to prosecution under this Subsection (5) that the

1979 conduct charged was consented to by the person endangered and that the danger and conduct 1980 charged were reasonably foreseeable hazards of: 1981 (A) an occupation, a business, or a profession; or 1982 (B) medical treatment or medical or scientific experimentation conducted by 1983 professionally approved methods and the other person was aware of the risks involved before 1984 giving consent. 1985 (ii) The defendant has the burden of proof to establish an affirmative defense under this 1986 Subsection (5)(d) and shall prove that defense by a preponderance of the evidence. 1987 (6) For purposes of Subsections (3) through (5), a single operational upset that leads to 1988 simultaneous violations of more than one pollutant parameter shall be treated as a single 1989 violation. 1990 (7) (a) The director may [begin] bring a civil action for appropriate relief, including a 1991 permanent or temporary injunction, for any violation or threatened violation for which the 1992 director is authorized to issue a compliance order under Section 19-5-111. 1993 (b) [The] Notwithstanding Title 78A, Chapter 3a, Venue for Civil Actions, the director 1994 shall bring a civil action in the district court where the violation or threatened violation occurs 1995 if the director brings the action in a district court. 1996 (8) (a) The attorney general is the legal advisor for the board and the director and shall 1997 defend the board or director in an action or proceeding brought against the board or director. 1998 (b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or 1999 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or 2000 criminal, requested by the director, to abate a condition that exists in violation of, or to 2001 prosecute for the violation of, or to enforce, the laws or the standards, orders, and rules of the 2002 board or the director issued under this chapter. 2003 (c) The director may initiate an action under this section and be represented by the 2004 attorney general. 2005 (9) If a person fails to comply with a cease and desist order that is not subject to a stay 2006 pending administrative or judicial review, the director may initiate an action for and be entitled 2007 to injunctive relief to prevent any further or continued violation of the order.

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

2010	(11) (a) Except as provided in Subsection (11)(b), penalties assessed and collected
2011	under the authority of this section shall be deposited into the General Fund.
2012	(b) The department may reimburse itself and local governments from money collected
2013	from civil penalties for extraordinary expenses incurred in environmental enforcement
2014	activities.
2015	(c) The department shall regulate reimbursements by making rules, in accordance with
2016	Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
2017	(i) define qualifying environmental enforcement activities; and
2018	(ii) define qualifying extraordinary expenses.
2019	(12) (a) For purposes of this section or an ordinance or rule enacted by a political
2020	subdivision under Subsection (10), an act performed by an individual wholly within the scope
2021	of the individual's employment with an organization, is attributed to the organization.
2022	(b) Notwithstanding the other provisions of this section, an action may not be brought
2023	against an individual acting wholly within the scope of the individual's employment with an
2024	organization if the action is brought under:
2025	(i) this section;
2026	(ii) an ordinance or rule issued by a political subdivision under Subsection (10); or
2027	(iii) any local law or ordinance governing discharge.
2028	Section 36. Section <b>19-6-115</b> is amended to read:
2029	19-6-115. Imminent danger to health or environment Authority of executive
2030	director to initiate action to restrain.
2031	Notwithstanding any other provision of this part, upon receipt of evidence that the
2032	handling, transportation, treatment, storage, or disposal of any solid or hazardous waste, or a
2033	release from an underground storage tank, is presenting an imminent and substantial danger to
2034	health or the environment, the executive director may bring suit on behalf of this state in [the
2035	district court] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration,
2036	to immediately restrain any person contributing, or who has contributed, to that action to stop
2037	the handling, storage, treatment, transportation, or disposal or to take other action as
2038	appropriate.
2039	Section 37. Section <b>19-6-206</b> is amended to read:
2040	<b>19-6-206.</b> Exclusive remedy for devaluation of property caused by approved

2041 facility.

(1) (a) Before construction of a hazardous waste management facility, but in no case
later than nine months after approval of a plan for a hazardous waste treatment, storage, or
disposal facility, any owner or user of property adversely affected by approval may bring an
action in [a district court of competent jurisdiction] a court with jurisdiction under Title 78A,
Judiciary and Judicial Administration, against the owner of the proposed facility.

(b) If the court determines that the planned construction and operation of the hazardous
 waste management facility will result in the devaluation of the plaintiff's property or will
 otherwise interfere with the plaintiff's rights in the property, [it] the court shall order the owner
 to compensate the plaintiff in an amount equal to the value of the plaintiff's loss.

(2) The remedy provided in Subsection (1) is the exclusive remedy for owners or users
aggrieved by the proposed construction and operation of a hazardous waste treatment, disposal,
or storage facility, and no court has jurisdiction to enjoin the construction or operation of any
facility located at a site included in the siting plan adopted by the board.

(3) (a) Nothing in this part prevents an owner or user of property aggrieved by the
 construction and operation of a facility from seeking damages that result from a subsequent
 modification of the design or operation of a facility but damages are limited to the incremental
 damage that results from the modification.

2059 (b) Any action for damages from a modification shall be brought within nine months 2060 after the plans for modification of the design or operation of the facility are approved.

(4) For the purpose of assessing damages, the value of the rights affected is fixed at the
date the facility plan is approved and the actual value of the right at that date is the basis for the
determination of the amount of damage suffered, and no improvements to the property
subsequent to the date of approval of the plans shall be included in the assessment of damages.
Similarly, for any subsequent modification of a facility, value is fixed at the date of approval of
the amended facility plan.

2067 (5) (a) The owner or operator of a proposed facility may, at any time before an award
2068 of damages, abandon the construction or operation of the facility or any modification and cause
2069 the action to be dismissed.

2070 (b) As a condition of dismissal, however, the owner or operator shall compensate the 2071 plaintiff for any actual damage sustained as a result of construction or operation of the facility

2072	before abandonment together with court costs and a reasonable attorney's fee.
2073	(6) Nothing in this part prevents a court from enjoining any activity at a hazardous
2074	waste facility that is outside of, or not in compliance with, the terms and conditions of an
2075	approved hazardous waste operations plan.
2076	Section 38. Section <b>19-6-306</b> is amended to read:
2077	19-6-306. Penalties Lawsuits.
2078	(1) Any person who violates any final order or rule issued or made under this part is
2079	subject in a civil proceeding to a penalty of not more than \$10,000 per day for each day of
2080	violation.
2081	(2) Any person who violates the terms of any agreement made under authority of this
2082	part is subject in a civil proceeding to pay:
2083	(a) any penalties stipulated in the agreement; or
2084	(b) if no penalties are stipulated in the agreement, a penalty of not more than \$10,000
2085	per day for each day of violation.
2086	(3) The executive director shall deposit all civil penalties collected under the authority
2087	of this section into the General Fund.
2088	(4) (a) The executive director may enforce any orders issued under authority of this
2089	part by bringing a suit to enforce the order in [the district court in Salt Lake County or in the
2090	district court in the county where the hazardous substances release occurred] a court with
2091	jurisdiction under Title 78A, Judiciary and Judicial Administration.
2092	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the executive
2093	director brings a suit described in Subsection (4)(a) in the district court, the executive director
2094	shall bring the suit in:
2095	(i) Salt Lake County; or
2096	(ii) the county where the hazardous substances release occurred.
2097	[(b)] (c) After a remedial investigation has been completed, the executive director may
2098	bring a suit in [district court] a court with jurisdiction under Title 78A, Judiciary and Judicial
2099	Administration, against all responsible parties, asking the court for injunctive relief and to
2100	apportion liability among the responsible parties for performance of remedial action.
2101	Section 39. Section <b>19-6-309</b> is amended to read:
2102	19-6-309. Emergency provisions.

2103	(1) (a) If the executive director has reason to believe any hazardous materials release
2104	that occurred after March 18, 1985, is presenting a direct and immediate threat to public health
2105	or the environment, the executive director may:
2106	(i) issue an order requiring the owner or operator of the facility to take abatement
2107	action within the time specified in the order; or
2108	(ii) bring suit on behalf of the state in [the district court] a court with jurisdiction under
2109	Title 78A, Judiciary and Judicial Administration, to require the owner or operator to take
2110	immediate abatement action.
2111	(b) If the executive director determines the owner or operator cannot be located or is
2112	unwilling or unable to take abatement action, the executive director may:
2113	(i) reach an agreement with one or more potentially responsible parties to take
2114	abatement action; or
2115	(ii) use fund money to investigate the release and take abatement action.
2116	(2) The executive director may use money from the fund created in Section $19-6-307$ :
2117	(a) for abatement action even if an adjudicative proceeding or judicial review
2118	challenging an order or a decision to take abatement action is pending; and
2119	(b) to investigate a suspected hazardous materials release if he has reason to believe the
2120	release may present a direct and immediate threat to public health.
2121	(3) This section takes precedence over any conflicting provision in this part.
2122	Section 40. Section <b>19-6-310</b> is amended to read:
2123	19-6-310. Apportionment of liability Liability agreements Legal remedies.
2124	(1) The executive director may recover only the proportionate share of costs of any
2125	investigation and abatement performed under Section 19-6-309 and this section from each
2126	responsible party, as provided in this section.
2127	(2) (a) In apportioning responsibility for the investigation and abatement, or liability
2128	for the costs of the investigation and abatement, in any administrative proceeding or judicial
2129	action, the following standards apply:
2130	(i) liability shall be apportioned in proportion to each responsible party's respective
2131	contribution to the release; and
2132	(ii) the apportionment of liability shall be based on equitable factors, including the
2133	quantity, mobility, persistence, and toxicity of hazardous materials contributed by a responsible

2134 party, and the comparative behavior of a responsible party in contributing to the release,2135 relative to other responsible parties.

(b) Liability may not be apportioned against a current or previous owner or operator
who acquired or became the operator of the facility before March 18, 1985, who may otherwise
be a responsible party but who did not know that any hazardous material which is the subject of
a release was on, in, or at the facility prior to acquisition or operation of the facility, and the
release is not the result of an act or omission of the current or previous owner or operator.

2141 (c) Liability may not be apportioned against a current or previous owner or operator 2142 who acquired or became the operator of the facility on or after March 18, 1985, who may 2143 otherwise be a responsible party but who did not know and had no reason to know, after having 2144 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent 2145 with good commercial or customary practice at the time of the purchase, that any hazardous 2146 material which is the subject of a release was on, in, or at the facility prior to acquisition or 2147 operation of the facility, and the release is not the result of an act or omission of the current or 2148 previous owner or operator.

(d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be considered to have contributed to the release and may be liable for a proportionate share of costs as provided under this section either by affirmatively causing a release or by failing to take action to prevent or abate a release which has originated at or from the facility. A person whose property is contaminated by migration from an offsite release is not considered to have contributed to the release unless the person takes actions which exacerbate the release.

(e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person
who is not considered to have contributed to a release under Subsection (2)(d) is not considered
to have contributed to a release solely by failing to take abatement or remedial action pursuant
to an administrative order.

(f) (i) The burden of proving proportionate contribution shall be borne by eachresponsible party.

(ii) If a responsible party does not prove his proportionate contribution, the court or the
executive director shall apportion liability to the party based solely on available evidence and
the standards of Subsection (2)(a).

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(iii) The ability of a responsible party to pay is not a factor in the apportionment of

2165	liability.
2166	(g) The court may not impose joint and several liability.
2167	(h) Each responsible party is strictly liable solely for his proportionate share of
2168	investigation and abatement costs.
2169	(3) The failure of the executive director to name all responsible parties is not a defense
2170	to an action under this section.
2171	(4) (a) Any party who incurs costs under Section 19-6-309 and this section in excess of
2172	[his] the party's liability may seek contribution from any other party who is or may be liable
2173	under Section 19-6-309 and this section for the excess costs in [the district court] a court with
2174	jurisdiction under Title 78A, Judiciary and Judicial Administration.
2175	(b) In resolving claims made under Subsection (4)(a), the court shall allocate costs
2176	using the standards set forth in Subsection (2).
2177	(5) (a) A party who has resolved his liability in an agreement under Section 19-6-309
2178	and this section is not liable for claims for contribution regarding matters addressed in the
2179	settlement.
2180	(b) (i) An agreement does not discharge any of the liability of responsible parties who
2181	are not parties to the agreement, unless the terms of the agreement provide otherwise.
2182	(ii) An agreement made under this subsection reduces the potential liability of other
2183	responsible parties by the amount of the agreement.
2184	(6) (a) If the executive director obtains less than complete relief from a party who has
2185	resolved his liability in an agreement under Section 19-6-309 and this section, the executive
2186	director may bring an action against any party who has not resolved his liability in an
2187	agreement.
2188	(b) In apportioning liability, the standards of Subsection (2) apply.
2189	(c) A party who resolved his liability for some or all of the costs in an agreement under
2190	Section 19-6-309 and this section may seek contribution from any person who is not party to an
2191	agreement under Section 19-6-309 and this section.
2192	(7) (a) An agreement made under Section 19-6-309 and this section may provide that
2193	the executive director will pay for costs of actions that the parties have agreed to perform, but
2194	which the executive director has agreed to finance, under the agreement.
2195	(b) If the executive director makes payments from the fund, he may recover the amount

2196 paid using the authority of Section 19-6-309 and this section or any other applicable authority.

- (8) (a) The executive director may not recover costs of any investigation performed
  under the authority of Subsection 19-6-309(2)(b) if the investigation does not confirm that a
  release presenting a direct and immediate threat to public health has occurred.
- (b) This subsection takes precedence over any conflicting provision of this sectionregarding cost recovery.

2202 Section 41. Section **19-6-316** is amended to read:

2203 **19-6-316.** Liability for costs of remedial investigations -- Liability agreements.

(1) The executive director may recover only a proportionate share of costs of any
remedial investigation performed under Sections 19-6-314 and 19-6-315 from each responsible
party, as provided in this section.

(2) (a) In apportioning responsibility for the remedial investigation, or liability for the
costs of the remedial investigation, in any administrative proceeding or judicial action, the
following standards apply:

(i) liability shall be apportioned in proportion to each responsible party's respectivecontribution to the release;

(ii) the apportionment of liability shall be based on equitable factors, including the
quantity, mobility, persistence, and toxicity of hazardous substances contributed by a
responsible party, and the comparative behavior of a responsible party in contributing to the
release, relative to other responsible parties.

(b) Liability may not be apportioned against a current or previous owner or operator
who acquired or became the operator of the facility before March 18, 1985, who may otherwise
be a responsible party but who did not know that any hazardous material which is the subject of
a release was on, in, or at the facility prior to acquisition or operation of the facility, and the
release is not the result of an act or omission of the current or previous owner or operator.

(c) Liability may not be apportioned against a current or previous owner or operator
who acquired or became the operator of the facility on or after March 18, 1985, who may
otherwise be a responsible party but who did not know and had no reason to know, after having
taken all appropriate inquiry into the previous ownership and uses of the facility, consistent
with good commercial or customary practice at the time of the purchase, that any hazardous
material which is the subject of a release was on, in, or at the facility prior to acquisition or

2227 operation of the facility, and the release is not the result of an act or omission of the current or 2228 previous owner or operator. 2229 (d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be 2230 considered to have contributed to the release and may be liable for a proportionate share of 2231 costs as provided under this section either by affirmatively causing a release or by failing to 2232 take action to prevent or abate a release which has originated at or from the facility. A person 2233 whose property is contaminated by migration from an offsite release is not considered to have 2234 contributed to the release unless the person takes actions which exacerbate the release. 2235 (e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person who is not considered to have contributed to a release under Subsection (2)(d) is not considered 2236 2237 to have contributed to a release solely by failing to take abatement or remedial action pursuant 2238 to an administrative order. 2239 (f) (i) The burden of proving proportionate contribution shall be borne by each 2240 responsible party. 2241 (ii) If a responsible party does not prove his proportionate contribution, the court or the 2242 executive director shall apportion liability to the party based solely on available evidence and 2243 the standards of Subsection (2)(a). 2244 (iii) The ability of a responsible party to pay is not a factor in the apportionment of 2245 liability. 2246 (g) The court may not impose joint and several liability. 2247 (h) Each responsible party is strictly liable solely for his proportionate share of 2248 investigation costs. 2249 (3) The failure of the executive director to name all responsible parties is not a defense 2250 to an action under this section. 2251 (4) (a) Any party who incurs costs under this part in excess of his liability may seek 2252 contribution from any other party who is or may be liable under this part for the excess costs in 2253 [district court] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration. 2254 (b) In resolving claims made under Subsection (4)(a), the court shall allocate costs using the standards set forth in Subsection (2). 2255 2256 (5) (a) A party who has resolved his liability in an agreement under Sections 19-6-3142257 through this section is not liable for claims for contribution regarding matters addressed in the

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settlement.

(b) (i) An agreement does not discharge any of the liability of responsible parties whoare not parties to the agreement, unless the terms of the agreement provide otherwise.

(ii) An agreement made under this Subsection (5)(b) reduces the potential liability ofother responsible parties by the amount of the agreement.

(6) (a) If the executive director obtains less than complete relief from a party who has
resolved his liability in an agreement under Sections 19-6-314 through this section, the
executive director may bring an action against any party who has not resolved his liability in an
agreement.

2267

(b) In apportioning liability, the standards of Subsection (2) apply.

(c) A party who resolved his liability for some or all of the costs in an agreement under
 Sections 19-6-314 through this section may seek contribution from any person who is not party
 to an agreement under Sections 19-6-314 through this section.

(7) (a) An agreement made under Sections 19-6-314 through this section may provide
that the executive director will pay for costs of actions that the parties have agreed to perform,
but which the executive director has agreed to finance, under the agreement.

(b) If the executive director makes payments from the fund, he may recover the amount
paid using the authority of Sections 19-6-314 through this section or any other applicable
authority.

2277 Section 42. Section **19-6-318** is amended to read:

2278

19-6-318. Remedial action liability -- Liability agreements.

(1) (a) In apportioning responsibility for the remedial action in any administrative
proceeding or judicial action under Sections 19-6-317 and 19-6-319, the following standards
apply:

(i) liability shall be apportioned in proportion to each responsible party's respectivecontribution to the release;

(ii) the apportionment of liability shall be based on equitable factors, including the
quantity, mobility, persistence, and toxicity of hazardous substances contributed by a
responsible party, and the comparative behavior of a responsible party in contributing to the
release, relative to other responsible parties.

2288

(b) Liability may not be apportioned against a current or previous owner or operator

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who acquired or became the operator of the facility before March 18, 1985, who may otherwise be a responsible party but who did not know that any hazardous material which is the subject of a release was on, in, or at the facility prior to acquisition or operation of the facility, and the release is not the result of an act or omission of the current or previous owner or operator.

2293 (c) Liability may not be apportioned against a current or previous owner or operator 2294 who acquired or became the operator of the facility on or after March 18, 1985, who may 2295 otherwise be a responsible party but who did not know and had no reason to know, after having 2296 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent 2297 with good commercial or customary practice at the time of the purchase, that any hazardous 2298 material which is the subject of a release was on, in, or at the facility prior to acquisition or 2299 operation of the facility, and the release is not the result of an act or omission of the current or 2300 previous owner or operator.

(d) A responsible party who is not exempt under Subsection (1)(b) or (c) may be
considered to have contributed to the release and may be liable for a proportionate share of
costs as provided under this section either by affirmatively causing a release or by failing to
take action to prevent or abate a release which has originated at or from the facility. A person
whose property is contaminated by migration from an offsite release is not considered to have
contributed to the release unless the person takes actions which exacerbate the release.

(e) A responsible party who meets the criteria in Subsection (1)(b) or (c) or a person
who is not considered to have contributed to a release under Subsection (1)(d) is not considered
to have contributed to a release solely by failing to take abatement or remedial action pursuant
to an administrative order.

(f) (i) The burden of proving proportionate contribution shall be borne by eachresponsible party.

(ii) If a responsible party does not prove his proportionate contribution, the court or the
director shall apportion liability to the party solely based on available evidence and the
standards of Subsection (1)(a).

(iii) The ability of a responsible party to pay is not a factor in the apportionment ofliability.

2318 (g) The court may not impose joint and several liability.

2319 (h) Each responsible party is strictly liable solely for his proportionate share of

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2320 remedial action costs.

(2) The failure of the executive director to name all responsible parties is not a defenseto an action under this section.

(3) (a) Any party who incurs costs under Sections 19-6-317 through 19-6-320 in excess
of his liability may seek contribution from any other party who is or may be liable under
Sections 19-6-317 through 19-6-320 for the excess costs in [district court] a court with
jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) In resolving claims made under Subsection (3)(a), the court shall allocate costsusing the standards set forth in Subsection (1).

(4) (a) A party who has resolved his liability in an agreement under Sections 19-6-317
through 19-6-320 is not liable for claims for contribution regarding matters addressed in the
settlement.

(b) (i) An agreement does not discharge any of the liability of responsible parties whoare not parties to the agreement, unless the terms of the agreement provide otherwise.

(ii) An agreement made under this Subsection (4)(b) reduces the potential liability ofother responsible parties by the amount of the agreement.

(5) (a) If the executive director obtains less than complete relief from a party who has
resolved his liability in an agreement under Sections 19-6-317 through 19-6-320, the executive
director may bring an action against any party who has not resolved his liability in an
agreement.

2340

(b) In apportioning liability, the standards of Subsection (1) apply.

(c) A party who resolved his liability for some or all of the costs in an agreement under
Sections 19-6-317 through 19-6-320 may seek contribution from any person who is not party to
an agreement under Sections 19-6-317 through 19-6-320.

(6) (a) An agreement made under Sections 19-6-317 through 19-6-320 may provide
that the executive director will pay for costs of actions that the parties have agreed to perform,
but which the executive director has agreed to finance, under the agreement.

(b) If the executive director makes payments, he may recover the amount using theauthority of Sections 19-6-317 through 19-6-320 or any other applicable authority.

2349 Section 43. Section 19-6-325 is amended to read:

2350 **19-6-325.** Voluntary agreements -- Parties -- Funds -- Enforcement.

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2351 (1) (a) Under this part, and subject to Subsection (1)(b), the executive director may 2352 enter into a voluntary agreement with a responsible party providing for the responsible party to 2353 conduct an investigation or a cleanup action on sites that contain hazardous materials. 2354 (b) The executive director and a responsible party may not enter into a voluntary 2355 agreement under this part unless all known potentially responsible parties: 2356 (i) have been notified by either the executive director or the responsible party of the proposed agreement; and 2357 2358 (ii) have been given an opportunity to comment on the proposed agreement prior to the 2359 parties' entering into the agreement. 2360 (2) (a) The executive director may receive funds from any responsible party that signs a 2361 voluntary agreement allowing the executive director to: 2362 (i) review any proposals outlining how the investigation or cleanup action is to be 2363 performed: and 2364 (ii) oversee the investigation or cleanup action. 2365 (b) Funds received by the executive director under this section shall be deposited in the 2366 fund and used by the executive director as provided in the voluntary agreement. (3) If a responsible party fails to perform as required under a voluntary agreement 2367 2368 entered into under this part, the executive director may take action and seek penalties to enforce 2369 the agreement as provided in the agreement. 2370 (4) The executive director may not use the provisions of Section 19-6-310, 19-6-316, 2371 or 19-6-318 to recover costs received or expended pursuant to a voluntary agreement from any 2372 person not a party to that agreement. 2373 (5) (a) Any party who incurs costs under a voluntary agreement in excess of his 2374 liability may seek contribution from any other party who is or may be liable under this part for 2375 the excess costs in [district court] a court with jurisdiction under Title 78A, Judiciary and 2376 Judicial Administration. 2377 (b) In resolving claims made under Subsection (5)(a), the court shall allocate costs 2378 using the standards in Subsection 19-6-310(2). 2379 (6) This section takes precedence over conflicting provisions in this chapter regarding 2380 agreements with responsible parties to conduct an investigation or cleanup action. 2381 Section 44. Section 19-6-424.5 is amended to read:

2382	19-6-424.5. Apportionment of liability Liability agreements Legal remedies
2383	Amounts recovered.
2384	(1) After providing notice and opportunity for comment to responsible parties
2385	identified and named under Section 19-6-420, the director may:
2386	(a) issue written orders determining responsible parties;
2387	(b) issue written orders apportioning liability among responsible parties; and
2388	(c) take action, including legal action or issuing written orders, to recover costs from
2389	responsible parties, including costs of any investigation, abatement, and corrective action
2390	performed under this part.
2391	(2) (a) In any apportionment of liability, whether made by the director or made in any
2392	administrative proceeding or judicial action, the following standards apply:
2393	(i) liability shall be apportioned among responsible parties in proportion to their
2394	respective contributions to the release; and
2395	(ii) the apportionment of liability shall be based on equitable factors, including the
2396	quantity, mobility, persistence, and toxicity of regulated substances contributed by a
2397	responsible party, and the comparative behavior of a responsible party in contributing to the
2398	release, relative to other responsible parties.
2399	(b) (i) The burden of proving proportionate contribution shall be borne by each
2400	responsible party.
2401	(ii) If a responsible party does not prove the responsible party's proportionate
2402	contribution, the court or the director shall apportion liability to the party based on available
2403	evidence and the standards of Subsection (2)(a).
2404	(c) The court, the board, or the director may not impose joint and several liability.
2405	(d) Each responsible party is strictly liable for his share of costs.
2406	(3) The failure of the director to name all responsible parties is not a defense to an
2407	action under this section.
2408	(4) The director may enter into an agreement with any responsible party regarding that
2409	party's proportionate share of liability or any action to be taken by that party.
2410	(5) The director and a responsible party may not enter into an agreement under this part
2411	unless all responsible parties named and identified under Subsection 19-6-420(1)(a):
2412	(a) have been notified in writing by either the director or the responsible party of the

2413 proposed agreement; and

(b) have been given an opportunity to comment on the proposed agreement prior to theparties' entering into the agreement.

(6) (a) Any party who incurs costs under this part in excess of [his] the party's liability
may seek contribution from any other party who is or may be liable under this part for the
excess costs in [the district court] a court with jurisdiction under Title 78A, Judiciary and
Judicial Administration.

(b) In resolving claims made under Subsection (6)(a), the court shall allocate costsusing the standards in Subsection (2).

(7) (a) A party who has resolved his liability under this part is not liable for claims forcontribution regarding matters addressed in the agreement or order.

(b) (i) An agreement or order determining liability under this part does not discharge
any of the liability of responsible parties who are not parties to the agreement or order, unless
the terms of the agreement or order expressly provide otherwise.

(ii) An agreement or order determining liability made under this subsection reduces thepotential liability of other responsible parties by the amount of the agreement or order.

(8) (a) If the director obtains less than complete relief from a party who has resolved
his liability under this section, the director may bring an action against any party who has not
resolved his liability as determined in an order.

2432

(b) In apportioning liability, the standards of Subsection (2) apply.

(c) A party who resolved his liability for some or all of the costs under this part mayseek contribution from any person who is not a party to the agreement or order.

(9) (a) An agreement or order determining liability under this part may provide that the
director will pay for costs of actions that the parties have agreed to perform, but which the
director has agreed to finance, under the terms of the agreement or order.

(b) If the director makes payments from the fund or state cleanup appropriation, he
may recover the amount paid using the authority of Section 19-6-420 and this section or any
other applicable authority.

(c) Any amounts recovered under this section shall be deposited [in] <u>into</u> the Petroleum
Storage Tank Cleanup Fund created under Section 19-6-405.7.

2443 Section 45. Section **19-6-425** is amended to read:

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2444 19-6-425. Violation of part -- Civil penalty -- Civil action. 2445 (1) Except as provided in Section 19-6-407, any person who violates any requirement 2446 of this part or any order issued or rule made under the authority of this part is subject to a civil 2447 penalty of not more than \$10,000 per day for each day of violation. (2) (a) The director may enforce any requirement, rule, agreement, or order issued 2448 under this part by bringing [a suit in the district court] an action in a court with jurisdiction 2449 2450 under Title 78A, Judiciary and Judicial Administration. 2451 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall 2452 bring an action in the county where the underground storage tank or petroleum storage tank is 2453 located if the director brings the action in the district court. (3) The department shall deposit the penalties collected under this part in the 2454 2455 Petroleum Storage Tank Restricted Account created under Section 19-6-405.5. 2456 Section 46. Section **19-6-804** is amended to read: 19-6-804. Restrictions on disposal and transfer of tires -- Penalties. 2457 (1) (a) An individual, including a waste tire transporter, may not transfer for temporary 2458 2459 storage more than 12 whole tires at one time to a landfill or other location in the state 2460 authorized by the director to receive waste tires, except for purposes authorized by board rule. 2461 (b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter greater than 24.5 inches. 2462 (c) A person, including a waste tire transporter, may not dispose of waste tires or store 2463 2464 waste tires in any manner not allowed under this part or rules made under this part. 2465 (2) The operator of the landfill or other authorized location shall direct that the waste tires be stored in a designated area to facilitate retrieval if a market becomes available for the 2466 2467 disposed waste tires or material derived from waste tires. 2468 (3) An individual, including a waste tire transporter, may dispose of shredded waste 2469 tires in a landfill in accordance with Section 19-6-812, and may also, without reimbursement, 2470 dispose in a landfill materials derived from waste tires that do not qualify for reimbursement 2471 under Section 19-6-812, but the landfill shall dispose of the material in accordance with 2472 Section 19-6-812. 2473 (4) A tire retailer may only transfer ownership of a waste tire described in Subsection 2474 19-6-803(28)(b) to:

2475	(a) a person who purchases it for the person's own use and not for resale; or
2476	(b) a waste tire transporter that:
2477	(i) is registered in accordance with Section 19-6-806; and
2478	(ii) agrees to transport the tire to:
2479	(A) a tire retailer that sells the tire wholesale or retail; or
2480	(B) a recycler.
2481	(5) (a) (i) An individual, including a waste tire transporter, violating this section is
2482	subject to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or
2483	per passenger tire equivalent disposed of in violation of this section.
2484	(ii) A warning notice may be issued before taking further enforcement action under this
2485	Subsection (5).
2486	[(b) A civil proceeding to enforce this section and collect penalties under this section
2487	may be brought in the district court where the violation occurred by the director, the local
2488	health department, or the county attorney having jurisdiction over the location where the tires
2489	were disposed in violation of this section.]
2490	(b) The director, the local health department, or the county attorney with jurisdiction
2491	over the location where the tires were disposed in violation of this section, may bring an action
2492	to enforce this section and collect penalties in a court with jurisdiction under Title 78A,
2493	Judiciary and Judicial Administration.
2494	(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director, local
2495	health department, or county attorney shall bring an action described in Subsection (5)(b) in the
2496	county where the violation occurred if the action is brought in the district court.
2497	[(c)] (d) Penalties collected under this section shall be deposited $[in]$ <u>into</u> the fund.
2498	Section 47. Section <b>19-8-119</b> is amended to read:
2499	19-8-119. Apportionment or contribution.
2500	(1) Any party who incurs costs under a voluntary agreement entered into under this part
2501	in excess of the party's liability may seek contribution in an action in [district court] a court
2502	with jurisdiction under Title 78A, Judiciary and Judicial Administration, from any other party
2503	who is or may be liable under Subsection 19-6-302(21) or 19-6-402(27) for the excess costs
2504	after providing written notice to any other party that the party bringing the action has entered
2505	into a voluntary agreement and will incur costs.

2506	(2) In resolving claims made under Subsection (1), the court shall allocate costs using
2507	the standards in Subsection 19-6-310(2).
2508	Section 48. Section 23A-13-201 is amended to read:
2509	23A-13-201. Creation of a migratory bird production area.
2510	(1) (a) On or before July 1, 2022, an owner or owners of at least 500 contiguous acres
2511	of land in an unincorporated area may dedicate the land as a migratory bird production area by
2512	filing a notice of dedication with the county recorder of the county in which the land is located.
2513	(b) The notice of dedication shall contain:
2514	(i) the legal description of the land included within the migratory bird production area;
2515	(ii) the name of the owner or owners of the land included within the migratory bird
2516	production area; and
2517	(iii) an affidavit signed by each landowner that all of the land, except as provided by
2518	Subsection (2), within the migratory bird production area is:
2519	(A) actively managed for migratory bird:
2520	(I) production;
2521	(II) habitat; or
2522	(III) hunting; and
2523	(B) used for a purpose compatible with the purposes described in Subsection
2524	(1)(b)(iii)(A).
2525	(c) A person who files a notice of dedication under this section shall give a copy of the
2526	notice of dedication within 10 days of its filing to the legislative body of the county in which
2527	the migratory bird production area is located.
2528	(2) (a) The notice of dedication may designate land, the amount of which is less than
2529	1% of the total acreage within a migratory bird production area, upon which the landowner
2530	may build a structure described in Subsection 23A-13-302(1)(c).
2531	(b) (i) An owner may build or maintain a road, dike, or water control structure within
2532	the migratory bird production area.
2533	(ii) A road, dike, or water control structure is not considered a structure for purposes of
2534	Subsection (2)(a).
2535	(3) (a) Within 30 days of the day on which the county legislative body receives a copy
2536	of the notice of dedication under Subsection (1)(c), the county legislative body may bring an

2537	action in [district court] in a court with jurisdiction under Title 78A, Judiciary and Judicial
2538	Administration, to cancel or revise a migratory bird production area on the basis that an
2539	affidavit filed as part of the notice of dedication under Subsection (1)(b)(iii) is inaccurate.
2540	(b) In bringing the action, the county legislative body shall specify the portion of the
2541	migratory bird production area and the affidavit subject to the action.
2542	(c) In an action brought under this Subsection (3), the person who files an affidavit
2543	described in Subsection (3)(a) has the burden to prove by a preponderance of the evidence that
2544	the affidavit is accurate.
2545	(d) If the court cancels or revises a migratory bird production area, the person who filed
2546	the original notice of dedication shall file a revision notice with the county recorder reflecting
2547	the court's order.
2548	(4) In accordance with Section 23A-13-202, a person may at any time add land to a
2549	migratory bird production area created under this section.
2550	Section 49. Section <b>26B-3-1110</b> is amended to read:
2551	26B-3-1110. Revocation of license of assisted living facility Appointment of
2552	receiver.
2553	(1) (a) If the license of an assisted living facility is revoked for violation of this part,
2554	the county attorney may [file a petition with the district court for the county in which the
2555	facility is located] bring a petition in a court with jurisdiction under Title 78A, Judiciary and
2556	Judicial Administration, for the appointment of a receiver.
2557	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall
2558	bring the petition in the county in which the facility is located if the person brings the petition
2559	in the district court.
2560	(2) The [district] court shall issue an order to show cause why a receiver should not be
2561	appointed returnable within five days after the filing of the petition.
2562	(3) (a) If the court finds that the facts warrant the granting of the petition, the court
2563	shall appoint a receiver to take charge of the facility.
2564	(b) The court may determine fair compensation for the receiver.
2565	(4) A receiver appointed pursuant to this section shall have the powers and duties
2566	prescribed by the court.
2567	Section 50. Section <b>26B-3-1114</b> is amended to read:

2568	26B-3-1114. Investigations Civil investigative demands.
2569	(1) The attorney general may take investigative action under Subsection (2) if the
2570	attorney general has reason to believe that:
2571	(a) a person has information or custody or control of documentary material relevant to
2572	the subject matter of an investigation of an alleged violation of this part;
2573	(b) a person is committing, has committed, or is about to commit a violation of this
2574	part; or
2575	(c) it is in the public interest to conduct an investigation to ascertain whether or not a
2576	person is committing, has committed, or is about to commit a violation of this part.
2577	(2) In taking investigative action, the attorney general may:
2578	(a) require the person to file on a prescribed form a statement in writing, under oath or
2579	affirmation describing:
2580	(i) the facts and circumstances concerning the alleged violation of this part; and
2581	(ii) other information considered necessary by the attorney general;
2582	(b) examine under oath a person in connection with the alleged violation of this part;
2583	and
2584	(c) in accordance with Subsections (7) through (18), execute in writing, and serve on
2585	the person, a civil investigative demand requiring the person to produce the documentary
2586	material and permit inspection and copying of the material.
2587	(3) The attorney general may not release or disclose information that is obtained under
2588	Subsection (2)(a) or (b), or any documentary material or other record derived from the
2589	information obtained under Subsection (2)(a) or (b), except:
2590	(a) by court order for good cause shown;
2591	(b) with the consent of the person who provided the information;
2592	(c) to an employee of the attorney general or the department;
2593	(d) to an agency of this state, the United States, or another state;
2594	(e) to a special assistant attorney general representing the state in a civil action;
2595	(f) to a political subdivision of this state; or
2596	(g) to a person authorized by the attorney general to receive the information.
2597	(4) The attorney general may use documentary material derived from information
2598	obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general

2599	determines necessary in the enforcement of this part, including presentation before a court.
2600	(5) (a) If a person fails to file a statement as required by Subsection (2)(a) or fails to
2601	submit to an examination as required by Subsection (2)(b), the attorney general may [file in
2602	district court] bring in a court with jurisdiction under Title 78A, Judiciary and Judicial
2603	Administration, a complaint for an order to compel the person to within a period stated by
2604	court order:
2605	(i) file the statement required by Subsection (2)(a); or
2606	(ii) submit to the examination required by Subsection (2)(b).
2607	(b) Failure to comply with an order entered under Subsection (5)(a) is punishable as
2608	contempt.
2609	(6) A civil investigative demand shall:
2610	(a) state the rule or statute under which the alleged violation of this part is being
2611	investigated;
2612	(b) describe the:
2613	(i) general subject matter of the investigation; and
2614	(ii) class or classes of documentary material to be produced with reasonable specificity
2615	to fairly indicate the documentary material demanded;
2616	(c) designate a date within which the documentary material is to be produced; and
2617	(d) identify an authorized employee of the attorney general to whom the documentary
2618	material is to be made available for inspection and copying.
2619	(7) A civil investigative demand may require disclosure of any documentary material
2620	that is discoverable under the Utah Rules of Civil Procedure.
2621	(8) Service of a civil investigative demand may be made by:
2622	(a) delivering an executed copy of the demand to the person to be served or to a
2623	partner, an officer, or an agent authorized by appointment or by law to receive service of
2624	process on behalf of that person;
2625	(b) delivering an executed copy of the demand to the principal place of business in this
2626	state of the person to be served; or
2627	(c) mailing by registered or certified mail an executed copy of the demand addressed to
2628	the person to be served:

2629 (i) at the person's principal place of business in this state; or

<ul> <li>place of business.</li> <li>(9) Documentary material demanded in a civil investigative demand shall be produce</li> <li>for inspection and copying during normal business hours at the office of the attorney general</li> <li>as agreed by the person served and the attorney general.</li> <li>(10) The attorney general may not produce for inspection or copying or otherwise</li> <li>disclose the contents of documentary material obtained pursuant to a civil investigative dema</li> <li>except:</li> <li>(a) by court order for good cause shown;</li> <li>(b) with the consent of the person who produced the information;</li> </ul>	e or
<ul> <li>for inspection and copying during normal business hours at the office of the attorney general as agreed by the person served and the attorney general.</li> <li>(10) The attorney general may not produce for inspection or copying or otherwise disclose the contents of documentary material obtained pursuant to a civil investigative dema except:</li> <li>(a) by court order for good cause shown;</li> </ul>	
<ul> <li>as agreed by the person served and the attorney general.</li> <li>(10) The attorney general may not produce for inspection or copying or otherwise</li> <li>disclose the contents of documentary material obtained pursuant to a civil investigative dema</li> <li>except:</li> <li>(a) by court order for good cause shown;</li> </ul>	ced
<ul> <li>2635 (10) The attorney general may not produce for inspection or copying or otherwise</li> <li>2636 disclose the contents of documentary material obtained pursuant to a civil investigative dema</li> <li>2637 except:</li> <li>2638 (a) by court order for good cause shown;</li> </ul>	ıl or
<ul> <li>2636 disclose the contents of documentary material obtained pursuant to a civil investigative dema</li> <li>2637 except:</li> <li>2638 (a) by court order for good cause shown;</li> </ul>	
<ul> <li>2637 except:</li> <li>2638 (a) by court order for good cause shown;</li> </ul>	
2638 (a) by court order for good cause shown;	nand
(b) with the consent of the person who produced the information:	
2640 (c) to an employee of the attorney general or the department;	
2641 (d) to an agency of this state, the United States, or another state;	
(e) to a special assistant attorney general representing the state in a civil action;	
2643 (f) to a political subdivision of this state; or	
2644 (g) to a person authorized by the attorney general to receive the information.	
2645 (11) (a) With respect to documentary material obtained pursuant to a civil investigat	tive
2646 demand, the attorney general shall prescribe reasonable terms and conditions allowing such	
2647 documentary material to be available for inspection and copying by the person who produced	ed
the material or by an authorized representative of that person.	
(b) The attorney general may use such documentary material or copies of it as the	
2650 attorney general determines necessary in the enforcement of this part, including presentation	n
2651 before a court.	
2652 (12) (a) A person may file a complaint, stating good cause, to extend the return date	e for
the demand or to modify or set aside the demand.	
2654 (b) A complaint under this Subsection (12) shall be filed in [district] court before the	ne
2655 earlier of:	
2656 (i) the return date specified in the demand; or	
(ii) the 20th day after the date the demand is served.	
2658 (13) Except as provided by court order, a person who has been served with a civil	
investigative demand shall comply with the terms of the demand.	
2660 (14) (a) A person who has committed a violation of this part in relation to the Medic	caid

2661	program in this state or to any other medical benefit program administered by the state has
2662	submitted to the jurisdiction of this state.
2663	(b) Personal service of a civil investigative demand under this section may be made on
2664	the person described in Subsection (14)(a) outside of this state.
2665	(15) This section does not limit the authority of the attorney general to conduct
2666	investigations or to access a person's documentary materials or other information under another
2667	state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.
2668	(16) The attorney general may [file a complaint in district court] bring a complaint in a
2669	court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order to
2670	enforce the civil investigative demand if:
2671	(a) a person fails to comply with a civil investigative demand; or
2672	(b) copying and reproduction of the documentary material demanded:
2673	(i) cannot be satisfactorily accomplished; and
2674	(ii) the person refuses to surrender the documentary material.
2675	(17) If a complaint is filed under Subsection (16), the court may determine the matter
2676	presented and may enter an order to enforce the civil investigative demand.
2677	(18) Failure to comply with a final order entered under Subsection (17) is punishable
2678	by contempt.
2679	Section 51. Section <b>26B-3-1115</b> is amended to read:
2680	26B-3-1115. Limitation of actions Civil acts antedating this section Civil
2681	burden of proof Estoppel Joint civil liability Venue.
2682	(1) An action under this part may not be brought after the later of:
2683	(a) six years after the date on which the violation was committed; or
2684	(b) three years after the date an official of the state charged with responsibility to act in
2685	the circumstances discovers the violation, but in no event more than 10 years after the date on
2686	which the violation was committed.
2687	(2) A civil action brought under this part may be brought for acts occurring prior to the
2688	effective date of this section if the limitations period set forth in Subsection (1) has not lapsed.
2689	(3) In any civil action brought under this part the state shall be required to prove by a
2690	preponderance of evidence, all essential elements of the cause of action including damages.
2691	(4) Notwithstanding any other provision of law, a final judgment rendered in favor of

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2692	the state in any criminal proceeding under this part, whether upon a verdict after trial or upon a
2693	plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements
2694	of the offense in any civil action under this part which involves the same transaction.
2695	(5) Civil liability under this part shall be joint and several for a violation committed by
2696	two or more persons.
2697	(6) A person shall bring an action under this part:
2698	(a) in Salt Lake County; or
2699	(b) in accordance with Title 78A, Chapter 3a, Venue for Civil Actions.
2700	[(6) Any action brought by the state under this part shall be brought in district court in
2701	Salt Lake County or in any county where the defendant resides or does business.]
2702	Section 52. Section <b>31A-22-305</b> is amended to read:
2703	31A-22-305. Uninsured motorist coverage.
2704	(1) As used in this section, "covered persons" includes:
2705	(a) the named insured;
2706	(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor
2707	children;
2708	(c) persons related to the named insured by blood, marriage, adoption, or guardianship,
2709	who are residents of the named insured's household, including those who usually make their
2710	home in the same household but temporarily live elsewhere;
2711	(d) any person occupying or using a motor vehicle:
2712	(i) referred to in the policy; or
2713	(ii) owned by a self-insured; and
2714	(e) any person who is entitled to recover damages against the owner or operator of the
2715	uninsured or underinsured motor vehicle because of bodily injury to or death of persons under
2716	Subsection (1)(a), (b), (c), or (d).
2717	(2) As used in this section, "uninsured motor vehicle" includes:
2718	(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
2719	under a liability policy at the time of an injury-causing occurrence; or
2720	(ii) (A) a motor vehicle covered with lower liability limits than required by Section
2721	31A-22-304; and
2722	(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of

the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately causedby the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is
disputed by the liability insurer for more than 60 days or continues to be disputed for more than
60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer ofthe motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extentthat the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides
coverage for covered persons who are legally entitled to recover damages from owners or
operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured
motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
liability coverage or the maximum uninsured motorist coverage limits available by the insurer
under the named insured's motor vehicle policy, unless a named insured rejects or purchases
coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

2743 (iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage
provides benefits or protection to you and other covered persons for bodily injury resulting
from an accident caused by the fault of another party where the other party has no liability
insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist
coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
liability coverage or the maximum uninsured motorist coverage limits available by the insurer
under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of theliability coverage until the insured requests, in writing, a change of uninsured motorist

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2754	coverage from that liability insurer.
2755	(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after
2756	January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
2757	arbitration or filed a complaint in a court of competent jurisdiction.
2758	(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)
2759	clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.
2760	(d) For purposes of this Subsection (4), "new policy" means:
2761	(i) any policy that is issued which does not include a renewal or reinstatement of an
2762	existing policy; or
2763	(ii) a change to an existing policy that results in:
2764	(A) a named insured being added to or deleted from the policy; or
2765	(B) a change in the limits of the named insured's motor vehicle liability coverage.
2766	(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
2767	that increases the total number of vehicles insured by the policy, and does not include
2768	replacement, substitute, or temporary vehicles.
2769	(ii) The adding of an additional motor vehicle to an existing personal lines or
2770	commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).
2771	(iii) If an additional motor vehicle is added to a personal lines policy where uninsured
2772	motorist coverage has been rejected, or where uninsured motorist limits are lower than the
2773	named insured's motor vehicle liability limits, the insurer shall provide a notice to a named
2774	insured within 30 days that:
2775	(A) in the same manner as described in Subsection $(4)(a)(iv)$ , explains the purpose of
2776	uninsured motorist coverage; and
2777	(B) encourages the named insured to contact the insurance company or insurance
2778	producer for quotes as to the additional premiums required to purchase uninsured motorist
2779	coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
2780	liability coverage or the maximum uninsured motorist coverage limits available by the insurer
2781	under the named insured's motor vehicle policy.
2782	(f) A change in policy number resulting from any policy change not identified under
2783	Subsection (4)(d)(ii) does not constitute a new policy.
2784	(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,

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2785 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration 2786 or filed a complaint in a court of competent jurisdiction. 2787 (ii) The Legislature finds that the retroactive application of Subsection (4): 2788 (A) does not enlarge, eliminate, or destroy vested rights; and 2789 (B) clarifies legislative intent. 2790 (h) A self-insured, including a governmental entity, may elect to provide uninsured 2791 motorist coverage in an amount that is less than its maximum self-insured retention under 2792 Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from 2793 the chief financial officer or chief risk officer that declares the: 2794 (i) self-insured entity's coverage level; and 2795 (ii) process for filing an uninsured motorist claim. 2796 (i) Uninsured motorist coverage may not be sold with limits that are less than the 2797 minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304. (i) The acknowledgment under Subsection (4)(a) continues for that issuer of the 2798 2799 uninsured motorist coverage until the named insured requests, in writing, different uninsured 2800 motorist coverage from the insurer. 2801 (k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for 2802 policies existing on that date, the insurer shall disclose in the same medium as the premium 2803 renewal notice, an explanation of: 2804 (A) the purpose of uninsured motorist coverage in the same manner as described in 2805 Subsection (4)(a)(iv); and 2806 (B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle 2807 2808 liability coverage or the maximum uninsured motorist coverage limits available by the insurer 2809 under the named insured's motor vehicle policy. 2810 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named 2811 insureds that carry uninsured motorist coverage limits in an amount less than the named 2812 insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage 2813 limits available by the insurer under the named insured's motor vehicle policy. 2814 (1) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in 2815 a household constitutes notice or disclosure to all insureds within the household.

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- (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject
  uninsured motorist coverage by an express writing to the insurer that provides liability
  coverage under Subsection 31A-22-302(1)(a).
- (ii) This rejection shall be on a form provided by the insurer that includes a reasonableexplanation of the purpose of uninsured motorist coverage.
- (iii) This rejection continues for that issuer of the liability coverage until the insured inwriting requests uninsured motorist coverage from that liability insurer.
- (b) (i) All persons, including governmental entities, that are engaged in the business of,
  or that accept payment for, transporting natural persons by motor vehicle, and all school
  districts that provide transportation services for their students, shall provide coverage for all
  motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
  uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.
- (ii) This coverage is secondary to any other insurance covering an injured coveredperson.
- 2830

(c) Uninsured motorist coverage:

- (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
  Compensation Act, except that the covered person is credited an amount described in
  Subsection 34A-2-106(5);
- (ii) may not be subrogated by the workers' compensation insurance carrier, workers'
  compensation insurance, uninsured employer, the Uninsured Employers Fund created in
  Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;
- (iii) may not be reduced by any benefits provided by workers' compensation insurance,
  uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the
  Employers' Reinsurance Fund created in Section 34A-2-702;
- (iv) notwithstanding Subsection 31A-1-103(3)(f), may be reduced by health insurance
  subrogation only after the covered person has been made whole;
- 2842 (v) may not be collected for bodily injury or death sustained by a person:
- 2843 (A) while committing a violation of Section 41-1a-1314;
- (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operatedin violation of Section 41-1a-1314; or
- 2846 (C) while committing a felony; and

2847 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years old who is injured within the scope of Subsection
(5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured
within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as underSection 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection
(2)(b) proximately caused an accident without touching the covered person or the motor
vehicle occupied by the covered person, the covered person shall show the existence of the
uninsured motor vehicle by clear and convincing evidence consisting of more than the covered
person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor
vehicles may not be added together, combined, or stacked to determine the limit of insurance
coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined underSubsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest
limits of uninsured motorist coverage afforded for any one motor vehicle that the covered
person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the coveredperson is occupying.

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(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary
coverage, and the coverage elected by a person described under Subsections (1)(a) through (c)
shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury,
sickness, disease, or death of covered persons while occupying or using a motor vehicle only if
the motor vehicle is described in the policy under which a claim is made, or if the motor
vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.
Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a

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2878 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to 2879 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy 2880 under which the person is a covered person. 2881 (b) Each of the following persons may also recover uninsured motorist benefits under 2882 any one other policy in which they are described as a "covered person" as defined in Subsection 2883 (1): 2884 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and 2885 (ii) except as provided in Subsection (8)(c), a covered person injured while occupying 2886 or using a motor vehicle that is not owned, leased, or furnished: 2887 (A) to the covered person; 2888 (B) to the covered person's spouse; or 2889 (C) to the covered person's resident parent or resident sibling. 2890 (c) (i) A covered person may recover benefits from no more than two additional 2891 policies, one additional policy from each parent's household if the covered person is: 2892 (A) a dependent minor of parents who reside in separate households; and 2893 (B) injured while occupying or using a motor vehicle that is not owned, leased, or 2894 furnished: 2895 (I) to the covered person; 2896 (II) to the covered person's resident parent; or 2897 (III) to the covered person's resident sibling. 2898 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of 2899 the damages that the limit of liability of each parent's policy of uninsured motorist coverage 2900 bears to the total of both parents' uninsured coverage applicable to the accident. 2901 (d) A covered person's recovery under any available policies may not exceed the full 2902 amount of damages. 2903 (e) A covered person in Subsection (8)(b) is not barred against making subsequent 2904 elections if recovery is unavailable under previous elections. 2905 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a 2906 single incident of loss under more than one insurance policy. 2907 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8), 2908 interpolicy stacking is prohibited for uninsured motorist coverage.

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- (9) (a) When a claim is brought by a named insured or a person described in
  Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the
  claimant may elect to resolve the claim:
- 2912 (i) by submitting the claim to binding arbitration; or
- 2913 (ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),
the claimant may not elect to resolve the claim through binding arbitration under this section
without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in
Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the
claim is considered filed when the claimant submits the claim to binding arbitration in
accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

- 2928 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).
- (iii) If the parties are unable to agree on a single arbitrator as required under Subsection(9)(e)(ii), the parties shall select a panel of three arbitrators.
- 2931 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):
- (i) each side shall select one arbitrator; and
- (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additionalarbitrator to be included in the panel.
- 2935

(g) Unless otherwise agreed to in writing:

- (i) each party shall pay an equal share of the fees and costs of the arbitrator selectedunder Subsection (9)(e)(i); or
- 2938 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):
- 2939 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

2940 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected 2941 under Subsection (9)(f)(ii). 2942 (h) Except as otherwise provided in this section or unless otherwise agreed to in 2943 writing by the parties, an arbitration proceeding conducted under this section shall be governed 2944 by Title 78B, Chapter 11, Utah Uniform Arbitration Act. 2945 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 2946 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of 2947 Subsections (10)(a) through (c) are satisfied. 2948 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure 2949 shall be determined based on the claimant's specific monetary amount in the written demand 2950 for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A). 2951 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to 2952 arbitration claims under this part. 2953 (i) All issues of discovery shall be resolved by the arbitrator or the arbitration panel. 2954 (k) A written decision by a single arbitrator or by a majority of the arbitration panel 2955 shall constitute a final decision. 2956 (1) (i) Except as provided in Subsection (10), the amount of an arbitration award may 2957 not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies. 2958 including applicable uninsured motorist umbrella policies. 2959 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all 2960 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount 2961 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist 2962 policies. 2963 (m) The arbitrator or arbitration panel may not decide the issues of coverage or 2964 extra-contractual damages, including: 2965 (i) whether the claimant is a covered person; 2966 (ii) whether the policy extends coverage to the loss; or 2967 (iii) any allegations or claims asserting consequential damages or bad faith liability. 2968 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or 2969 class-representative basis.

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(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued,

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2971	or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
2972	and costs against the party that failed to bring, pursue, or defend the claim in good faith.
2973	(p) An arbitration award issued under this section shall be the final resolution of all
2974	claims not excluded by Subsection (9)(m) between the parties unless:
2975	(i) the award was procured by corruption, fraud, or other undue means; and
2976	(ii) [either party,] within 20 days after service of the arbitration award, a party:
2977	(A) files a complaint requesting a trial de novo in [the district court] a court with
2978	jurisdiction under Title 78A, Judiciary and Judicial Administration; and
2979	(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
2980	under Subsection (9)(p)(ii)(A).
2981	(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim
2982	shall proceed through litigation [pursuant to] in accordance with the Utah Rules of Civil
2983	Procedure and Utah Rules of Evidence [in the district court].
2984	(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, [either] a party may
2985	request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).
2986	(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
2987	(9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
2988	arbitration award, the claimant is responsible for all of the nonmoving party's costs.
2989	(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested
2990	under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration
2991	award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.
2992	(iii) Except as provided in Subsection $(9)(r)(iv)$ , the costs under this Subsection $(9)(r)$
2993	shall include:
2994	(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
2995	(B) the costs of expert witnesses and depositions.
2996	(iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless
2997	Subsection (10)(h)(iii) applies.
2998	(s) For purposes of determining whether a party's verdict is greater or less than the
2999	arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief
3000	granted on a claim for damages if the claim for damages:
3001	(i) was not fully disclosed in writing prior to the arbitration proceeding; or

3002 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil 3003 Procedure. 3004 (t) If a [district] court determines, upon a motion of the nonmoving party, that the 3005 moving party's use of the trial de novo process was filed in bad faith in accordance with 3006 Section 78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving 3007 party. 3008 (u) Nothing in this section is intended to limit any claim under any other portion of an 3009 applicable insurance policy. 3010 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the 3011 claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist 3012 carriers. 3013 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured 3014 motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier: 3015 3016 (i) a written demand for payment of uninsured motorist coverage benefits, setting forth: 3017 (A) subject to Subsection (10)(1), the specific monetary amount of the demand, 3018 including a computation of the covered person's claimed past medical expenses, claimed past 3019 lost wages, and the other claimed past economic damages; and 3020 (B) the factual and legal basis and any supporting documentation for the demand; 3021 (ii) a written statement under oath disclosing: 3022 (A) (I) the names and last known addresses of all health care providers who have 3023 rendered health care services to the covered person that are material to the claims for which 3024 uninsured motorist benefits are sought for a period of five years preceding the date of the event 3025 giving rise to the claim for uninsured motorist benefits up to the time the election for 3026 arbitration or litigation has been exercised; and 3027 (II) the names and last known addresses of the health care providers who have rendered 3028 health care services to the covered person, which the covered person claims are immaterial to 3029 the claims for which uninsured motorist benefits are sought, for a period of five years 3030 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the 3031 time the election for arbitration or litigation has been exercised that have not been disclosed 3032 under Subsection (10)(a)(ii)(A)(I);

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- 3033 (B) (I) the names and last known addresses of all health insurers or other entities to 3034 whom the covered person has submitted claims for health care services or benefits material to 3035 the claims for which uninsured motorist benefits are sought, for a period of five years 3036 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the 3037 time the election for arbitration or litigation has been exercised; and
- 3038 (II) the names and last known addresses of the health insurers or other entities to whom 3039 the covered person has submitted claims for health care services or benefits, which the covered 3040 person claims are immaterial to the claims for which uninsured motorist benefits are sought, 3041 for a period of five years preceding the date of the event giving rise to the claim for uninsured 3042 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;
- 3043 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all 3044 employers of the covered person for a period of five years preceding the date of the event 3045 giving rise to the claim for uninsured motorist benefits up to the time the election for 3046 arbitration or litigation has been exercised;
- 3047

(D) other documents to reasonably support the claims being asserted; and

- 3048 (E) all state and federal statutory lienholders including a statement as to whether the
  3049 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
  3050 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health
  3051 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and
- 3052 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain records
  3053 and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I),
  3054 (B)(I), and (C).
- 3055 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed
  3056 health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably
  3057 necessary, the uninsured motorist carrier may:
- 3058 (A) make a request for the disclosure of the identity of the health care providers or3059 health care insurers; and
- 3060 (B) make a request for authorizations to allow the uninsured motorist carrier to only3061 obtain records and billings from the individuals or entities not disclosed.
- 3062
- (ii) If the covered person does not provide the requested information within 10 days:
- 3063 (A) the covered person shall disclose, in writing, the legal or factual basis for the

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3064 failure to disclose the health care providers or health care insurers; and

3065 (B) either the covered person or the uninsured motorist carrier may request the 3066 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be 3067 provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of
the dispute concerning the disclosure and production of records of the health care providers or
health care insurers.

3071 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice
3072 of filing litigation and the demand for payment of uninsured motorist benefits under Subsection
3073 (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and
3074 receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

3075 (A) provide a written response to the written demand for payment provided for in
3076 Subsection (10)(a)(i);

3077 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the 3078 uninsured motorist carrier's determination of the amount owed to the covered person; and

3079 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
3080 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah
3081 Children's Health Insurance Program, or if the claim is subject to any other state or federal
3082 statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of
3083 the amount owed to the covered person less:

3084 (I) if the amount of the state or federal statutory lien is established, the amount of the3085 lien; or

3086 (II) if the amount of the state or federal statutory lien is not established, two times the 3087 amount of the medical expenses subject to the state or federal statutory lien until such time as 3088 the amount of the state or federal statutory lien is established.

3089 (ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i)
3090 is the total amount of the uninsured motorist policy limits, the tendered amount shall be
3091 accepted by the covered person.

3092 (d) A covered person who receives a written response from an uninsured motorist
3093 carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all

3095 uninsured motorist claims; or 3096 (ii) elect to: 3097 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all 3098 uninsured motorist claims; and 3099 (B) continue to litigate or arbitrate the remaining claim in accordance with the election 3100 made under Subsections (9)(a) through (c). 3101 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)3102 as partial payment of all uninsured motorist claims, the final award obtained through 3103 arbitration, litigation, or later settlement shall be reduced by any payment made by the 3104 uninsured motorist carrier under Subsection (10)(c)(i). 3105 (f) In an arbitration proceeding on the remaining uninsured claims: 3106 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid 3107 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and 3108 (ii) the parties may not disclose the amount of the limits of uninsured motorist benefits 3109 provided by the policy. 3110 (g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection 3111 3112 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in 3113 Subsection (10)(c)(i), the uninsured motorist carrier shall pay: 3114 (i) the final award obtained through arbitration or litigation, except that if the award 3115 exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the 3116 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and 3117 (ii) any of the following applicable costs: 3118 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure; 3119 (B) the arbitrator or arbitration panel's fee; and 3120 (C) the reasonable costs of expert witnesses and depositions used in the presentation of 3121 evidence during arbitration or litigation. 3122 (h) (i) The covered person shall provide an affidavit of costs within five days of an 3123 arbitration award. 3124 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to 3125 which the uninsured motorist carrier objects.

3126 (B) The objection shall be resolved by the arbitrator or arbitration panel. 3127 (iii) The award of costs by the arbitrator or arbitration panel under Subsection 3128 (10)(g)(ii) may not exceed \$5,000. 3129 (i) (i) A covered person shall disclose all material information, other than rebuttal 3130 evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist 3131 coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a). 3132 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g). 3133 3134 (j) This Subsection (10) does not limit any other cause of action that arose or may arise 3135 against the uninsured motorist carrier from the same dispute. 3136 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that 3137 occur on or after March 30, 2010. (1) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect 3138 3139 the covered person's requirement to provide a computation of any other economic damages 3140 claimed, and the one or more respondents shall have a reasonable time after the receipt of the 3141 computation of any other economic damages claimed to conduct fact and expert discovery as to 3142 any additional damages claimed. 3143 (B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and 3144 Chapter 300, Section 10, to this Subsection (10)(1) and Subsection (10)(a)(i)(A) apply to a 3145 claim submitted to binding arbitration or through litigation on or after May 13, 2014. (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 3146 3147 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to 3148 binding arbitration or through litigation on or after May 13, 2014. 3149 (11) (a) A person shall commence an action on a written policy or contract for 3150 uninsured motorist coverage within four years after the inception of loss. 3151 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by 3152 Subsection 31A-21-313(1)(a) as of May 14, 2019. 3153 Section 53. Section 31A-22-305.3 is amended to read: 3154 31A-22-305.3. Underinsured motorist coverage. 3155 (1) As used in this section: 3156 (a) "Covered person" has the same meaning as defined in Section 31A-22-305.

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3157	(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,
3158	maintenance, or use of which is covered under a liability policy at the time of an injury-causing
3159	occurrence, but which has insufficient liability coverage to compensate fully the injured party
3160	for all special and general damages.
3161	(ii) The term "underinsured motor vehicle" does not include:
3162	(A) a motor vehicle that is covered under the liability coverage of the same policy that
3163	also contains the underinsured motorist coverage;
3164	(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or
3165	(C) a motor vehicle owned or leased by:
3166	(I) a named insured;
3167	(II) a named insured's spouse; or
3168	(III) a dependent of a named insured.
3169	(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides
3170	coverage for a covered person who is legally entitled to recover damages from an owner or
3171	operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.
3172	(b) A covered person occupying or using a motor vehicle owned, leased, or furnished
3173	to the covered person, the covered person's spouse, or covered person's resident relative may
3174	recover underinsured benefits only if the motor vehicle is:
3175	(i) described in the policy under which a claim is made; or
3176	(ii) a newly acquired or replacement motor vehicle covered under the terms of the
3177	policy.
3178	(3) (a) For purposes of this Subsection (3), "new policy" means:
3179	(i) any policy that is issued that does not include a renewal or reinstatement of an
3180	existing policy; or
3181	(ii) a change to an existing policy that results in:
3182	(A) a named insured being added to or deleted from the policy; or
3183	(B) a change in the limits of the named insured's motor vehicle liability coverage.
3184	(b) For new policies written on or after January 1, 2001, the limits of underinsured
3185	motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
3186	liability coverage or the maximum underinsured motorist coverage limits available by the
3187	insurer under the named insured's motor vehicle policy, unless a named insured rejects or

3188 purchases coverage in a lesser amount by signing an acknowledgment form that:

- (i) is filed with the department;
- 3190 (ii) is provided by the insurer;
- 3191 (iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage
provides benefits or protection to you and other covered persons for bodily injury resulting
from an accident caused by the fault of another party where the other party has insufficient
liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist
coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
liability coverage or the maximum underinsured motorist coverage limits available by the
insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the
 liability coverage until the insured requests, in writing, a change of underinsured motorist
 coverage from that liability insurer.

3203 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after
3204 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
3205 arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)
clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change
that increases the total number of vehicles insured by the policy, and does not include
replacement, substitute, or temporary vehicles.

3211 (ii) The adding of an additional motor vehicle to an existing personal lines or
3212 commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where
underinsured motorist coverage has been rejected, or where underinsured motorist limits are
lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice
to a named insured within 30 days that:

3217 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of3218 underinsured motorist coverage; and

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- 3219 (B) encourages the named insured to contact the insurance company or insurance 3220 producer for quotes as to the additional premiums required to purchase underinsured motorist 3221 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle 3222 liability coverage or the maximum underinsured motorist coverage limits available by the 3223 insurer under the named insured's motor vehicle policy. 3224 (f) A change in policy number resulting from any policy change not identified under 3225 Subsection (3)(a)(ii) does not constitute a new policy. 3226 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1. 3227 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or 3228 filed a complaint in a court of competent jurisdiction. 3229 (ii) The Legislature finds that the retroactive application of Subsection (3)(a): 3230 (A) does not enlarge, eliminate, or destroy vested rights; and 3231 (B) clarifies legislative intent. 3232 (h) A self-insured, including a governmental entity, may elect to provide underinsured 3233 motorist coverage in an amount that is less than its maximum self-insured retention under 3234 Subsections (3)(b) and (1) by issuing a declaratory memorandum or policy statement from the 3235 chief financial officer or chief risk officer that declares the: 3236 (i) self-insured entity's coverage level: and 3237 (ii) process for filing an underinsured motorist claim.
- 3238 (i) Underinsured motorist coverage may not be sold with limits that are less than:
- 3239 (i) \$10,000 for one person in any one accident; and
- 3240 (ii) at least \$20,000 for two or more persons in any one accident.
- (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the
   underinsured motorist coverage until the named insured, in writing, requests different
   underinsured motorist coverage from the insurer.
- (k) (i) The named insured's underinsured motorist coverage, as described in Subsection
  (2), is secondary to the liability coverage of an owner or operator of an underinsured motor
  vehicle, as described in Subsection (1).
- (ii) Underinsured motorist coverage may not be set off against the liability coverage of
  the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,
  or stacked upon the liability coverage of the owner or operator of the underinsured motor

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3250 vehicle to determine the limit of coverage available to the injured person.

(1) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
policies existing on that date, the insurer shall disclose in the same medium as the premium
renewal notice, an explanation of:

3254 (A) the purpose of underinsured motorist coverage in the same manner as described in
3255 Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist
coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
liability coverage or the maximum underinsured motorist coverage limits available by the
insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named
insureds that carry underinsured motorist coverage limits in an amount less than the named
insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage
limits available by the insurer under the named insured's motor vehicle policy.

3264 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured3265 in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a
motor vehicle described in a policy that includes underinsured motorist benefits may not elect
to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor
vehicles may not be added together, combined, or stacked to determine the limit of insurance
coverage available to an injured person for any one accident.

3272 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described
3273 under Subsections (4)(b)(i) and (ii).

3274 (b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may
3275 recover underinsured motorist benefits under any one other policy in which they are described
3276 as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while
occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
covered person, the covered person's spouse, or the covered person's resident parent or resident
sibling, may also recover benefits under any one other policy under which the covered person is

also a covered person.

- 3282 (iii) (A) A covered person may recover benefits from no more than two additional
  3283 policies, one additional policy from each parent's household if the covered person is:
- 3284 (I) a dependent minor of parents who reside in separate households; and
- (II) injured while occupying or using a motor vehicle that is not owned, leased, or
  furnished to the covered person, the covered person's resident parent, or the covered person's
  resident sibling.
- 3288 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the 3289 percentage of the damages that the limit of liability of each parent's policy of underinsured 3290 motorist coverage bears to the total of both parents' underinsured coverage applicable to the 3291 accident.
- 3292 (iv) A covered person's recovery under any available policies may not exceed the full3293 amount of damages.
- (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
  primary coverage, and the coverage elected by a person described under Subsections
  31A-22-305(1)(a), (b), and (c) is secondary coverage.
- 3297

(vi) The primary and the secondary coverage may not be set off against the other.

- (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
  highest limits of underinsured motorist coverage under only one additional policy per
  household applicable to that covered person as a named insured, spouse, or relative.
- (viii) A covered injured person is not barred against making subsequent elections if
   recovery is unavailable under previous elections.
- 3303 (ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a
  3304 single incident of loss under more than one insurance policy.
- 3305 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is3306 prohibited for underinsured motorist coverage.
- 3307 (c) Underinsured motorist coverage:
- (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
  Compensation Act, except that the covered person is credited an amount described in
  Subsection 34A-2-106(5);
- 3311 (ii) may not be subrogated by a workers' compensation insurance carrier, workers'

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3312	compensation insurance, uninsured employer, the Uninsured Employers Fund created in
3313	Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;
3314	(iii) may not be reduced by benefits provided by workers' compensation insurance,
3315	uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the
3316	Employers' Reinsurance Fund created in Section 34A-2-702;
3317	(iv) notwithstanding Subsection 31A-1-103(3)(f) may be reduced by health insurance
3318	subrogation only after the covered person is made whole;
3319	(v) may not be collected for bodily injury or death sustained by a person:
3320	(A) while committing a violation of Section 41-1a-1314;
3321	(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
3322	in violation of Section 41-1a-1314; or
3323	(C) while committing a felony; and
3324	(vi) notwithstanding Subsection (4)(c)(v), may be recovered:
3325	(A) for a person younger than 18 years old who is injured within the scope of
3326	Subsection (4)(c)(v), but is limited to medical and funeral expenses; or
3327	(B) by a law enforcement officer as defined in Section 53-13-103, who is injured
3328	within the course and scope of the law enforcement officer's duties.
3329	(5) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract
3330	for underinsured motorist coverage shall be commenced within four years after the inception of
3331	loss.
3332	(b) The inception of the loss under Subsection $31A-21-313(1)$ for underinsured
3333	motorist claims occurs upon the date of the settlement check representing the last liability
3334	policy payment.
3335	(6) An underinsured motorist insurer does not have a right of reimbursement against a
3336	person liable for the damages resulting from an injury-causing occurrence if the person's
3337	liability insurer has tendered the policy limit and the limits have been accepted by the claimant.
3338	(7) Except as otherwise provided in this section, a covered person may seek, subject to
3339	the terms and conditions of the policy, additional coverage under any policy:
3340	(a) that provides coverage for damages resulting from motor vehicle accidents; and
3341	(b) that is not required to conform to Section 31A-22-302.
3342	(8) (a) When a claim is brought by a named insured or a person described in

3343	Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
3344	carrier, the claimant may elect to resolve the claim:
3345	(i) by submitting the claim to binding arbitration; or
3346	(ii) through litigation.
3347	(b) Unless otherwise provided in the policy under which underinsured benefits are
3348	claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that
3349	if the policy under which insured benefits are claimed provides that either an insured or the
3350	insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
3351	arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).
3352	(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the
3353	claimant may not elect to resolve the claim through binding arbitration under this section
3354	without the written consent of the underinsured motorist coverage carrier.
3355	(d) For purposes of the statute of limitations applicable to a claim described in
3356	Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the
3357	claim is considered filed when the claimant submits the claim to binding arbitration in
3358	accordance with this Subsection (8).
3359	(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
3360	binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.
3361	(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).
3362	(iii) If the parties are unable to agree on a single arbitrator as required under Subsection
3363	(8)(e)(ii), the parties shall select a panel of three arbitrators.
3364	(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):
3365	(i) each side shall select one arbitrator; and
3366	(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional
3367	arbitrator to be included in the panel.
3368	(g) Unless otherwise agreed to in writing:
3369	(i) each party shall pay an equal share of the fees and costs of the arbitrator selected
3370	under Subsection (8)(e)(i); or
3371	(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):
3372	(A) each party shall pay the fees and costs of the arbitrator selected by that party; and
3373	(B) each party shall pay an equal share of the fees and costs of the arbitrator selected

3374	under Subsection (8)(f)(ii).
3375	(h) Except as otherwise provided in this section or unless otherwise agreed to in
3376	writing by the parties, an arbitration proceeding conducted under this section is governed by
3377	Title 78B, Chapter 11, Utah Uniform Arbitration Act.
3378	(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
3379	27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
3380	Subsections (9)(a) through (c) are satisfied.
3381	(ii) The specified tier as defined by Rule $26(c)(3)$ of the Utah Rules of Civil Procedure
3382	shall be determined based on the claimant's specific monetary amount in the written demand
3383	for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).
3384	(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
3385	arbitration claims under this part.
3386	(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.
3387	(k) A written decision by a single arbitrator or by a majority of the arbitration panel
3388	constitutes a final decision.
3389	(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may no
3390	exceed the underinsured motorist policy limits of all applicable underinsured motorist policies,
3391	including applicable underinsured motorist umbrella policies.
3392	(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
3393	applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
3394	equal to the combined underinsured motorist policy limits of all applicable underinsured
3395	motorist policies.
3396	(m) The arbitrator or arbitration panel may not decide an issue of coverage or
3397	extra-contractual damages, including:
3398	(i) whether the claimant is a covered person;
3399	(ii) whether the policy extends coverage to the loss; or
3400	(iii) an allegation or claim asserting consequential damages or bad faith liability.
3401	(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
3402	class-representative basis.
3403	(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued
3404	or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fee

3405	and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.
3406	(p) An arbitration award issued under this section shall be the final resolution of all
3407	claims not excluded by Subsection (8)(m) between the parties unless:
3408	(i) the award is procured by corruption, fraud, or other undue means; or
3409	(ii) either party, within 20 days after service of the arbitration award:
3410	(A) files a complaint requesting a trial de novo in the [district court] a court with
3411	jurisdiction under Title 78A, Judiciary and Judicial Administration; and
3412	(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
3413	under Subsection (8)(p)(ii)(A).
3414	(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall
3415	proceed through litigation [pursuant to] in accordance with the Utah Rules of Civil Procedure
3416	and Utah Rules of Evidence [in the district court].
3417	(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
3418	request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).
3419	(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
3420	(8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
3421	arbitration award, the claimant is responsible for all of the nonmoving party's costs.
3422	(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested
3423	under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration
3424	award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.
3425	(iii) Except as provided in Subsection $(8)(r)(iv)$ , the costs under this Subsection $(8)(r)$
3426	shall include:
3427	(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
3428	(B) the costs of expert witnesses and depositions.
3429	(iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless
3430	Subsection (9)(h)(iii) applies.
3431	(s) For purposes of determining whether a party's verdict is greater or less than the
3432	arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief
3433	granted on a claim for damages if the claim for damages:
3434	(i) was not fully disclosed in writing prior to the arbitration proceeding; or
3435	(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil

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3436 Procedure. 3437 (t) If a [district] court determines, upon a motion of the nonmoving party, that a 3438 moving party's use of the trial de novo process is filed in bad faith in accordance with Section 3439 78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving party. 3440 (u) Nothing in this section is intended to limit a claim under another portion of an 3441 applicable insurance policy. 3442 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), 3443 the claimant may elect to arbitrate in one hearing the claims against all the underinsured 3444 motorist carriers. 3445 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured 3446 motorist benefits to binding arbitration or files litigation, the covered person shall provide to 3447 the underinsured motorist carrier: 3448 (i) a written demand for payment of underinsured motorist coverage benefits, setting forth: 3449 3450 (A) subject to Subsection (9)(1), the specific monetary amount of the demand, 3451 including a computation of the covered person's claimed past medical expenses, claimed past 3452 lost wages, and all other claimed past economic damages; and 3453 (B) the factual and legal basis and any supporting documentation for the demand: 3454 (ii) a written statement under oath disclosing: 3455 (A) (I) the names and last known addresses of all health care providers who have 3456 rendered health care services to the covered person that are material to the claims for which the 3457 underinsured motorist benefits are sought for a period of five years preceding the date of the 3458 event giving rise to the claim for underinsured motorist benefits up to the time the election for 3459 arbitration or litigation has been exercised; and 3460 (II) the names and last known addresses of the health care providers who have rendered 3461 health care services to the covered person, which the covered person claims are immaterial to 3462 the claims for which underinsured motorist benefits are sought, for a period of five years 3463 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to 3464 the time the election for arbitration or litigation has been exercised that have not been disclosed 3465 under Subsection (9)(a)(ii)(A)(I); 3466 (B) (I) the names and last known addresses of all health insurers or other entities to

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whom the covered person has submitted claims for health care services or benefits material to
the claims for which underinsured motorist benefits are sought, for a period of five years
preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom
the covered person has submitted claims for health care services or benefits, which the covered
person claims are immaterial to the claims for which underinsured motorist benefits are sought,
for a period of five years preceding the date of the event giving rise to the claim for
underinsured motorist benefits up to the time the election for arbitration or litigation have not
been disclosed;

3477 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all 3478 employers of the covered person for a period of five years preceding the date of the event 3479 giving rise to the claim for underinsured motorist benefits up to the time the election for 3480 arbitration or litigation has been exercised;

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(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the
covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health
Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain
records and billings from the individuals or entities disclosed under Subsections
(9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed
health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary,
the underinsured motorist carrier may:

3492 (A) make a request for the disclosure of the identity of the health care providers or3493 health care insurers; and

3494 (B) make a request for authorizations to allow the underinsured motorist carrier to only3495 obtain records and billings from the individuals or entities not disclosed.

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(ii) If the covered person does not provide the requested information within 10 days:

3497 (A) the covered person shall disclose, in writing, the legal or factual basis for the

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3498 failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the
arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
the dispute concerning the disclosure and production of records of the health care providers or
health care insurers.

3505 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a 3506 notice of filing litigation and the demand for payment of underinsured motorist benefits under 3507 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the 3508 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

3509 (A) provide a written response to the written demand for payment provided for in
3510 Subsection (9)(a)(i);

3511 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the 3512 underinsured motorist carrier's determination of the amount owed to the covered person; and

3513 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
3514 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah
3515 Children's Health Insurance Program, or if the claim is subject to any other state or federal
3516 statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of
3517 the amount owed to the covered person less:

3518 (I) if the amount of the state or federal statutory lien is established, the amount of the3519 lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the
amount of the medical expenses subject to the state or federal statutory lien until such time as
the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection
(9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount
shall be accepted by the covered person.

3526 (d) A covered person who receives a written response from an underinsured motorist
3527 carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all

3529 underinsured motorist claims; or

3530 (ii) elect to:

3531 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all

3532 underinsured motorist claims; and

3533 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
3534 made under Subsections (8)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i)
as partial payment of all underinsured motorist claims, the final award obtained through
arbitration, litigation, or later settlement shall be reduced by any payment made by the
underinsured motorist carrier under Subsection (9)(c)(i).

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(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motoristbenefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the
average of the covered person's initial written demand for payment provided for in Subsection
(9)(a)(i) and the underinsured motorist carrier's initial written response provided for in
Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award
exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the
amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

3551 (ii) any of the following applicable costs:

3552 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

3553 (B) the arbitrator or arbitration panel's fee; and

3554 (C) the reasonable costs of expert witnesses and depositions used in the presentation of 3555 evidence during arbitration or litigation.

3556 (h) (i) The covered person shall provide an affidavit of costs within five days of an3557 arbitration award.

3558 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to3559 which the underinsured motorist carrier objects.

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(B) The objection shall be resolved by the arbitrator or arbitration panel.
(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii)
may not exceed \$5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal
evidence, within 30 days after a covered person elects to submit a claim for underinsured
motorist coverage benefits to binding arbitration or files litigation as specified in Subsection
(9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may ariseagainst the underinsured motorist carrier from the same dispute.

3571 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that3572 occur on or after March 30, 2010.

(1) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the
covered person's requirement to provide a computation of any other economic damages
claimed, and the one or more respondents shall have a reasonable time after the receipt of the
computation of any other economic damages claimed to conduct fact and expert discovery as to
any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,
Section 11, and Chapter 300, Section 11, to this Subsection (9)(1) and Subsection (9)(a)(i)(A)
apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
binding arbitration or through litigation on or after May 13, 2014.

3583 3584 Section 54. Section **31A-22-321** is amended to read:

31A-22-321. Use of arbitration in third party motor vehicle accident cases.

3585 (1) A person injured as a result of a motor vehicle accident may elect to submit all third
party bodily injury claims to arbitration by filing a notice of the submission of the claim to
binding arbitration in a [district court] court with jurisdiction under Title 78A, Judiciary and
Judicial Administration, if:

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

(i) previously and timely filed a complaint in a [district] court that includes a third

3591 party bodily injury claim; and

- (ii) filed a notice to submit the claim to arbitration within 14 days after the complainthas been answered; and
- 3594 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
  3595 Subsection (1)(a)(i) is still pending.
- 3596 (2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the 3597 party submitting the claim or the party's representative is limited to an arbitration award that 3598 does not exceed \$50,000 in addition to any available personal injury protection benefits and 3599 any claim for property damage.
- 3600 (b) A claim for reimbursement of personal injury protection benefits is to be resolved
  3601 between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).
- 3602 (c) A claim for property damage may not be made in an arbitration proceeding under3603 Subsection (1) unless agreed upon by the parties in writing.
- 3604

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

- 3605 (i) waives the right to obtain a judgment against the personal assets of the defendant;3606 and
- 3607 (ii) is limited to recovery only against available limits of insurance coverage.
- 3608 (e) (i) This section does not prevent a party from pursuing an underinsured motorist
  3609 claim as set out in Section 31A-22-305.3.
- 3610 (ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to
  3611 the \$50,000 limit described in Subsection (2)(a).
- 3612 (iii) There shall be no right of subrogation on the part of the underinsured motorist3613 carrier for a claim submitted to arbitration under this section.
- 3614 (3) A claim for punitive damages may not be made in an arbitration proceeding under
  3615 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial
  3616 de novo under Subsection (11).
- 3617 (4) (a) A person who has elected arbitration under this section may rescind the person's3618 election if the rescission is made within:
- 3619 (i) 90 days after the election to arbitrate; and
- 3620 (ii) no less than 30 days before any scheduled arbitration hearing.
- 3621 (b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:

3622 (i) file a notice of the rescission of the election to arbitrate with the [district] court in 3623 which the matter was filed; and 3624 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel 3625 of record to the action. 3626 (c) All discovery completed in anticipation of the arbitration hearing shall be available 3627 for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah Rules of 3628 Evidence. 3629 (d) A party who has elected to arbitrate under this section and then rescinded the 3630 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this 3631 section again. 3632 (5) (a) Unless otherwise agreed to by the parties or by order of the court, an arbitration process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure. 3633 3634 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be 3635 completed within 150 days after the date arbitration is elected under this section or the date the 3636 answer is filed, whichever is longer. 3637 (6) (a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to arbitration under this section shall be resolved by a single arbitrator. 3638 3639 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall 3640 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of 3641 the defendant. 3642 (c) If the parties are unable to agree on a single arbitrator as required under Subsection 3643 (6)(b), the parties shall select a panel of three arbitrators. 3644 (d) If the parties select a panel of three arbitrators under Subsection (6)(c): 3645 (i) each side shall select one arbitrator; and 3646 (ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional 3647 arbitrator to be included in the panel. 3648 (7) Unless otherwise agreed to in writing: 3649 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected 3650 under Subsection (6)(a); and 3651 (b) if an arbitration panel is selected under Subsection (6)(d): 3652 (i) each party shall pay the fees and costs of the arbitrator selected by that party's side;

3653	and
3654	(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
3655	under Subsection (6)(d)(ii).
3656	(8) Except as otherwise provided in this section and unless otherwise agreed to in
3657	writing by the parties, an arbitration proceeding conducted under this section shall be governed
3658	by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
3659	(9) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and
3660	Utah Rules of Evidence apply to the arbitration proceeding.
3661	(b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied
3662	liberally with the intent of concluding the claim in a timely and cost-efficient manner.
3663	(c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah
3664	Rules of Civil Procedure and shall be subject to the jurisdiction of the [district] court in which
3665	the matter is filed.
3666	(d) Dispositive motions shall be filed, heard, and decided by the [district] court prior to
3667	the arbitration proceeding in accordance with the court's scheduling order.
3668	(10) A written decision by a single arbitrator or by a majority of the arbitration panel
3669	shall constitute a final decision.
3670	(11) An arbitration award issued under this section shall be the final resolution of all
3671	bodily injury claims between the parties and may be reduced to judgment by the court upon
3672	motion and notice unless:
3673	(a) either party, within 20 days after service of the arbitration award:
3674	(i) files a notice requesting a trial de novo in the [district] court; and
3675	(ii) serves the nonmoving party with a copy of the notice requesting a trial de novo
3676	under Subsection (11)(a)(i); or
3677	(b) the arbitration award has been satisfied.
3678	(12) (a) Upon filing a notice requesting a trial de novo under Subsection (11):
3679	(i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90
3680	days shall be allowed for further discovery;
3681	(ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice
3682	of appeal; and
3683	(iii) the claim shall proceed through litigation [pursuant to] in accordance with the

3684	Utah Rules of Civil Procedure and Utah Rules of Evidence [in the district court].
3685	(b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
3686	request a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).
3687	(13) (a) If the plaintiff, as the moving party in a trial de novo requested under
3688	Subsection (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than
3689	the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.
3690	(b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall
3691	include:
3692	(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
3693	(ii) the costs of expert witnesses and depositions.
3694	(c) An award of costs under this Subsection (13) may not exceed \$6,000.
3695	(14) (a) If a defendant, as the moving party in a trial de novo requested under
3696	Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award,
3697	the defendant is responsible for all of the nonmoving party's costs.
3698	(b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall
3699	include:
3700	(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
3701	(ii) the costs of expert witnesses and depositions.
3702	(c) An award of costs under this Subsection (14) may not exceed \$6,000.
3703	(15) For purposes of determining whether a party's verdict is greater or less than the
3704	arbitration award under Subsections (13) and (14), a court may not consider any recovery or
3705	other relief granted on a claim for damages if the claim for damages:
3706	(a) was not fully disclosed in writing prior to the arbitration proceeding; or
3707	(b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
3708	Procedure.
3709	(16) If a [district] court determines, upon a motion of the nonmoving party, that the
3710	moving party's use of the trial de novo process was filed in bad faith as defined in Section
3711	78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving party.
3712	(17) Nothing in this section is intended to affect or prevent any first party claim from
3713	later being brought under any first party insurance policy under which the injured person is a
3714	covered person.

- 3715 (18) (a) If a defendant requests a trial de novo under Subsection (11), in no event can 3716 the total verdict at trial exceed \$15,000 above any available limits of insurance coverage and in 3717 no event can the total verdict exceed \$65,000. 3718 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may 3719 not exceed \$50,000. 3720 (19) All arbitration awards issued under this section shall bear postjudgment interest 3721 pursuant to Section 15-1-4. 3722 (20) If a party requests a trial de novo under Subsection (11), the party shall file a copy 3723 of the notice requesting a trial de novo with the commissioner notifying the commissioner of 3724 the party's request for a trial de novo under Subsection (11). Section 55. Section **32B-4-205** is amended to read: 3725 3726 32B-4-205. Prosecutions. 3727 (1) (a) A prosecution for a violation of this title shall be in the name of the state. 3728 (b) A criminal action for violation of a county or municipal ordinance enacted in 3729 furtherance of this title shall be in the name of the governmental entity involved. 3730 (2) (a) A prosecution for violation of this title shall be brought by the county attorney 3731 of the county or district attorney of the prosecution district where the violation occurs. If a 3732 county attorney or district attorney fails to initiate or diligently pursue a prosecution authorized 3733 and warranted under this title, the attorney general shall exercise supervisory authority over the 3734 county attorney or district attorney to ensure prosecution is initiated and diligently pursued.
  - (b) If a violation occurs within a city or town, prosecution may be brought by either the
    county, district, or city attorney, notwithstanding any provision of law limiting the powers of a
    city attorney.
  - 3738 (c) A city or town prosecutor has the responsibility of initiating and diligently pursuing
    3739 prosecutions for a violation of a local ordinance enacted in furtherance of this title or
    3740 commission rules.
- 3741 (3) [(a) A prosecution for a violation of this title shall be commenced] Notwithstanding
  3742 Section 76-1-201, a prosecuting attorney shall commence a prosecution by the return of an
  3743 indictment or the filing of an information [with the district court of the] in a court with
  3744 jurisdiction under Title 78A, Judiciary and Judicial Administration, in the county in which the
  3745 offense occurs or where the premises are located upon which an alcoholic product is seized, if

3746	the offense involves an alcoholic product.
3747	[(b) An offense prescribed by this title that is not described in Subsection (3)(a) shall
3748	be filed before a court having jurisdiction of the offense committed.]
3749	(4) (a) Unless otherwise provided by law, an information may not be filed charging the
3750	commission of a felony or class A misdemeanor under this title unless authorized by a
3751	prosecuting attorney.
3752	(b) This Subsection (4) does not apply if the magistrate has reasonable cause to believe
3753	that the person to be charged may avoid apprehension or escape before approval can be
3754	obtained.
3755	(5) (a) In describing an offense respecting the sale, keeping for sale, or other disposal
3756	of an alcoholic product, or the possessing, keeping, purchasing, consumption, or giving of an
3757	alcoholic product in an information, indictment, summons, judgment, warrant, or proceeding
3758	under this title, it is sufficient to state the possessing, purchasing, keeping, sale, keeping for
3759	sale, giving, consumption, or disposal of the alcoholic product without stating:
3760	(i) the name or kind of alcoholic product;
3761	(ii) the price of the alcoholic product;
3762	(iii) any person to whom the alcoholic product is sold or disposed of;
3763	(iv) by whom the alcoholic product is taken or consumed; or
3764	(v) from whom the alcoholic product is purchased or received.
3765	(b) It is not necessary to state the quantity of alcoholic product possessed, purchased,
3766	kept, kept for sale, sold, given, consumed, or disposed of, except in the case of an offense when
3767	the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less
3768	than the quantity.
3769	(6) If an offense is committed under a local ordinance enacted to carry out this title, it
3770	is sufficient if the charging document refers to the chapter and section of the ordinance under
3771	which the offense is committed.
3772	Section 56. Section <b>34-20-10</b> is amended to read:
3773	<b>34-20-10.</b> Unfair labor practices Powers of board to prevent Procedure.
3774	(1) (a) The board may prevent any person from engaging in any unfair labor practice,
3775	as listed in Section 34-20-8, affecting intrastate commerce or the orderly operation of industry.
3776	(b) This authority is exclusive and is not affected by any other means of adjustment or

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3777 prevention that has been or may be established by agreement, code, law, or otherwise.

3778 (2) The board shall comply with the procedures and requirements of Title 63G, Chapter3779 4, Administrative Procedures Act, in its adjudicative proceedings.

3780 (3) When it is charged that any person has engaged in or is engaged in any unfair labor
3781 practice, the board, or any agent or agency designated by the board, may issue and serve a
3782 notice of agency action on that person.

(4) (a) If, upon all the testimony taken, the board finds that any person named in the
complaint has engaged in or is engaging in an unfair labor practice, the board shall state its
findings of fact and shall issue and serve on the person an order to cease and desist from the
unfair labor practice and to take other affirmative action designated by the commission,
including reinstatement of employees with or without back pay, to effectuate the policies of
this chapter.

3789 (b) The order may require the person to make periodic reports showing the extent to3790 which it has complied with the order.

(c) If, upon all the testimony taken, the board determines that no person named in the
complaint has engaged in or is engaging in any unfair labor practice, the board shall state its
findings of fact and shall issue an order dismissing the complaint.

(5) (a) The board may petition [the district court] a court with jurisdiction under Title
 <u>78A</u>, Judiciary and Judicial Administration, to enforce the order and for appropriate temporary
 relief or for a restraining order.

3797 (b) The board shall certify and file in the court:

(i) a transcript of the entire record in the proceeding;

(ii) the pleadings and testimony upon which the order was entered; and

3800 (iii) the findings and order of the board.

3801 (c) When the petition is filed, the board shall serve notice on all parties to the action.

3802 (d) Upon filing of the petition, the court has jurisdiction of the proceeding and of the3803 question to be determined.

(e) The court may grant temporary relief or a restraining order, and, based upon the
pleadings, testimony, and proceedings set forth in the transcript, order that the board's order be
enforced, modified, or set aside in whole or in part.

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(f) The court may not consider any objection that was not presented before the board,

3808 its member, agent, or agency, unless the failure or neglect to urge the objection is excused 3809 because of extraordinary circumstances. 3810 (g) The board's findings of fact, if supported by evidence, are conclusive. 3811 (h) (i) If either party applies to the court for leave to adduce additional evidence, and 3812 shows to the satisfaction of the court that the additional evidence is material and that there were 3813 reasonable grounds for the failure to adduce the evidence in the hearing before the board, its 3814 member, agent, or agency, the court may order additional evidence to be taken before the 3815 board, its member, agent, or agency, and to be made part of the transcript. 3816 (ii) The board may modify its findings as to the facts, or make new findings, because of 3817 the additional evidence taken and filed. 3818 (iii) The board shall file the modified or new findings, which, if supported by evidence, 3819 are conclusive, and shall file its recommendations, if any, for the modification or setting aside 3820 of its original order. 3821 Section 57. Section 34-20-11 is amended to read: 3822 34-20-11. Hearings and investigations -- Power of board -- Witnesses --3823 **Procedure.** 3824 For the purpose of all hearings and investigations, which, in the opinion of the board, 3825 are necessary and proper for the exercise of the powers vested in it by Sections 34-20-9 and 3826 34-20-10: 3827 (1) The board, or its duly authorized agents or agencies, shall at all reasonable times 3828 have access to, for the purpose of examination, and the right to copy, any evidence of any 3829 person being investigated or proceeded against that relates to any matter under investigation or 3830 in question. Any member of the board shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any 3831 3832 matter under investigation or in question, before the board, its member, agent, or agency 3833 conducting the hearing or investigation. Any member of the board, or any agent or agency 3834 designated by the board, for these purposes, may administer oaths and affirmations, examine 3835 witnesses, and receive evidence. Attendance of witnesses and the production of evidence may 3836 be required from any place in the state at any duly designated place of hearing.

3837 (2) (a) In case of contumacy or refusal to obey a subpoena issued to any person, [any

3838 district court of Utah within the jurisdiction of which the inquiry is carried on or within the

jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or
 transacts business upon application by the board shall have jurisdiction to issue to the person a la

3841 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may issue an

3842 order requiring the person to:

3843 (i) appear before the board, [its] or the board's member, agent, or agency, to produce
3844 evidence if so ordered[<del>, or to</del>]; or

3845 (ii) give testimony touching the matter under investigation or in question[; and any].

3846

(b) A failure to obey the order of the court may be punished by the court as a contempt.

3847 (3) In the event a witness asserts a privilege against self-incrimination, testimony and
asserts a privilege against self-incrimination, testimony and
evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of
Immunity.

3850 (4) Complaints, orders, and other processes and papers of the board, its member, agent, 3851 or agency, may be served either personally, by certified or registered mail, by telegraph, or by 3852 leaving a copy at the principal office or place of business of the person required to be served. 3853 The verified return by the individual serving the documents setting forth the manner of the 3854 service shall be proof of the service, and the return post office receipt or telegram receipt when 3855 certified or registered and mailed or telegraphed shall be proof of service. Witnesses 3856 summoned before the board, its member, agent, or agency, shall be paid the same fees and 3857 mileage that are paid witnesses in the courts of the state, and witnesses whose depositions are 3858 taken and the persons taking them shall be entitled to the same fees paid for the same services 3859 in the courts of the state.

(5) All departments and agencies of the state, when directed by the governor, shall
furnish to the board, upon its request, all records, papers, and information in their possession
relating to any matter before the board.

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34-28-9.5. Private cause of action.

Section 58. Section 34-28-9.5 is amended to read:

(1) Except as provided in Subsection (2), for a wage claim that is less than or equal to
\$10,000, the employee shall exhaust the employee's administrative remedies described in
Section 34-28-9 and rules made by the commission under Section 34-28-9 before the employee
may file an action in [district court] a court with jurisdiction under Title 78A, Judiciary and
Judicial Administration.

3870	(2) An employee may file an action for a wage claim in [district] a court without
3871	exhausting the administrative remedies described in Section 34-28-9 and rules made by the
3872	commission under Section 34-28-9 if:
3873	(a) the employee's wage claim is over \$10,000;
3874	(b) (i) the employee's wage claim is less than or equal to \$10,000;
3875	(ii) the employee asserts one or more additional claims against the same employer; and
3876	(iii) the aggregate amount of damages resulting from the claims described in this
3877	Subsection (2)(b) is greater than \$10,000; or
3878	(c) (i) in the same civil action, more than one employee files a wage claim against an
3879	employer; and
3880	(ii) the aggregate amount of the employees' combined wage claim is greater than
3881	\$10,000.
3882	(3) In an action under this section, the court may award an employee:
3883	(a) actual damages;
3884	(b) an amount equal to 2.5% of the unpaid wages owed to the employee, assessed daily
3885	for the lesser of:
3886	(i) the period beginning the day on which the court issues a final order and ending the
3887	day on which the employer pays the unpaid wages owed to the employee; or
3888	(ii) 20 days after the day on which the court issues a final order; and
3889	(c) a penalty described in Subsection 34-28-5(1)(c), if applicable.
3890	Section 59. Section <b>34A-1-407</b> is amended to read:
3891	34A-1-407. Investigation of places of employment Violations of rules or orders
3892	Temporary injunction.
3893	(1) (a) Upon complaint by any person that any employment or place of employment,
3894	regardless of the number of persons employed, is not safe for any employee or is in violation of
3895	state law, the commission shall refer the complaint for investigation and administrative action
3896	under:
3897	(i) Chapter 2, Workers' Compensation Act;
3898	(ii) Chapter 3, Utah Occupational Disease Act;
3899	(iii) Chapter 5, Utah Antidiscrimination Act;
3900	(iv) Chapter 6, Utah Occupational Safety and Health Act;

3901	(v) Chapter 7, Safety; or
3902	(vi) any combination of Subsections (1)(a)(i) through (v).
3903	(b) Notwithstanding Subsection (1)(a) and Title 40, Chapter 2, Coal Mine Safety Act,
3904	for any Utah mine subject to the Federal Mine Safety and Health Act, the sole duty of the
3905	commission is to notify the appropriate federal agency of the complaint.
3906	(2) Notwithstanding any other penalty provided in this title, if any employer, after
3907	receiving notice, fails or refuses to obey the rules or order of the commission relative to the
3908	protection of the life, health, or safety of any employee, [the district court of Utah] a court with
3909	jurisdiction under Title 78A, Judiciary and Judicial Administration, is empowered, upon
3910	petition of the commission to issue, ex parte and without bond, a temporary injunction
3911	restraining the further operation of the employer's business.
3912	Section 60. Section <b>34A-5-102</b> is amended to read:
3913	34A-5-102. Definitions Unincorporated entities Joint employers
3914	Franchisors.
3915	(1) As used in this chapter:
3916	(a) "Affiliate" means the same as that term is defined in Section 16-6a-102.
3917	(b) "Apprenticeship" means a program for the training of apprentices including a
3918	program providing the training of those persons defined as apprentices by Section 35A-6-102.
3919	(c) "Bona fide occupational qualification" means a characteristic applying to an
3920	employee that:
3921	(i) is necessary to the operation; or
3922	(ii) is the essence of the employee's employer's business.
3923	[ <del>(d) "Court" means:</del> ]
3924	[(i) the district court in the judicial district of the state in which the asserted unfair
3925	employment practice occurs; or]
3926	[(ii) if the district court is not in session at that time, a judge of the court described in
3927	Subsection (1)(d)(i).]
3928	(d) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial
3929	Administration.
3930	(e) "Director" means the director of the division.
3931	(f) "Disability" means a physical or mental disability as defined and covered by the

3932 Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102. 3933 (g) "Division" means the Division of Antidiscrimination and Labor. 3934 (h) "Employee" means a person applying with or employed by an employer. (i) (i) "Employer" means: 3935 3936 (A) the state; 3937 (B) a political subdivision; 3938 (C) a board, commission, department, institution, school district, trust, or agent of the 3939 state or a political subdivision of the state; or 3940 (D) a person employing 15 or more employees within the state for each working day in 3941 each of 20 calendar weeks or more in the current or preceding calendar year. 3942 (ii) "Employer" does not include: 3943 (A) a religious organization, a religious corporation sole, a religious association, a 3944 religious society, a religious educational institution, or a religious leader, when that individual is acting in the capacity of a religious leader; 3945 3946 (B) any corporation or association constituting an affiliate, a wholly owned subsidiary, 3947 or an agency of any religious organization, religious corporation sole, religious association, or 3948 religious society; or 3949 (C) the Boy Scouts of America or its councils, chapters, or subsidiaries. 3950 (j) "Employment agency" means a person: 3951 (i) undertaking to procure employees or opportunities to work for any other person; or 3952 (ii) holding the person out to be equipped to take an action described in Subsection 3953 (1)(j)(i).(k) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 3954 3955 105, of the federal government. 3956 (1) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1. 3957 (m) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1. 3958 (n) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1. 3959 (o) "Gender identity" has the meaning provided in the Diagnostic and Statistical 3960 Manual (DSM-5). A person's gender identity can be shown by providing evidence, including, 3961 but not limited to, medical history, care or treatment of the gender identity, consistent and 3962 uniform assertion of the gender identity, or other evidence that the gender identity is sincerely

3963 held, part of a person's core identity, and not being asserted for an improper purpose. 3964 (p) "Joint apprenticeship committee" means an association of representatives of a labor 3965 organization and an employer providing, coordinating, or controlling an apprentice training 3966 program. 3967 (q) "Labor organization" means an organization that exists for the purpose in whole or 3968 in part of: 3969 (i) collective bargaining; 3970 (ii) dealing with employers concerning grievances, terms or conditions of employment; 3971 or 3972 (iii) other mutual aid or protection in connection with employment. 3973 (r) "National origin" means the place of birth, domicile, or residence of an individual or 3974 of an individual's ancestors. 3975 (s) "On-the-job-training" means a program designed to instruct a person who, while 3976 learning the particular job for which the person is receiving instruction: 3977 (i) is also employed at that job; or 3978 (ii) may be employed by the employer conducting the program during the course of the 3979 program, or when the program is completed. 3980 (t) "Person" means: 3981 (i) one or more individuals, partnerships, associations, corporations, legal 3982 representatives, trusts or trustees, or receivers; 3983 (ii) the state; and 3984 (iii) a political subdivision of the state. 3985 (u) "Pregnancy, childbirth, or pregnancy-related conditions" includes breastfeeding or medical conditions related to breastfeeding. 3986 3987 (v) "Presiding officer" means the same as that term is defined in Section 63G-4-103. 3988 (w) "Prohibited employment practice" means a practice specified as discriminatory, 3989 and therefore unlawful, in Section 34A-5-106. 3990 (x) "Religious leader" means an individual who is associated with, and is an authorized 3991 representative of, a religious organization or association or a religious corporation sole, including a member of clergy, a minister, a pastor, a priest, a rabbi, an imam, or a spiritual 3992 3993 advisor.

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3994 (y) "Retaliate" means the taking of adverse action by an employer, employment agency, 3995 labor organization, apprenticeship program, on-the-job training program, or vocational school 3996 against one of its employees, applicants, or members because the employee, applicant, or 3997 member: 3998 (i) opposes an employment practice prohibited under this chapter; or 3999 (ii) files charges, testifies, assists, or participates in any way in a proceeding, 4000 investigation, or hearing under this chapter. 4001 (z) "Sexual orientation" means an individual's actual or perceived orientation as 4002 heterosexual, homosexual, or bisexual. 4003 (aa) "Undue hardship" means an action that requires significant difficulty or expense 4004 when considered in relation to factors such as the size of the entity, the entity's financial 4005 resources, and the nature and structure of the entity's operation. 4006 (bb) "Unincorporated entity" means an entity organized or doing business in the state 4007 that is not: 4008 (i) an individual; 4009 (ii) a corporation; or 4010 (iii) publicly traded. 4011 (cc) "Vocational school" means a school or institution conducting a course of 4012 instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to 4013 pursue a manual, technical, industrial, business, commercial, office, personal services, or other 4014 nonprofessional occupations. 4015 (2) (a) For purposes of this chapter, an unincorporated entity that is required to be 4016 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to 4017 be the employer of each individual who, directly or indirectly, holds an ownership interest in 4018 the unincorporated entity. 4019 (b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, 4020 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption 4021 under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that 4022 the individual: 4023 (i) is an active manager of the unincorporated entity; 4024 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated

4025 entity; or 4026 (iii) is not subject to supervision or control in the performance of work by: 4027 (A) the unincorporated entity; or 4028 (B) a person with whom the unincorporated entity contracts. 4029 (c) As part of the rules made under Subsection (2)(b), the commission may define: 4030 (i) "active manager"; 4031 (ii) "directly or indirectly holds at least an 8% ownership interest"; and 4032 (iii) "subject to supervision or control in the performance of work." 4033 (3) For purposes of determining whether two or more persons are considered joint 4034 employers under this chapter, an administrative ruling of a federal executive agency may not be 4035 considered a generally applicable law unless that administrative ruling is determined to be 4036 generally applicable by a court of law, or adopted by statute or rule. 4037 (4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of: 4038 (i) a franchisee; or 4039 (ii) a franchisee's employee. 4040 (b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (4) does not apply to a franchisor under a franchise 4041 4042 that exercises a type or degree of control over the franchisee or the franchisee's employee not 4043 customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks 4044 and brand. 4045 (5) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action under this chapter in the judicial district in which the asserted unfair 4046 4047 employment practice occurs if the action is brought in the district court. 4048 Section 61. Section **34A-6-202** is amended to read: 4049 34A-6-202. Standards -- Procedure for issuance, modification, or revocation by 4050 division -- Emergency temporary standard -- Variances from standards -- Statement of 4051 reasons for administrator's actions -- Judicial review -- Priority for establishing 4052 standards. 4053 (1) (a) The division, as soon as practicable, shall issue as standards any national 4054 consensus standard, any adopted federal standard, or any adopted Utah standard, unless it 4055 determines that issuance of the standard would not result in improved safety or health.

4056 (b) All codes, standards, and rules adopted under Subsection (1)(a) shall take effect 30
4057 days after publication unless otherwise specified.

4058 (c) If any conflict exists between standards, the division shall issue the standard that 4059 assures the greatest protection of safety or health for affected employees.

4060

(2) The division may issue, modify, or revoke any standard as follows:

4061 (a) The division shall publish a proposed rule issuing, modifying, or revoking an
4062 occupational safety or health standard and shall afford interested parties an opportunity to
4063 submit written data or comments as prescribed by Title 63G, Chapter 3, Utah Administrative
4064 Rulemaking Act. When the administrator determines that a rule should be issued, the division
4065 shall publish the proposed rule after the expiration of the period prescribed by the administrator
4066 for submission.

4067 (b) The administrator, in issuing standards for toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent 4068 4069 feasible, on the basis of the best available evidence, that no employee will suffer material 4070 impairment of health or functional capacity even if the employee has regular exposure to the 4071 hazard during an employee's working life. Development of standards under this subsection 4072 shall be based upon research, demonstrations, experiments, and other information deemed 4073 appropriate. In addition to the attainment of the highest degree of health and safety protection 4074 for the employee, other considerations shall be the latest available scientific data in the field, 4075 the feasibility of the standards, and experience under this and other health and safety laws. 4076 Whenever practicable, the standard shall be expressed in terms of objective criteria and of the 4077 performance desired.

4078 (c) (i) Any employer may apply to the administrator for a temporary order granting a 4079 variance from a standard issued under this section. Temporary orders shall be granted only if 4080 the employer:

4081

(A) files an application which meets the requirements of Subsection (2)(c)(iv);

4082 (B) establishes that the employer is unable to comply with a standard by its effective
4083 date because of unavailability of professional or technical personnel or of materials and
4084 equipment needed for compliance with the standard or because necessary construction or
4085 alteration of facilities cannot be completed by the effective date;

4086

(C) establishes that the employer is taking all available steps to safeguard the

4087 employer's employees against hazards; and

4088 (D) establishes that the employer has an effective program for compliance as quickly as 4089 practicable.

4090 (ii) Any temporary order shall prescribe the practices, means, methods, operations, and
4091 processes which the employer shall adopt and use while the order is in effect and state in detail
4092 the employer's program for compliance with the standard. A temporary order may be granted
4093 only after notice to employees and an opportunity for a public hearing; provided, that the
4094 administrator may issue one interim order effective until a decision is made after public
4095 hearing.

4096 (iii) A temporary order may not be in effect longer than the period reasonably required
4097 by the employer to achieve compliance. In no case shall the period of a temporary order
4098 exceed one year.

4099 (iv) An application for a temporary order under Subsection (2)(c) shall contain:

4100

(A) a specification of the standard or part from which the employer seeks a variance;

4101 (B) a representation by the employer, supported by representations from qualified
4102 persons having first-hand knowledge of the facts represented, that the employer is unable to
4103 comply with the standard or some part of the standard;

4104 (C) a detailed statement of the reasons the employer is unable to comply;

4105 (D) a statement of the measures taken and anticipated with specific dates, to protect 4106 employees against the hazard;

4107 (E) a statement of when the employer expects to comply with the standard and what
4108 measures the employer has taken and those anticipated, giving specific dates for compliance;
4109 and

4110 (F) a certification that the employer has informed the employer's employees of the 4111 application by:

4112 (I) giving a copy to their authorized representative;

4113 (II) posting a statement giving a summary of the application and specifying where a
4114 copy may be examined at the place or places where notices to employees are normally posted;
4115 and

4116 (III) by other appropriate means.

4117 (v) The certification required under Subsection (2)(c)(iv) shall contain a description of

4118 how employees have been informed.

- 4119 (vi) The information to employees required under Subsection (2)(c)(v) shall inform the
  4120 employees of their right to petition the division for a hearing.
- 4121 (vii) The administrator is authorized to grant a variance from any standard or some part 4122 of the standard when the administrator determines that it is necessary to permit an employer to 4123 participate in a research and development project approved by the administrator to demonstrate 4124 or validate new and improved techniques to safeguard the health or safety of workers.

4125 (d) (i) Any standard issued under this subsection shall prescribe the use of labels or 4126 other forms of warning necessary to ensure that employees are apprised of all hazards, relevant 4127 symptoms and emergency treatment, and proper conditions and precautions of safe use or 4128 exposure. When appropriate, a standard shall prescribe suitable protective equipment and 4129 control or technological procedures for use in connection with such hazards and provide for 4130 monitoring or measuring employee exposure at such locations and intervals, and in a manner 4131 necessary for the protection of employees. In addition, any such standard shall prescribe the 4132 type and frequency of medical examinations or other tests which shall be made available by the 4133 employer, or at the employer's cost, to employees exposed to hazards in order to most 4134 effectively determine whether the health of employees is adversely affected by exposure. If 4135 medical examinations are in the nature of research as determined by the division, the 4136 examinations may be furnished at division expense. The results of such examinations or tests 4137 shall be furnished only to the division; and, at the request of the employee, to the employee's 4138 physician.

- (ii) The administrator may by rule make appropriate modifications in requirements for
  the use of labels or other forms of warning, monitoring or measuring, and medical
  examinations warranted by experience, information, or medical or technological developments
  acquired subsequent to the promulgation of the relevant standard.
- 4143 (e) Whenever a rule issued by the administrator differs substantially from an existing
  4144 national consensus standard, the division shall publish a statement of the reasons why the rule
  4145 as adopted will better effectuate the purposes of this chapter than the national consensus
  4146 standard.
- 4147 (f) Whenever a rule, standard, or national consensus standard is modified by the4148 secretary so as to make less restrictive the federal Williams-Steiger Occupational Safety and

- 4149 Health Act of 1970, the less restrictive modification shall be immediately applicable to this4150 chapter and shall be immediately implemented by the division.
- 4151 (3) (a) The administrator shall provide an emergency temporary standard to take
  4152 immediate effect upon publication if the administrator determines that:
- 4153 (i) employees are exposed to grave danger from exposure to substances or agents4154 determined to be toxic or physically harmful or from new hazards; and
- 4155

(ii) that the standard is necessary to protect employees from danger.

- 4156 (b) An emergency standard shall be effective until superseded by a standard issued in
  4157 accordance with the procedures prescribed in <u>this</u> Subsection (3)(c).
- 4158 (c) Upon publication of an emergency standard the division shall commence a
  4159 proceeding in accordance with Subsection (2) and the standard as published shall serve as a
  4160 proposed rule for the proceedings. The division shall issue a standard under Subsection (3) no
  4161 later than 120 days after publication of the emergency standard.
- 4162 (4) (a) Any affected employer may apply to the division for a rule or order for a variance from a standard issued under this section. Affected employees shall be given notice of 4163 4164 each application and may participate in a hearing. The administrator shall issue a rule or order 4165 if the administrator determines on the record, after opportunity for an inspection where 4166 appropriate and a hearing, that the proponent of the variance has demonstrated by a 4167 preponderance of the evidence that the conditions, practices, means, methods, operations, or 4168 processes used or proposed to be used by an employer will provide employment and a 4169 workplace to the employer's employees that are as safe and healthful as those which would 4170 prevail if the employer complied with the standard.
- (b) The rule or order issued under Subsection (4)(a) shall prescribe the conditions the
  employer must maintain, and the practices, means, methods, operations and processes that the
  employer must adopt and use to the extent they differ from the standard in question.
- 4174 (c) A rule or order issued under Subsection (4)(a) may be modified or revoked upon
  4175 application by an employer, employees, or by the administrator on its own motion, in the
  4176 manner prescribed for its issuance under <u>this</u> Subsection (4) at any time after six months from
  4177 its issuance.
- 4178 (5) The administrator shall include a statement of reasons for the administrator's4179 actions when the administrator:

4180	(a) issues any code, standard, rule, or order;
4181	(b) grants any exemption or extension of time; or
4182	(c) compromises, mitigates, or settles any penalty assessed under this chapter.
4183	(6) Any person adversely affected by a standard issued under this section, at any time
4184	prior to 60 days after a standard is issued, may file a petition challenging [its] the standard's
4185	validity with [the district court having jurisdiction for judicial review] a court with jurisdiction
4186	under Title 78A, Judiciary and Judicial Administration. A copy of the petition shall be served
4187	upon the division by the petitioner. The filing of a petition may not, unless otherwise ordered
4188	by the court, operate as a stay of the standard. The determinations of the division shall be
4189	conclusive if supported by substantial evidence on the record as a whole.
4190	(7) In determining the priority for establishing standards under this section, the division
4191	shall give due regard to the urgency of the need for mandatory safety and health standards for
4192	particular industries, trades, crafts, occupations, businesses, workplaces or work environments.
4193	The administrator shall also give due regard to the recommendations of the Department of
4194	Health and Human Services about the need for mandatory standards in determining the priority
4195	for establishing the standards.
4196	Section 62. Section <b>38-1a-308</b> is amended to read:
4197	38-1a-308. Intentional submission of excessive lien notice Criminal and civil
4198	liability.
4199	(1) As used in this section, "residential project" means a project on real property:
4200	(a) for which a preconstruction service or construction work is provided; and
4201	(b) that consists of:
4202	(i) one single-family residence; or
4203	(ii) one multi-family residence that contains no more than four units.
4204	(2) A person is guilty of a class B misdemeanor if:
4205	(a) the person intentionally submits for recording a notice of preconstruction lien or
4206	notice of construction lien against any property containing a greater demand than the sum due;
4207	and
4208	(b) by submitting the notice, the person intends:
4209	(i) to cloud the title;
4210	(ii) to exact from the owner or person liable by means of the excessive notice of

4211	preconstruction or construction lien more than is due; or
4212	(iii) to procure any unjustified advantage or benefit.
4213	(3) (a) As used in this Subsection (3), "third party" means an owner, original
4214	contractor, or subcontractor.
4215	(b) In addition to any criminal penalty under Subsection (2), a person who submits a
4216	notice of preconstruction lien or notice of construction lien as described in Subsection (2) is
4217	liable to a third party who is affected by the notice of preconstruction lien or the notice of
4218	construction lien for twice the amount by which the lien notice exceeds the amount actually
4219	due or the actual damages incurred by the owner, original contractor, or subcontractor,
4220	whichever is greater.
4221	(4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the
4222	claim shall arbitrate in accordance with Subsections (5) through (15) if the notice of
4223	preconstruction lien, or the notice of construction lien, that is the subject of the claim is:
4224	(a) for a residential project; and
4225	(b) for \$50,000 or less.
4226	(5) (a) Unless otherwise agreed to by the parties, a claim that is submitted to arbitration
4227	under this section shall be resolved by a single arbitrator.
4228	(b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within
4229	60 days after the day on which an answer is filed.
4230	(c) If the parties are unable to agree on a single arbitrator as required under Subsection
4231	(5)(b), the parties shall select a panel of three arbitrators.
4232	(d) If the parties select a panel of three arbitrators under Subsection (5)(c):
4233	(i) each side shall select one arbitrator; and
4234	(ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional
4235	arbitrator to be included in the panel.
4236	(6) Unless otherwise agreed to in writing:
4237	(a) each party shall pay an equal share of the fees and costs of the arbitrator selected
4238	under Subsection (5)(b); or
4239	(b) if an arbitration panel is selected under Subsection (5)(d):
4240	(i) each party shall pay the fees and costs of that party's selected arbitrator; and
4241	(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected

4242	under Subsection (5)(d)(ii).
4243	(7) Except as otherwise provided in this section or otherwise agreed to by the parties,
4244	an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter
4245	11, Utah Uniform Arbitration Act.
4246	(8) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and
4247	the Utah Rules of Evidence shall apply to an arbitration proceeding under this section.
4248	(b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied
4249	liberally with the intent of resolving the claim in a timely and cost-efficient manner.
4250	
	(c) Subject to the provisions of this section, [discovery shall be conducted in
4251	accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject
4252	to the jurisdiction of the district court in which the claim is filed] the parties shall conduct
4253	discovery in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.
4254	(d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an
4255	arbitration proceeding under this section shall be limited to the discovery available in a tier 1
4256	case under Rule 26 of the Utah Rules of Civil Procedure.
4257	(9) A written decision by a single arbitrator or by a majority of the arbitration panel
4258	shall constitute a final decision.
4259	(10) An arbitration award issued under this section:
4260	(a) shall be the final resolution of all excessive notice claims described in Subsection
4261	(3)(b) that are:
4262	(i) between the parties;
4263	(ii) for a residential project; and
4264	(iii) for \$50,000 or less; and
4265	(b) may be reduced to judgment by the court upon motion and notice, unless:
4266	(i) any party, within 20 days after the day on which the arbitration award is served, files
4267	a notice requesting a trial de novo in [district court] a court with jurisdiction under Title 78A,
4268	Judiciary and Judicial Administration; or
4269	(ii) the arbitration award has been satisfied.
4270	(11) (a) Upon filing a notice requesting a trial de novo under Subsection $\left[\frac{(10)}{(10)}\right]$
4271	(10)(b)(i):
4272	(i) unless otherwise stipulated to by the parties or ordered by the court, the parties are
12/2	(i) alless otherwise suparated to by the parties of ordered by the court, the parties are

4273	allowed an additional 60 days for discovery; and
4274	(ii) the claim shall proceed through litigation [pursuant to] in accordance with the Utah
4275	Rules of Civil Procedure and the Utah Rules of Evidence [in the district court].
4276	(b) The additional discovery time described in Subsection (11)(a)(i) shall run from the
4277	day on which the notice requesting a trial de novo is filed.
4278	(12) If the plaintiff, as the moving party in a trial de novo requested under Subsection
4279	[(10)] $(10)(b)(i)$ , does not obtain a verdict that is at least 10% greater than the arbitration
4280	award, the plaintiff is responsible for all of the nonmoving party's costs, including expert
4281	witness fees.
4282	(13) If a defendant, as the moving party in a trial de novo requested under Subsection
4283	[(10)] (10)(b)(i), does not obtain a verdict that is at least 10% less than the arbitration award,
4284	the defendant is responsible for all of the nonmoving party's costs, including expert witness
4285	fees.
4286	(14) If a [district] court determines, upon a motion of the nonmoving party, that the
4287	moving party's use of the trial de novo process was filed in bad faith, as defined in Section
4288	78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving party.
4289	(15) All arbitration awards issued under this section shall bear postjudgment interest
4290	pursuant to Section 15-1-4.
4291	Section 63. Section <b>38-1a-804</b> is amended to read:
4292	38-1a-804. Notice of release of lien and substitution of alternate security.
4293	(1) The owner of any interest in a project property that is subject to a recorded
4294	preconstruction or construction lien, or any original contractor or subcontractor affected by the
4295	lien, who disputes the correctness or validity of the lien may submit for recording a notice of
4296	release of lien and substitution of alternate security:
4297	(a) that meets the requirements of Subsection (2);
4298	(b) in the office of each applicable county recorder where the lien was recorded; and
4299	(c) at any time before the date that is 180 days after the first summons is served in an
4300	action to foreclose the preconstruction or construction lien for which the notice under this
4301	section is submitted for recording.
4302	(2) A notice of release of lien and substitution of alternate security recorded under
4303	Subsection (1) shall:

4303 Subsection (1) shall:

4304	(a) meet the requirements for the recording of documents in Title 57, Chapter 3,
4305	Recording of Documents;
4306	(b) reference the preconstruction or construction lien sought to be released, including
4307	the applicable entry number, book number, and page number; and
4308	(c) have as an attachment a surety bond or evidence of a cash deposit that:
4309	(i) (A) if a surety bond, is executed by a surety company that is treasury listed, A-rated
4310	by AM Best Company, and authorized to issue surety bonds in this state; or
4311	(B) if evidence of a cash deposit, meets the requirements established by rule by the
4312	Department of Commerce in accordance with Title 63G, Chapter 3, Utah Administrative
4313	Rulemaking Act;
4314	(ii) is in an amount equal to:
4315	(A) 150% of the amount claimed by the claimant under the preconstruction or
4316	construction lien or as determined under Subsection (7), if the lien claim is for \$25,000 or
4317	more;
4318	(B) 175% of the amount claimed by the claimant under the preconstruction or
4319	construction lien or as determined under Subsection (7), if the lien claim is for at least \$15,000
4320	but less than \$25,000; or
4321	(C) 200% of the amount claimed by the claimant under the preconstruction or
4322	construction lien or as determined under Subsection (7), if the lien claim is for less than
4323	\$15,000;
4324	(iii) is made payable to the claimant;
4325	(iv) is conditioned for the payment of:
4326	(A) the judgment that would have been rendered, or has been rendered against the
4327	project property in the action to enforce the lien; and
4328	(B) any costs and attorney fees awarded by the court; and
4329	(v) has as principal:
4330	(A) the owner of the interest in the project property; or
4331	(B) the original contractor or subcontractor affected by the lien.
4332	(3) (a) Upon the recording of the notice of release of lien and substitution of alternate
4333	security under Subsection (1), the real property described in the notice shall be released from
4334	the preconstruction lien or construction lien to which the notice applies.

4335	(b) A recorded notice of release of lien and substitution of alternate security is effective
4336	as to any amendment to the preconstruction or construction lien being released if the bond
4337	amount remains enough to satisfy the requirements of Subsection (2)(c)(ii).
4338	(4) (a) Upon the recording of a notice of release of lien and substitution of alternate
4339	security under Subsection (1), the person recording the notice shall serve a copy of the notice,
4340	together with any attachments, within 30 days upon the claimant.
4341	(b) If a suit is pending to foreclose the preconstruction or construction lien at the time
4342	the notice is served upon the claimant under Subsection (4)(a), the claimant shall, within 90
4343	days after the receipt of the notice, institute proceedings to add the alternate security as a party
4344	to the lien foreclosure suit.
4345	(5) The alternate security attached to a notice of release of lien shall be discharged and
4346	released upon:
4347	(a) the failure of the claimant to commence a suit against the alternate security within
4348	the same time as an action to enforce the lien under Section 38-1a-701;
4349	(b) the failure of the lien claimant to institute proceedings to add the alternate security
4350	as a party to a lien foreclosure suit within the time required by Subsection (4)(b);
4351	(c) the dismissal with prejudice of the lien foreclosure suit or suit against the alternate
4352	security as to the claimant; or
4353	(d) the entry of judgment against the claimant in:
4354	(i) a lien foreclosure suit; or
4355	(ii) suit against the alternate security.
4356	(6) If a copy of the notice of release of lien and substitution of alternate security is not
4357	served upon the claimant as provided in Subsection (4)(a), the claimant has six months after
4358	the discovery of the notice to commence an action against the alternate security, except that no
4359	action may be commenced against the alternate security after two years from the date the notice
4360	was recorded.
4361	(7) (a) (i) The owner of any interest in a project property that is subject to a recorded
4362	preconstruction or construction lien, or an original contractor or subcontractor affected by the
4363	lien, who disputes the amount claimed under a preconstruction or construction lien may
4364	petition [the district court in the county in which the notice of lien is recorded] a court with
4365	jurisdiction under Title 78A, Judiciary and Judicial Administration, for a summary

4366	determination of the correct amount owing under the lien for the sole purpose of providing
4367	alternate security.
4368	(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
4369	bring a petition described in Subsection (7)(a)(i) in the county in which the notice of lien is
4370	recorded if the person brings the petition in the district court.
4371	(b) A petition under this Subsection (7) shall:
4372	(i) state with specificity the factual and legal bases for disputing the amount claimed
4373	under the preconstruction or construction lien; and
4374	(ii) be supported by a sworn affidavit and any other evidence supporting the petition.
4375	(c) A petitioner under Subsection (7)(a) shall, as provided in Utah Rules of Civil
4376	Procedure, Rule 4, serve on the claimant:
4377	(i) a copy of the petition; and
4378	(ii) a notice of hearing if a hearing is scheduled.
4379	(d) If a court finds a petition under Subsection (7)(a) insufficient, the court may
4380	dismiss the petition without a hearing.
4381	(e) If a court finds a petition under Subsection (7)(a) sufficient, the court shall schedule
4382	a hearing within 10 days to determine the correct amount claimed under the preconstruction or
4383	construction lien for the sole purpose of providing alternate security.
4384	(f) A claimant may:
4385	(i) attend a hearing held under this Subsection (7); and
4386	(ii) contest the petition.
4387	(g) A determination under this section is limited to a determination of the amount
4388	claimed under a preconstruction or construction lien for the sole purpose of providing alternate
4389	security and does not conclusively establish:
4390	(i) the amount to which the claimant is entitled;
4391	(ii) the validity of the claim; or
4392	(iii) any person's right to any other legal remedy.
4393	(h) If a court, in a proceeding under this Subsection (7), determines that the amount
4394	claimed under a preconstruction or construction lien is excessive, the court shall set the amount
4395	for the sole purpose of providing alternate security.
4396	(i) In an order under Subsection (7)(h), the court shall include a legal description of the

4397	project property.
4398	(j) A petitioner under this Subsection (7) may record a certified copy of any order
4399	issued under this Subsection (7) in the county in which the lien is recorded.
4400	(k) A court may not award attorney fees for a proceeding under this Subsection (7), but
4401	shall consider those attorney fees in any award of attorney fees under any other provision of
4402	this chapter.
4403	Section 64. Section <b>38-1a-805</b> is amended to read:
4404	<b>38-1a-805.</b> Failure to file notice Petition to nullify preconstruction or
4405	construction lien Expedited proceeding.
4406	(1) (a) An owner of an interest in a project property that is subject to a recorded
4407	preconstruction lien or a recorded construction lien may petition [the district court in the
4408	county in which the project property is located] a court with jurisdiction under Title 78A,
4409	Judiciary and Judicial Administration, for summary relief to nullify the preconstruction lien or
4410	the construction lien if:
4411	$\left[\frac{(a)}{(a)}\right]$ (i) the owner claims that the preconstruction lien or the construction lien is invalid
4412	because:
4413	$\left[\frac{(i)}{(A)}\right]$ the lien claimant did not timely file a notice of preconstruction service under
4414	Section 38-1a-401; or
4415	[(ii)] (B) the lien claimant did not timely file a preliminary notice under Section
4416	38-1a-501;
4417	$\left[\frac{(b)}{(ii)}\right]$ the owner sent the lien claimant a written request to withdraw in accordance
4418	with Subsection (2); and
4419	$\left[\frac{(c)}{(c)}\right]$ (iii) the lien claimant did not withdraw the preconstruction lien or the construction
4420	lien within 10 business days after the day on which the owner sent the written request to
4421	withdraw.
4422	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
4423	bring a petition described in Subsection (1)(a) in the county in which the project property is
4424	located if the person brings the petition in the district court.
4425	(2) A written request to withdraw described in Subsection (1) shall:
4426	(a) be delivered by certified mail to the lien claimant at the lien claimant's address
4427	provided in the recorded preconstruction lien or the recorded construction lien;

4428	(b) state the owner's name, address, and telephone number;
4429	(c) contain:
4430	(i) (A) the name of the county in which the property that is subject to the
4431	preconstruction lien or the construction lien is located; and
4432	(B) the tax parcel identification number of each parcel that is subject to the
4433	preconstruction lien or the construction lien; or
4434	(ii) a legal description of the property that is subject to the preconstruction lien or the
4435	construction lien;
4436	(d) state that the lien claimant has failed to timely file:
4437	(i) a notice of preconstruction service under Section 38-1a-401; or
4438	(ii) a preliminary notice under Section 38-1a-501;
4439	(e) request that the lien claimant withdraw the lien claimant's preconstruction lien or
4440	construction lien within 10 business days after the day on which the written request to
4441	withdraw is sent; and
4442	(f) state that if the lien claimant does not withdraw the preconstruction lien or the
4443	construction lien within 10 business days after the day on which the written request to
4444	withdraw is sent, the owner may petition a court to nullify the lien in an expedited proceeding
4445	under this section.
4446	(3) A petition under Subsection (1) shall:
4447	(a) state with specificity that:
4448	(i) the lien claimant's preconstruction lien or the lien claimant's construction lien is
4449	invalid because the lien claimant did not file a notice of preconstruction service or a
4450	preliminary notice, as applicable;
4451	(ii) the petitioner sent the lien claimant a written request to withdraw in accordance
4452	with Subsection (2); and
4453	(iii) the lien claimant did not withdraw the preconstruction lien or the construction lien
4454	within 10 business days after the day on which the owner sent the written request to withdraw;
4455	(b) be supported by a sworn affidavit of the petitioner; and
4456	(c) be served on the lien claimant, in accordance with the Rules of Civil Procedure,
4457	within three business days after the day on which the petitioner files the petition in the [district]
4458	court.

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4459	(4) (a) If the court finds that a petition does not meet the requirements described in
4460	Subsection (3), the court may dismiss the petition without a hearing.
4461	(b) If the court finds that a petition meets the requirements described in Subsection (3),
4462	the court shall schedule an expedited hearing to determine whether the preconstruction lien or
4463	the construction lien is invalid because the lien claimant failed to file a notice of
4464	preconstruction service or a preliminary notice, as applicable.
4465	(5) (a) If the court grants a hearing, within three business days after the day on which
4466	the court schedules the hearing and at least seven business days before the day on which the
4467	hearing is scheduled, the petitioner shall serve on the lien claimant, in accordance with the
4468	Rules of Civil Procedure, a copy of the petition, notice of the hearing, and a copy of the court's
4469	order granting the expedited hearing.
4470	(b) The lien claimant may attend the hearing and contest the petition.
4471	(6) An expedited proceeding under this section may only determine:
4472	(a) whether the lien claimant filed a notice of preconstruction service or a preliminary
4473	notice; and
4474	(b) if the lien claimant failed to file a notice of preconstruction service or a preliminary
4475	notice, whether the lien claimant's preconstruction lien or construction lien is valid.
4476	(7) (a) If, following a hearing, the court determines that the preconstruction lien or the
4477	construction lien is invalid, the court shall issue an order that:
4478	(i) contains a legal description of the property;
4479	(ii) declares the preconstruction lien or the construction lien void ab initio;
4480	(iii) releases the property from the lien; and
4481	(iv) awards costs and reasonable attorney fees to the petitioner.
4482	(b) The petitioner may submit a copy of an order issued under Subsection (7)(a) to the
4483	county recorder for recording.
4484	(8) (a) If, following a hearing, the court determines that the preconstruction lien or the
4485	construction lien is valid, the court shall:
4486	(i) dismiss the petition; and
4487	(ii) award costs and reasonable attorney fees to the lien claimant.
4488	(b) The dismissal order shall contain a legal description of the property.
4489	(c) The lien claimant may submit a copy of the dismissal order to the county recorder

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4490 for recording. 4491 (9) If a petition under this section contains a claim for damages, the proceedings related 4492 to the claim for damages may not be expedited under this section. 4493 Section 65. Section 38-2-4 is amended to read: 4494 38-2-4. Disposal of property by lienholder -- Procedure. 4495 (1) Any party holding a lien upon personal property as provided in this chapter may 4496 dispose of the property in the manner provided in Subsection (2). 4497 (2) (a) The lienor shall give notice to the owner of the property, to the customer as 4498 indicated on the work order, and to all other persons claiming an interest in or lien on it, as 4499 disclosed by the records of the Motor Vehicle Division, lieutenant governor's office, or of corresponding agencies of any other state in which the property appears registered or an interest 4500 4501 in or lien on it is evidenced if known by the lienor. (b) The notice shall be sent by certified mail at least 30 days before the proposed or 4502 4503 scheduled date of any sale and shall contain: 4504 (i) a description of the property and its location; (ii) the name and address of the owner of the property, the customer as indicated on the 4505 4506 work order, and any person claiming an interest in or lien on the property; 4507 (iii) the name, address, and telephone number of the lienor; 4508 (iv) notice that the lienor claims a lien on the property for labor and services performed 4509 and interest and storage fees charged, if any, and the cash sum which, if paid to the lienor, would be sufficient to redeem the property from the lien claimed by the lienor: 4510 (v) notice that the lien claimed by the lienor is subject to enforcement under this 4511 4512 section and that the property may be sold to satisfy the lien; 4513 (vi) the date, time, and location of any proposed or scheduled sale of the property and 4514 whether the sale is private or public, except that no property may be sold earlier than 45 days 4515 after completion of the repair work: and 4516 (vii) notice that the owner of the property has a right to recover possession of the 4517 property without instituting judicial proceedings by posting bond. 4518 (3) If the owner of the property is unknown or his whereabouts cannot be determined, 4519 or if the owner or any person notified under Subsection (2) fails to acknowledge receipt of the 4520 notice, the lienor, at least 20 days before the proposed or scheduled date of sale of the property,

4521	shall publish the notice required by this section once in a newspaper circulated in the county
4522	where the vehicle is held.
4523	(4) A lience may have his property released from any lien claimed on it under this
4524	chapter by filing with the clerk of a [justice court or district] court a cash or surety bond,
4525	payable to the person claiming the lien, and conditioned for the payment of any judgment that
4526	may be recovered on the lien, with costs, interest, and storage fees.
4527	(5) (a) The lienor has 60 days after receiving notice that the lienee has filed the bond
4528	provided in Subsection (4) to file suit to foreclose his lien.
4529	(b) If the lienor fails to timely file an action, the clerk of the court shall release the
4530	bond.
4531	(6) Property subject to lien enforcement under this section may be sold by the lienor at
4532	public or private sale; however, in the case of a private sale, every aspect of the sale, including
4533	the method, manner, time, place, and terms shall be commercially reasonable.
4534	(7) This section may not be construed to affect an owner's right to redeem his property
4535	from the lien at any time prior to sale by paying the amount claimed by the lienor for work
4536	done, interest, and storage fees charged and any costs incurred by the repair shop for using
4537	enforcement procedures under this section.
4538	Section 66. Section <b>38-9-204</b> is amended to read:
4539	38-9-204. Petition to file lien Notice to record interest holders Summary relief
4540	Contested petition.
4541	(1) A lien claimant whose document is rejected pursuant to Section 38-9-202 may
4542	petition [the district court] a court with jurisdiction under Title 78A, Judiciary and Judicial
4543	Administration, for an expedited determination that the lien may be recorded.
4544	(2) A petition under Subsection (1) shall:
4545	(a) be filed:
4546	(i) [with the district court] notwithstanding Title 78B, Chapter 3a, Venue for Civil
4547	Actions, in the county of the county recorder who refused to record the document if the petition
4548	is filed in the district court; and
4549	(ii) within 10 days after the day on which the person who files the petition receives the
4550	notice under Subsection 38-9-202(1)(b) of the county recorder's refusal to record the document;
4551	(b) state with specificity the grounds why the document should lawfully be recorded;

4552	and
4553	(c) be supported by a sworn affidavit of the lien claimant.
4554	(3) If the court finds the petition is insufficient, it may dismiss the petition without a
4555	hearing.
4556	(4) (a) If the court grants a hearing, the petitioner shall, by certified or registered mail,
4557	serve a copy of the petition, notice of hearing, and a copy of the court's order granting an
4558	expedited hearing on all record interest holders of the property sufficiently in advance of the
4559	hearing to enable any record interest holder to attend the hearing.
4560	(b) Any record interest holder of the property has the right to attend and contest the
4561	petition.
4562	(5) (a) If, following a hearing, the court finds that the document may lawfully be
4563	recorded, the court shall issue an order directing the county recorder to accept the document for
4564	recording.
4565	(b) If the petition is contested, the court may award costs and reasonable attorney fees
4566	to the prevailing party.
4567	(6) (a) A summary proceeding under this section:
4568	(i) may only determine whether a contested document, on its face, shall be recorded by
4569	the county recorder; and
4570	(ii) may not determine the truth of the content of the document or the property or legal
4571	rights of the parties beyond the necessary determination of whether the document shall be
4572	recorded.
4573	(b) A court's grant or denial of a petition under this section may not restrict any other
4574	legal remedies of any party, including any right to injunctive relief pursuant to Rules of Civil
4575	Procedure, Rule 65A, Injunctions.
4576	(7) If a petition under this section contains a claim for damages, the proceedings related
4577	to the claim for damages may not be expedited under this section.
4578	Section 67. Section <b>38-9-205</b> is amended to read:
4579	38-9-205. Petition to nullify lien Notice to lien claimant Summary relief
4580	Finding of wrongful lien Wrongful lien is void.
4581	(1) (a) A record interest holder of real property against which a wrongful lien is
4582	recorded may petition [the district court in the county in which the document is recorded] a

4583	court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for summary
4584	relief to nullify the wrongful lien.
4585	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a record interest
4586	holder shall bring a petition described in Subsection (1)(a) in the county in which the document
4587	is recorded if the person brings the petition in the district court.
4588	(2) The petition described in Subsection (1) shall state with specificity the claim that
4589	the lien is a wrongful lien and shall be supported by a sworn affidavit of the record interest
4590	holder.
4591	(3) (a) If the court finds the petition insufficient, the court may dismiss the petition
4592	without a hearing.
4593	(b) If the court finds the petition is sufficient, the court shall schedule a hearing within
4594	10 days to determine whether the document is a wrongful lien.
4595	(c) The record interest holder shall serve a copy of the petition on the lien claimant and
4596	a copy of a notice of the hearing pursuant to Rules of Civil Procedure, Rule 4, Process.
4597	(d) The lien claimant is entitled to attend and contest the petition.
4598	(4) A summary proceeding under this section:
4599	(a) may only determine whether a document is a wrongful lien; and
4600	(b) may not determine any other property or legal rights of the parties or restrict other
4601	legal remedies of any party.
4602	(5) (a) If, following a hearing, the court determines that the recorded document is a
4603	wrongful lien, the court shall issue an order declaring the wrongful lien void ab initio, releasing
4604	the property from the lien, and awarding costs and reasonable attorney fees to the petitioner.
4605	(b) (i) The record interest holder may submit a certified copy of the order to the county
4606	recorder for recording.
4607	(ii) The order shall contain a legal description of the real property.
4608	(c) If the court determines that the claim of lien is valid, the court shall dismiss the
4609	petition and may award costs and reasonable attorney's fees to the lien claimant. The dismissal
4610	order shall contain a legal description of the real property. The prevailing lien claimant may
4611	record a certified copy of the dismissal order.
4612	(6) If the court determines that the recorded document is a wrongful lien, the wrongful
4613	lien is void ab initio and provides no notice of claim or interest.

4614	(7) If a petition under this section contains a claim for damages, the proceedings related
4615	to the claim for damages may not be expedited under this section.
4616	Section 68. Section <b>38-9-303</b> is amended to read:
4617	38-9-303. Enforcement proceeding required.
4618	(1) (a) For a nonconsensual common law document recorded on or after May 13, 2014,
4619	within 10 business days after the day on which a document sponsor submits a nonconsensual
4620	common law document to the county recorder for recording, the document sponsor shall [file a
4621	complaint in district court in the county of the county recorder where the nonconsensual
4622	common law document was recorded for a proceeding] bring an action in a court with
4623	jurisdiction under Title 78A, Judiciary and Judicial Administration, to obtain an order that the
4624	nonconsensual common law document is valid and enforceable.
4625	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the document
4626	sponsor shall bring an action described in Subsection (1)(a) in the county of the county recorder
4627	where the nonconsensual common law document was recorded if the person brings the petition
4628	in the district court.
4629	(2) A complaint to initiate [a judicial proceeding] an action described in Subsection (1)
4630	shall:
4631	(a) state with specificity the grounds that make the nonconsensual common law
4632	document valid and enforceable;
4633	(b) be supported by the document sponsor's sworn affidavit; and
4634	(c) name each affected person as an opposing party.
4635	(3) If the court finds that a complaint [filed under Subsection (1)] does not meet the
4636	requirements described in Subsection (2), the court may dismiss the complaint without a
4637	hearing.
4638	(4) If a complaint [filed under Subsection (1)] meets the requirements described in
4639	Subsection (2), the court:
4640	(a) shall hold a hearing;
4641	(b) following the hearing, shall issue an order that:
4642	(i) states whether the nonconsensual common law document is valid and enforceable;
4643	and
4644	(ii) includes a legal description of the real property that is the subject of the complaint;

4645 and 4646 (c) may award costs and reasonable attorney fees to the prevailing party. 4647 (5) Within three business days after the day on which the court issues a final order in a 4648 proceeding under this section, the prevailing party shall submit a copy of the court's final order 4649 to the county recorder for recording. 4650 (6) A nonconsensual common law document is presumed invalid and unenforceable. 4651 (7) A person's lack of belief in the jurisdiction or authority of the state or of the 4652 government of the United States is not a defense to liability under this section. 4653 (8) A court's order in [a proceeding] an action under this section does not restrict any 4654 other legal remedies available to any party, including any right to injunctive relief under Utah 4655 Rules of Civil Procedure, Rule 65A, Injunctions. 4656 Section 69. Section 38-9a-201 is amended to read: 38-9a-201. Wrongful lien injunction -- Forms. 4657 4658 (1) (a) Any person who believes that [he or she] the person is the victim of a wrongful 4659 lien may file a verified written petition for a civil wrongful lien injunction against the person 4660 filing, making, or uttering the lien, notice of interest, or other encumbrance in [the district court in the district in which the petitioner or respondent resides or in which any of the events 4661 occurred] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration. 4662 4663 (b) A minor accompanied by [his or her] the minor's parent or guardian may file a 4664 petition on [his or her] the minor's own behalf, or a parent, guardian, or custodian may file a 4665 petition on the minor's behalf. (2) (a) (i) The Administrative Office of the Courts shall develop and adopt forms for 4666 4667 petitions, ex parte civil wrongful lien injunctions, civil wrongful lien injunctions, service, and 4668 any other necessary forms in accordance with the provisions of this chapter on or before May 2, 4669 2005. 4670 (ii) The office shall provide the forms adopted under Subsection (2)(a)(i) to the clerk of 4671 each district court. (b) The court clerks shall provide the forms to persons seeking to proceed under this 4672 4673 chapter. 4674 (c) The [district] courts shall issue all petitions, injunctions, ex parte injunctions, and 4675 any other necessary forms in the form prescribed by the Administrative Office of the Courts.

4676	Section 70. Section <b>38-9a-202</b> is amended to read:
4677	<b>38-9a-202.</b> Petition for wrongful lien injunction Ex parte injunction.
4678	(1) The petition for a civil wrongful lien injunction shall include:
4679	(a) the name of the petitioner, except that at the petitioner's request his or her address
4680	shall be disclosed to the court for purposes of service, but may not be listed on the petition, and
4681	shall be maintained in a separate document or automated database, not subject to release,
4682	disclosure, or any form of public access except as ordered by the court for good cause shown;
4683	(b) the name and address, if known, of the respondent;
4684	(c) specific actions and dates of the actions constituting the alleged wrongful lien;
4685	(d) if there is a prior court order concerning the same conduct, the name of the court in
4686	which the order was rendered; and
4687	(e) corroborating evidence of a wrongful lien, which may be in the form of a police
4688	report, affidavit, record, statement, item, letter, copy of the lien, or any other evidence which
4689	tends to prove the allegation of wrongful lien.
4690	(2) If the court determines there is reason to believe that a wrongful lien has been
4691	made, uttered, recorded, or filed, the court may issue an ex parte civil wrongful lien injunction
4692	that includes any of the following:
4693	(a) enjoining the respondent from making, uttering, recording, or filing any further
4694	liens without specific permission of the court;
4695	(b) ordering that the lien be nullified; and
4696	(c) any other relief necessary or convenient for the protection of the petitioner and
4697	other specifically designated persons under the circumstances.
4698	(3) An ex parte civil wrongful lien injunction issued under this section shall state on its
4699	face:
4700	(a) that the respondent is entitled to a hearing, upon written request filed with the court
4701	within 10 days of the service of the injunction;
4702	(b) the name and address of the [district] court where the request may be filed;
4703	(c) that if the respondent fails to request a hearing within 10 days of service, the ex
4704	parte civil wrongful lien injunction is automatically modified to a civil wrongful lien injunction
4705	without further notice to the respondent and that the civil wrongful lien injunction expires three
4706	years after service on the respondent;

4707	(d) the following statement: "Attention. This is an official court order. If you disobey
4708	this order, the court may find you in contempt. You may also be arrested and prosecuted for
4709	the crime of making a wrongful lien and any other crime you may have committed in
4710	disobeying this order."; and
4711	(e) that if the respondent requests, in writing, a hearing after the ten-day period
4712	specified in Subsection (3)(a) the court shall set a hearing within a reasonable time from the
4713	date the hearing is requested.
4714	(4) The ex parte civil wrongful lien injunction shall be served on the respondent within
4715	90 days after the date it is signed, and is effective upon service.
4716	Section 71. Section <b>38-9a-205</b> is amended to read:
4717	38-9a-205. Remedies Actions arising from injunctions Attorney fees.
4718	(1) The remedies provided in this chapter for enforcement of the orders of the court are
4719	in addition to any other civil and criminal remedies available.
4720	[(2) The district court shall hear and decide all matters arising pursuant to this chapter.]
4721	[(3)] (2) After a hearing with notice to the affected party, the court may enter an order
4722	requiring any party to pay the costs of the action, including reasonable attorney's fees.
4723	Section 72. Section <b>38-11-110</b> is amended to read:
4724	38-11-110. Issuance of certificates of compliance.
4725	(1) (a) The director may issue a certificate of compliance only after determining
4726	through an informal proceeding, as set forth in Title 63G, Chapter 4, Administrative
4727	Procedures Act:
4728	(i) that the owner is in compliance with Subsections 38-11-204(4)(a) and (b); or
4729	(ii) subject to Subsection (2), that the owner is entitled to protection under Subsection
4730	38-11-107(1)(b).
4731	(b) If the director determines through an informal proceeding under Subsection (1)(a)
4732	that an owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(i) is
4733	not in compliance as provided in Subsection (1)(a)(i), the director may not issue a certificate of
4734	compliance.
4735	(2) (a) An owner seeking the issuance of a certificate of compliance under Subsection
4736	(1)(a)(ii) shall submit an affidavit, as defined by the division by rule, affirming that the owner
4737	is entitled to protection under Subsection 38-11-107(1)(b).

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- 4738 (b) If an owner's affidavit under Subsection (2)(a) is disputed, the owner may file a 4739 complaint in [small claims court or district court] a court with jurisdiction under Title 78A, 4740 Judiciary and Judicial Administration, to resolve the dispute. 4741 (c) The director may issue a certificate of compliance to an owner seeking issuance of a 4742 certificate under Subsection (1)(a)(ii) if: 4743 (i) the owner's affidavit under Subsection (2)(a) is undisputed; or 4744 (ii) [a small claims court or district court] a court resolves any dispute over the owner's 4745 affidavit in favor of the owner. 4746 Section 73. Section 40-8-9 is amended to read: 4747 40-8-9. Evasion of chapter or orders -- Penalties -- Limitations of actions --4748 Violation of chapter or permit conditions -- Inspection -- Cessation order, abatement 4749 notice, or show cause order -- Suspension or revocation of permit -- Review -- Division 4750 enforcement authority -- Appeal provisions. 4751 (1) (a) A person, owner, or operator who willfully or knowingly evades this chapter, or 4752 who for the purpose of evading this chapter or any order issued under this chapter, willfully or 4753 knowingly makes or causes to be made any false entry in any report, record, account, or 4754 memorandum required by this chapter, or by the order, or who willfully or knowingly omits or 4755 causes to be omitted from a report, record, account, or memorandum, full, true, and correct 4756 entries as required by this chapter, or by the order, or who willfully or knowingly removes from 4757 this state or destroys, mutilates, alters, or falsifies any record, account, or memorandum, is 4758 guilty of a class B misdemeanor and, upon conviction, is subject to a fine of not more than 4759 \$10,000 for each violation. 4760 (b) Each day of willful failure to comply with an emergency order is a separate 4761 violation. 4762 (2) No suit, action, or other proceeding based upon a violation of this chapter, or any 4763 rule or order issued under this chapter, may be commenced or maintained unless the suit. 4764 action, or proceeding is commenced within five years from the date of the alleged violation. 4765 (3) (a) If, on the basis of information available, the division has reason to believe that a 4766 person is in violation of a requirement of this chapter or a permit condition required by this
- 4768 alleged violation is occurring, unless the information available to the division is a result of a

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chapter, the division shall immediately order inspection of the mining operation at which the

4769 previous inspection of the mining operation.

(b) (i) If, on the basis of an inspection, the division determines that a condition or
practice exists, or that a permittee is in violation of a requirement of this chapter or a permit
condition required by this chapter, and the condition, practice, or violation also creates an
imminent danger to the health or safety of the public, or is causing, or can reasonably be
expected to cause significant, imminent environmental harm to land, air, or water resources,
the division shall immediately order a cessation of mining and operations or the portion
relevant to the condition, practice, or violation.

4777 (ii) The cessation order shall remain in effect until the division determines that the
4778 condition, practice, or violation has been abated, or until modified, vacated, or terminated by
4779 the division.

(iii) If the division finds that the ordered cessation of mining operations, or a portion of
the operation, will not completely abate the imminent danger to the health or safety of the
public or the significant imminent environmental harm to land, air, or water resources, the
division shall, in addition to the cessation order, impose affirmative obligations on the operator
requiring him to take whatever steps the division considers necessary to abate the imminent
danger or the significant environmental harm.

(c) (i) If, on the basis of an inspection, the division determines that a permittee is in
violation of a requirement of this chapter or a permit condition required by this chapter, but the
violation does not create an imminent danger to the health or safety of the public or cannot be
reasonably expected to cause significant, imminent environmental harm to land, air, or water
resources, the division shall issue a notice to the permittee or his agent specifying a reasonable
time, but not more than 90 days, for the abatement of the violation and providing an
opportunity for a conference with the division.

(ii) If, upon expiration of the period of time as originally fixed or subsequently
extended, for good cause shown, and upon the written finding of the division, the division finds
that the violation has not been abated, it shall immediately order a cessation of mining
operations or the portion of the mining operation relevant to the violation.

4797 (iii) The cessation order shall remain in effect until the division determines that the
4798 violation has been abated or until modified, vacated, or terminated by the division pursuant to
4799 this Subsection (3).

4800	(iv) In the order of cessation issued by the division under this Subsection (3), the
4801	division shall determine the steps necessary to abate the violation in the most expeditious
4802	manner possible and shall include the necessary measures in the order.
4803	(d) (i) Notices and orders issued under this section shall set forth with reasonable
4804	specificity:
4805	(A) the nature of the violation and the remedial action required;
4806	(B) the period of time established for abatement; and
4807	(C) a reasonable description of the portion of the mining and reclamation operation to
4808	which the notice or order applies.
4809	(ii) Each notice or order issued under this section shall be given promptly to the
4810	permittee or his agent by the division, and the notices and orders shall be in writing and shall
4811	be signed by the director, or his authorized representative who issues notices or orders.
4812	(iii) A notice or order issued under this section may be modified, vacated, or
4813	terminated by the division, but any notice or order issued under this section which requires
4814	cessation of mining by the operator shall expire within 30 days of the actual notice to the
4815	operator, unless a conference is held with the division.
4816	(4) (a) The division may request the attorney general to institute a civil action for relief,
4817	including a permanent or temporary injunction, restraining order, or any other appropriate order
4818	in [the district court for the district in which the mining and reclamation operation is located, or
4819	in which the permittee of the operation has his principal office,] a court with jurisdiction under
4820	Title 78A, Judiciary and Judicial Administration, if the permittee or [his] the permittee's agent:
4821	(i) violates or fails or refuses to comply with an order or decision issued by the division
4822	under this chapter;
4823	(ii) interferes with, hinders, or delays the division, or its authorized representatives, in
4824	carrying out the provisions of this chapter;
4825	(iii) refuses to admit the authorized representatives to the mine;
4826	(iv) refuses to permit inspection of the mine by the authorized representative; or
4827	(v) refuses to furnish any information or report requested by the division in furtherance
4828	of the provisions of this chapter.
4829	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
4830	general brings the action described in Subsection (4)(a) in the district court, the attorney

4831	general shall bring the action in the county in which:
4832	(i) the mining and reclamation operation is located; or
4833	(ii) the permittee of the operation has the permittee's principal office.
4834	[ <del>(b)</del> ] (c) (i) The court shall have jurisdiction to provide the appropriate relief.
4835	(ii) Relief granted by the court to enforce an order under Subsection (4)(a)(i) shall
4836	continue in effect until the completion or final termination of all proceedings for review of that
4837	order under this chapter, unless, prior to this completion or termination, the [district] court
4838	granting the relief sets it aside or modifies the order.
4839	(5) (a) (i) A permittee issued a notice or order by the division, pursuant to the
4840	provisions of Subsections (3)(b) and (3)(c), or a person having an interest which may be
4841	adversely affected by the notice or order, may apply to the board for review of the notice or
4842	order within 30 days of receipt of the notice or order, or within 30 days of a modification,
4843	vacation, or termination of the notice or order.
4844	(ii) Upon receipt of this application, the board shall pursue an investigation as it
4845	considers appropriate.
4846	(iii) The investigation shall provide an opportunity for a public hearing at the request of
4847	the applicant or the person having an interest which is or may be adversely affected, to enable
4848	the applicant or that person to present information relating to the issuance and continuance of
4849	the notice or order of the modification, vacation, or termination of the notice or order.
4850	(iv) The filing of an application for review under this Subsection (5)(a) shall not
4851	operate as a stay of an order or notice.
4852	(b) (i) The permittee and other interested persons shall be given written notice of the
4853	time and place of the hearing at least five days prior to the hearing.
4854	(ii) This hearing shall be of record and shall be subject to judicial review.
4855	(c) (i) Pending completion of the investigation and hearing required by this section, the
4856	applicant may file with the board a written request that the board grant temporary relief from
4857	any notice or order issued under this section, with a detailed statement giving the reasons for
4858	granting this relief.
4859	(ii) The board shall issue an order or decision granting or denying this relief
4860	expeditiously.
4861	(d) (i) Following the issuance of an order to show cause as to why a permit should not

4862	be suspended or revoked pursuant to this section, the board shall hold a public hearing, after
4863	giving written notice of the time, place, and date of the hearing.
4864	(ii) The hearing shall be of record and shall be subject to judicial review.
4865	(iii) Within 60 days following the public hearing, the board shall issue and furnish to
4866	the permittee and all other parties to the hearing, a written decision, and the reasons for the
4867	decision, regarding suspension or revocation of the permit.
4868	(iv) If the board revokes the permit, the permittee shall immediately cease mining
4869	operations on the permit area and shall complete reclamation within a period specified by the
4870	board, or the board shall declare the performance bonds forfeited for the operation.
4871	(e) An action taken by the board under this section, or any other provision of the state
4872	program, is subject to judicial review by a court with jurisdiction under Title 78A, Judiciary
4873	and Judicial Administration.
4874	[(e) Action by the board taken under this section or any other provision of the state
4875	program shall be subject to judicial review by the appropriate district court within the state.]
4876	(6) A criminal proceeding for a violation of this chapter, or a regulation or order issued
4877	under this chapter, shall be commenced within five years from the date of the alleged violation.
4878	Section 74. Section <b>40-8-9.1</b> is amended to read:
4879	40-8-9.1. Civil penalty for violation of chapter Informal conference Public
4880	hearing Contest of violation or amount of penalty Collection Criminal penalties
4881	Civil penalty for failure to correct violation Civil penalties.
4882	(1) (a) (i) A permittee who violates a permit condition or other provision of this
4883	chapter, may be assessed a civil penalty by the division.
4884	(ii) If the violation leads to the issuance of a cessation order under [Section] Subsection
4885	40-8-9(3), the civil penalty shall be assessed.
4886	(b) (i) The penalty may not exceed \$5,000 for each violation.
4887	(ii) Each day of a continuing violation may be considered to be a separate violation for
4888	purposes of the penalty assessments.
4889	(c) In determining the amount of the penalty, consideration shall be given to:
4890	(i) the permittee's history of previous violations at the particular mining operation;
4891	(ii) the seriousness of the violation, including any irreparable harm to the environment
4892	and any hazard to the health or safety of the public;

4893 (iii) whether the permittee was negligent; and

4894 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid4895 compliance after notification of the violation.

4896 (2) (a) Within 30 days after the issuance of a notice or order charging that a violation of4897 this chapter has occurred, the division shall inform the permittee of the proposed assessment.

(b) The person charged with the penalty shall then have 30 days to pay the proposedassessment in full, or request an informal conference with the division.

4900 (c) The informal conference held by the division may address either the amount of the4901 proposed assessment or the fact of the violation, or both.

(d) If the permittee who requested the informal conference and participated in the
proceedings is not in agreement with the results of the informal conference, the permittee may,
within 30 days of receipt of the decision made by the division in the informal conference,
request a hearing before the board.

(e) (i) Prior to any review of the proposed assessment or the fact of a violation by the
board, and within 30 days of receipt of the decision made by the division in the informal
conference, the permittee shall forward to the division the amount of the proposed assessment
for placement in an escrow account.

4910 (ii) If the permittee fails to forward the amount of the penalty to the division within 30
4911 days of receipt of the results of the informal conference, the operator waives any opportunity
4912 for further review of the fact of the violation or to contest the amount of the civil penalty
4913 assessed for the violation.

4914 (iii) If, through administrative or judicial review, it is determined that no violation
4915 occurred or that the amount of the penalty should be reduced, the division shall, within 30 days,
4916 remit the appropriate amount to the operator with interest accumulated.

4917 (3) (a) A civil penalty assessed by the division shall be final only after the person
4918 charged with a violation described under Subsection (1) has been given an opportunity for a
4919 public hearing.

(b) If a public hearing is held, the board shall make findings of fact and shall issue a
written decision as to the occurrence of the violation and the amount of the penalty which is
warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

4923 (c) When appropriate, the board shall consolidate the hearings with other proceedings

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4924 under Section 40-8-9.

4925 (d) A hearing under this section shall be of record and shall be conducted pursuant to4926 board rules governing the proceedings.

4927 (e) If the person charged with a violation does not attend the public hearing, a civil4928 penalty shall be assessed by the division after the division:

(i) has determined:

4930 (A) that a violation did occur; and

4931 (B) the amount of the penalty which is warranted; and

4932 (ii) has issued an order requiring that the penalty be paid.

4933 [(4) Civil penalties owed under this chapter may be recovered in a civil action brought
4934 by the attorney general of Utah at the request of the board in any appropriate district court of
4935 the state.]

4936 (4) At the request of the board, the attorney general may bring a civil action in a court
4937 with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil
4938 penalty owed under this chapter.

4939 (5) Any person who willfully and knowingly violates a condition of a permit issued
4940 pursuant to this chapter or fails or refuses to comply with an order issued under Section 40-8-9,
4941 or any order incorporated in a final decision issued by the board under this chapter, except an
4942 order incorporated in a decision under Subsection (3), shall, upon conviction, be punished by a
4943 fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

4944 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to
4945 this chapter or fails or refuses to comply with any order incorporated in a final decision issued
4946 by the board under this chapter, except an order incorporated in a decision issued under
4947 Subsection (3), a director, officer, or agent of the corporation who willfully and knowingly
4948 authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same
4949 civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections
4950 (1) and (5).

4951 (7) Any person who knowingly makes a false statement, representation, or certification,
4952 or knowingly fails to make a statement, representation, or certification in an application,
4953 record, report, plan, or other document filed or required to be maintained pursuant to this
4954 chapter or an order or decision issued by the board under this chapter shall, upon conviction, be

4955 punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or4956 both.

4957 (8) (a) An operator who fails to correct a violation for which a notice or cessation order
4958 has been issued under Subsection 40-8-9(3)(b) within the period permitted for a correction of
4959 the violation shall be assessed a civil penalty of not less than \$750 for each day during which
4960 the failure or violation continues.

- 4961 (b) The period permitted for correction of a violation for which a notice of cessation4962 order has been issued under Subsection 40-8-9(3)(b) may not end until:
- (i) the entry of a final order by the board, in a review proceeding initiated by the
  operator, in which the board orders, after an expedited hearing, the suspension of the abatement
  requirements of the citation after determining that the operator will suffer irreparable loss or
  damage from the application of those requirements; or
- 4967 (ii) the entry of an order of the court, a review proceeding initiated by the operator, in4968 which the court orders the suspension of the abatement requirements of the citation.
- (9) Money received by the state from civil penalties collected from actions resulting
  from this chapter shall be deposited into the division's Abandoned Mine Reclamation Fund as
  established under Section 40-10-25.1 and shall be used for the reclamation of mined land
  impacts not covered by reclamation bonds.
- 4973

Section 75. Section **40-10-14** is amended to read:

4974 40-10-14. Division's findings issued to applicant and parties to conference -4975 Notice to applicant of approval or disapproval of application -- Hearing -- Temporary
4976 relief -- Appeal to district court -- Further review.

- 4977 (1) If a conference has been held under Subsection 40-10-13(2), the division shall issue
  4978 and furnish the applicant for a permit and persons who are parties to the proceedings with the
  4979 written finding of the division granting or denying the permit in whole or in part and stating the
  4980 reasons, within the 60 days after the conference.
- 4981 (2) If there has been no conference held under Subsection 40-10-13(2), the division
  4982 shall notify the applicant for a permit within a reasonable time as set forth in rules, taking into
  account the time needed for proper investigation of the site, the complexity of the permit
  application, and whether or not written objection to the application has been filed, whether the
  application has been approved or disapproved in whole or part.

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4986 (3) Upon approval of the application, the permit shall be issued. If the application is 4987 disapproved, specific reasons shall be set forth in the notification. Within 30 days after the 4988 applicant is notified of the final decision of the division on the permit application, the applicant 4989 or any person with an interest which is or may be adversely affected may request a hearing on 4990 the reasons for the final determination. The board shall hold a hearing pursuant to the rules of 4991 practice and procedure of the board within 30 days of this request and provide notification to 4992 all interested parties at the time that the applicant is notified. Within 30 days after the hearing 4993 the board shall issue and furnish the applicant, and all persons who participated in the hearing. 4994 with the written decision of the board granting or denying the permit in whole or in part and 4995 stating the reasons.

4996 (4) Where a hearing is requested pursuant to Subsection (3), the board may, under
4997 conditions it prescribes, grant temporary relief it deems appropriate pending final determination
4998 of the proceedings if:

4999 (a) all parties to the proceedings have been notified and given an opportunity to be5000 heard on a request for temporary relief;

5001 (b) the person requesting the relief shows that there is a substantial likelihood that the 5002 person will prevail on the merits of the final determination of the proceedings; and

5003 (c) the relief will not adversely affect the public health or safety or cause significant 5004 imminent environmental harm to land, air, or water resources.

5005 (5) For the purpose of the hearing, the board may administer oaths, subpoena witnesses 5006 or written or printed materials, compel attendance of the witnesses or production of the 5007 materials, and take evidence, including, but not limited to, site inspections of the land to be 5008 affected and other surface coal mining operations carried on by the applicant in the general 5009 vicinity of the proposed operation. A verbatim record of each public hearing required by this 5010 chapter shall be made, and a transcript made available on the motion of any party or by order of 5011 the board.

5012 (6) (a) An applicant or person with an interest which is or may be adversely affected 5013 who has participated in the proceedings as an objector, and who is aggrieved by the decision of 5014 the board, may appeal the decision of the board directly to the Utah Supreme Court.

5015 (b) If the board fails to act within the time limits specified in this chapter, the applicant 5016 or any person with an interest which is or may be adversely affected[<del>, who</del>] <u>and</u> has requested a

5017	hearing in accordance with Subsection (3), may bring an action in [the district court for the
5018	county in which the proposed operation is located] a court with jurisdiction under Title 78A,
5019	Judiciary and Judicial Administration.
5020	(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the applicant or
5021	person shall bring an action described in Subsection (6)(b) in the county in which the proposed
5022	operation is located if the petition is brought in the district court.
5023	[(c)] (d) Any party to the action in [district] court may appeal from the final judgment,
5024	order, or decree of the [district] court.
5025	[(d)] (e) Time frames for appeals under Subsections (6)(a) through [(c)] (d) shall be
5026	consistent with applicable provisions in Section 63G-4-401.
5027	Section 76. Section <b>40-10-20</b> is amended to read:
5028	40-10-20. Civil penalty for violation of chapter Informal conference Public
5029	hearing Contest of violation or amount of penalty Collection Criminal penalties
5030	Civil penalty for failure to correct violation.
5031	(1) (a) Any permittee who violates any permit condition or other provision of this
5032	chapter may be assessed a civil penalty by the division. If the violation leads to the issuance of
5033	a cessation order under Section 40-10-22, the civil penalty shall be assessed.
5034	(b) (i) The penalty may not exceed \$5,000 for each violation.
5035	(ii) Each day of a continuing violation may be deemed a separate violation for purposes
5036	of the penalty assessments.
5037	(c) In determining the amount of the penalty, consideration shall be given to:
5038	(i) the permittee's history of previous violations at the particular surface coal mining
5039	operation;
5040	(ii) the seriousness of the violation, including any irreparable harm to the environment
5041	and any hazard to the health or safety of the public;
5042	(iii) whether the permittee was negligent; and
5043	(iv) the demonstrated good faith of the permittee in attempting to achieve rapid
5044	compliance after notification of the violation.
5045	(2) (a) Within 30 days after the issuance of a notice or order charging that a violation of
5046	this chapter has occurred, the division shall inform the permittee of the proposed assessment.
5047	(b) The person charged with the penalty shall then have 30 days to pay the proposed

source assessment in full, or request an informal conference before the division.

5049 (c) The informal conference held by the division may address either the amount of the 5050 proposed assessment or the fact of the violation, or both.

(d) If the permittee who requested the informal conference and participated in the
proceedings is not in agreement with the results of the informal conference, the permittee may,
within 30 days of receipt of the decision made by the division in the informal conference,
request a hearing before the board.

(e) (i) Prior to any review of the proposed assessment or the fact of a violation by the
board, and within 30 days of receipt of the decision made by the division in the informal
conference, the permittee shall forward to the division the amount of the proposed assessment
for placement in an escrow account.

(ii) If the operator fails to forward the amount of the penalty to the division within 30
days of receipt of the results of the informal conference, the operator waives any opportunity
for further review of the fact of the violation or to contest the amount of the civil penalty
assessed for the violation.

(iii) If, through administrative or judicial review, it is determined that no violation
occurred or that the amount of the penalty should be reduced, the division shall within 30 days
remit the appropriate amount to the operator with interest accumulated.

5066 (3) (a) A civil penalty assessed by the division shall be final only after the person
5067 charged with a violation described under Subsection (1) has been given an opportunity for a
5068 public hearing.

5069 (b) If a public hearing is held, the board shall make findings of fact and shall issue a 5070 written decision as to the occurrence of the violation and the amount of the penalty which is 5071 warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

5072 (c) When appropriate, the board shall consolidate the hearings with other proceedings 5073 under Section 40-10-22.

5074 (d) Any hearing under this section shall be of record and shall be conducted pursuant to 5075 board rules governing the proceedings.

5076 (e) If the person charged with a violation fails to avail himself of the opportunity for a 5077 public hearing, a civil penalty shall be assessed by the division after the division:

5078 (i) has determined:

5079 (A) that a violation did occur; and 5080 (B) the amount of the penalty which is warranted; and 5081 (ii) has issued an order requiring that the penalty be paid. 5082 (4) Civil penalties owed under this chapter may be recovered in a civil action brought 5083 by the attorney general of Utah at the request of the board in any appropriate district court of 5084 the state.] 5085 (4) At the request of the board, the attorney general may bring a civil action in a court with jurisdiction under Title 78A. Judiciary and Judicial Administration, to recover a civil 5086 5087 penalty owed under this chapter. 5088 (5) Any person who willfully and knowingly violates a condition of a permit issued 5089 pursuant to this chapter or fails or refuses to comply with any order issued under Section 5090 40-10-22 or any order incorporated in a final decision issued by the board under this chapter, 5091 except an order incorporated in a decision under Subsection (3), shall, upon conviction, be 5092 punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or 5093 both. 5094 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to 5095 this chapter or fails or refuses to comply with any order incorporated in a final decision issued 5096 by the board under this chapter, except an order incorporated in a decision issued under 5097 Subsection (3), any director, officer, or agent of the corporation who willfully and knowingly 5098 authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same 5099 civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections 5100 (1) and (5). 5101 (7) Whoever knowingly makes any false statement, representation, or certification, or

knowingly fails to make any statement, representation, or certification in any application,
record, report, plan, or other document filed or required to be maintained pursuant to this
chapter or any order or decision issued by the board under this chapter shall, upon conviction,
be punished by a fine of not more than \$10,000, or by imprisonment for not more than one
year, or both.

(8) (a) Any operator who fails to correct a violation for which a notice or cessation
order has been issued under Subsection 40-10-22(1) within the period permitted for its
correction shall be assessed a civil penalty of not less than \$750 for each day during which the

5110	failure or violation continues.
5111	(b) The period permitted for correction of a violation for which a notice of cessation
5112	order has been issued under Subsection 40-10-22(1) may not end until:
5113	(i) the entry of a final order by the board, in the case of any review proceedings
5114	initiated by the operator in which the board orders, after an expedited hearing, the suspension
5115	of the abatement requirements of the citation after determining that the operator will suffer
5116	irreparable loss or damage from the application of those requirements; or
5117	(ii) the entry of an order of the court, in the case of any review proceedings initiated by
5118	the operator wherein the court orders the suspension of the abatement requirements of the
5119	citation.
5120	Section 77. Section <b>40-10-21</b> is amended to read:
5121	40-10-21. Civil action to compel compliance with chapter Venue Division
5122	and board as parties Court costs Security when temporary restraining order or
5123	injunction sought Other rights not affected Action for damages.
5124	(1) [ <del>(a)</del> ] Except as provided in Subsection (2), any person having an interest [ <del>which</del> ]
5125	that is or may be adversely affected may [commence a civil action] bring an action on the
5126	person's own behalf to compel compliance with this chapter against:
5127	[(i)] (a) the state or any other governmental instrumentality or agency to the extent
5128	permitted by the 11th Amendment to the United States Constitution or Title 63G, Chapter 7,
5129	Governmental Immunity Act of Utah, which is alleged to be in violation of the provisions of
5130	this chapter or of any rule, order, or permit issued pursuant to it;
5131	[(ii)] (b) any person who is alleged to be in violation of any rule, order, or permit
5132	issued pursuant to this chapter; or
5133	[(iii)] (c) the division or board where there is alleged a failure of the division or board
5134	to perform any act or duty under this chapter which is not discretionary with the division or
5135	with the board.
5136	[(b) The district courts shall have jurisdiction without regard to the amount in
5137	controversy or the citizenship of the parties.]
5138	(2) [No action may be commenced] A person may not bring an action:
5139	(a) under Subsection [(1)(a)(i) or (ii)] (1)(a) or (b):
5140	(i) prior to 60 days after the [plaintiff] person has given notice in writing of the

5141	violation to the division and to any alleged violator; or
5142	(ii) if the attorney general has commenced and is diligently prosecuting a civil action in
5143	a court of the state to require compliance with the provisions of this chapter, or any rule, order,
5144	or permit issued pursuant to this chapter; or
5145	(b) under Subsection [(1)(a)(iii)] (1)(c) prior to 60 days after the [plaintiff] person has
5146	given notice in writing of the action to the board, in the manner as the board prescribes by rule,
5147	except that the [action may be brought immediately] person may bring the action immediately
5148	after the notification in the case where the violation or order complained of constitutes an
5149	imminent threat to the health or safety of the [plaintiff] person or would immediately affect a
5150	legal interest of the [plaintiff] person.
5151	[(3) (a) Any action concerning a violation of this chapter or the rules promulgated
5152	under it may be brought only in the judicial district in which the surface coal mining operation
5153	complained of is located.]
5154	(3) (a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person
5155	shall bring an action under this section in the county in which the surface coal mining operation
5156	is located.
5157	(b) In the action, the division and board, if not a party, may intervene as a matter of
5158	right.
5159	(4) (a) The court, in issuing any final order in any action brought pursuant to
5160	Subsection (1), may award costs of litigation, including attorney and expert witness fees, to any
5161	party whenever the court determines that award is appropriate.
5162	(b) The court may, if a temporary restraining order or preliminary injunction is sought,
5163	require the filing of a bond or equivalent security in accordance with the Utah Rules of Civil
5164	Procedure.
5165	(5) Nothing in this section may restrict any right which any person, or class of persons,
5166	has under any statute or common law to seek enforcement of any of the provisions of this
5167	chapter and the rules promulgated under it, or to seek any other relief, including relief against
5168	the division and board.
5169	(6) (a) Any person who is injured in his person or property through the violation by an
5170	operator of any rule, order, or permit issued pursuant to this chapter may bring an action for
5171	damages, including reasonable attorney and expert witness fees, only in the judicial district in

- 5172 which the surface coal mining operation complained of is located.
- 5173 (b) Nothing in this Subsection (6) shall affect the rights established by or limits 5174 imposed under Utah workmen's compensation laws.
- 5175 Section 78. Section **40-10-22** is amended to read:

# 40-10-22. Violation of chapter or permit conditions -- Inspection -- Cessation order, abatement notice, or show cause order -- Suspension or revocation of permit -Review -- Costs assessed against either party.

5179 (1) (a) Whenever, on the basis of any information available, including receipt of 5180 information from any person, the division has reason to believe that any person is in violation 5181 of any requirement of this chapter or any permit condition required by this chapter, the division 5182 shall immediately order inspection of the surface coal mining operation at which the alleged 5183 violation is occurring, unless the information available to the division is a result of a previous 5184 inspection of the surface coal mining operation. When the inspection results from information 5185 provided to the division by any person, the division shall notify that person when the inspection 5186 is proposed to be carried out, and that person shall be allowed to accompany the inspector 5187 during the inspection.

5188 (b) When, on the basis of any inspection, the division determines that any condition or 5189 practices exist, or that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, which condition, practice, or violation also creates an 5190 5191 imminent danger to the health or safety of the public, or is causing, or can reasonably be 5192 expected to cause significant, imminent environmental harm to land, air, or water resources, 5193 the division shall immediately order a cessation of surface coal mining and reclamation 5194 operations or the portion thereof relevant to the condition, practice, or violation. The cessation 5195 order shall remain in effect until the division determines that the condition, practice, or 5196 violation has been abated, or until modified, vacated, or terminated by the division pursuant to 5197 Subsection (1)(e). Where the division finds that the ordered cessation of surface coal mining 5198 and reclamation operations, or any portion of same, will not completely abate the imminent 5199 danger to health or safety of the public or the significant imminent environmental harm to land, 5200 air, or water resources, the division shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the division deems necessary 5201 5202 to abate the imminent danger or the significant environmental harm.

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5203 (c) When, on the basis of an inspection, the division determines that any permittee is in 5204 violation of any requirement of this chapter or any permit condition required by this chapter, 5205 but the violation does not create an imminent danger to the health or safety of the public or 5206 cannot be reasonably expected to cause significant, imminent environmental harm to land, air, 5207 or water resources, the division shall issue a notice to the permittee or his agent fixing a 5208 reasonable time but not more than 90 days for the abatement of the violation and providing opportunity for conference before the division. If upon expiration of the period of time as 5209 5210 originally fixed or subsequently extended, for good cause shown, and upon the written finding 5211 of the division, the division finds that the violation has not been abated, it shall immediately 5212 order a cessation of surface coal mining and reclamation operations or the portion of same 5213 relevant to the violation. The cessation order shall remain in effect until the division 5214 determines that the violation has been abated or until modified, vacated, or terminated by the 5215 division pursuant to Subsection (1)(e). In the order of cessation issued by the division under this subsection, the division shall determine the steps necessary to abate the violation in the 5216 5217 most expeditious manner possible and shall include the necessary measures in the order.

5218 (d) When on the basis of an inspection the division determines that a pattern of 5219 violations of any requirements of this chapter or any permit conditions required by this chapter 5220 exists or has existed, and if the division also finds that these violations are caused by the 5221 unwarranted failure of the permittee to comply with any requirements of this chapter or any 5222 permit conditions or that these violations are willfully caused by the permittee, the division 5223 shall initiate agency action by requesting the board to issue an order to show cause to the 5224 permittee as to why the permit should not be suspended or revoked and shall provide 5225 opportunity for a public hearing. If a hearing is requested, the board shall give notice in 5226 accordance with the rules of practice and procedure of the board. Upon the permittee's failure 5227 to show cause as to why the permit should not be suspended or revoked, the board shall 5228 immediately enter an order to suspend or revoke the permit.

(e) Notices and orders issued under this section shall set forth with reasonable
specificity the nature of the violation and the remedial action required, the period of time
established for abatement, and a reasonable description of the portion of the surface coal
mining and reclamation operation to which the notice or order applies. Each notice or order
issued under this section shall be given promptly to the permittee or his agent by the division,

5234	and the notices and orders shall be in writing and shall be signed by the director, or his
5235	authorized representative who issues such notice or order. Any notice or order issued under
5236	this section may be modified, vacated, or terminated by the division, but any notice or order
5237	issued under this section which requires cessation of mining by the operator shall expire within
5238	30 days of actual notice to the operator unless a conference is held before the division.
5239	(2) (a) The division may request the attorney general to institute a civil action for relief,
5240	including a permanent or temporary injunction, restraining order, or any other appropriate order
5241	[in the district court for the district in which the surface coal mining and reclamation operation
5242	is located or in which the permittee of the operation has his principal office, whenever such
5243	permittee or his agent] in a court with jurisdiction under Title 78A, Judiciary and Judicial
5244	Administration, whenever a permittee or the permittee's agent:
5245	(i) violates or fails or refuses to comply with any order or decision issued under this
5246	chapter;
5247	(ii) interferes with, hinders, or delays the division or its authorized representatives in
5248	carrying out the provisions of this chapter;
5249	(iii) refuses to admit the authorized representatives to the mine;
5250	(iv) refuses to permit inspection of the mine by the authorized representative;
5251	(v) refuses to furnish any information or report requested by the division in furtherance
5252	of the provisions of this chapter; or
5253	(vi) refuses to permit access to and copying of such records as the division determines
5254	necessary in carrying out the provisions of this chapter.
5255	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
5256	general brings the action described in Subsection (2)(a) in the district court, the attorney
5257	general shall bring the action in the county in which:
5258	(i) the surface coal mining and reclamation operation is located; or
5259	(ii) the permittee of the operation has the permittee's principal office.
5260	[(b)] (c) (i) The [district] court shall have jurisdiction to provide such relief as may be
5261	appropriate.
5262	(ii) Any relief granted by the [district] court to enforce an order under Subsection
5263	(2)(a)(i) shall continue in effect until the completion or final termination of all proceedings for
5264	review of that order under this chapter, unless, prior to this completion or termination, the Utah

5265 Supreme Court on review grants a stay of enforcement or sets aside or modifies the board's5266 order which is being appealed.

5267 (3) (a) A permittee issued a notice or order by the division pursuant to the provisions of Subsections (1)(b) and (1)(c), or any person having an interest which may be adversely affected 5268 5269 by the notice or order, may initiate board action by requesting a hearing for review of the notice 5270 or order within 30 days of receipt of it or within 30 days of its modification, vacation, or 5271 termination. Upon receipt of this application, the board shall cause such investigation to be 5272 made as it deems appropriate. The investigation shall provide an opportunity for a public 5273 hearing at the request of the applicant or the person having an interest which is or may be adversely affected to enable the applicant or that person to present information relating to the 5274 5275 issuance and continuance of the notice or order or the modification, vacation, or termination of 5276 it. The filing of an application for review under this subsection shall not operate as a stay of 5277 any order or notice.

(b) The permittee and other interested persons shall be given written notice of the time
and place of the hearing in accordance with the rules of practice and procedure of the board,
but the notice may not be less than five days prior to the hearing. This hearing shall be of
record and shall be subject to judicial review.

5282 (c) Pending completion of the investigation and hearing required by this section, the 5283 applicant may file with the board a written request that the board grant temporary relief from 5284 any notice or order issued under this section, together with a detailed statement giving the 5285 reasons for granting this relief. The board shall issue an order or decision granting or denying 5286 this relief expeditiously; and where the applicant requests relief from an order for cessation of 5287 coal mining and reclamation operations issued pursuant to Subsections (1)(b) or (1)(c), the 5288 order or decision on this request shall be issued within five days of its receipt. The board may 5289 grant the relief under such conditions as it may prescribe, if a hearing has been held in the 5290 locality of the permit area on the request for temporary relief and the conditions of Subsections 5291 40-10-14(4)(a), 40-10-14(4)(b), and 40-10-14(4)(c) are met.

(d) Following the issuance of an order to show cause as to why a permit should not be
suspended or revoked pursuant to this section, the board shall hold a public hearing after giving
notice in accordance with the rules of practice and procedure of the board. Within 60 days
following the hearing, the board shall issue and furnish to the permittee and all other parties to

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5296 the hearing an order containing the basis for its decision on the suspension or revocation of the 5297 permit. If the board revokes the permit, the permittee shall immediately cease surface coal 5298 mining operations on the permit area and shall complete reclamation within a period specified 5299 by the board, or the board shall declare as forfeited the performance bonds for the operation.

(e) Whenever an order is entered under this section or as a result of any adjudicative
proceeding under this chapter, at the request of any person, a sum equal to the aggregate
amount of all costs and expenses (including attorney fees) as determined by the board to have
been reasonably incurred by that person in connection with his participation in the proceedings,
including any judicial review of agency actions, may be assessed against either party as the
court, resulting from judicial review, or the board, resulting from adjudicative proceedings,
deems proper.

(f) Action by the board taken under this section or any other provision of the state
program shall be subject to judicial review by the Utah Supreme Court as prescribed in Section
78A-3-102, but the availability of this review shall not be construed to limit the operation of
the citizen suit in Section 40-10-21, except as provided in this latter section.

5311

Section 79. Section **41-6a-1622** is amended to read:

41-6a-1622. Purchase and testing of equipment by department -- Prohibition
against sale of substandard devices -- Injunction -- Review -- Appeal.

- (1) The department may purchase and test equipment described in Section 41-6a-1619
  to determine whether it complies with the standards under this part.
- (2) Upon identification of unapproved or substandard devices being sold or offered for
  sale, the department shall give notice to the person selling them that the person is in violation
  of Section 41-6a-1619 and that selling or offering them for sale is prohibited.

(3) (a) In order to enforce the prohibition against the sale or offer for sale of
unapproved or substandard devices, the department may file a petition in [the district court of
the county in which the person maintains a place of business] a court with jurisdiction under

5322 <u>Title 78A, Judiciary and Judicial Administration,</u> to enjoin any further sale or offer of sale of
5323 the unapproved or substandard part.

- (b) An injunction under Subsection (3)(a) shall be issued upon a prima facie showingthat:
- 5326

(i) the part is of a type required to be approved by the department under this part;

5327	(ii) the part has not been approved; and
5328	(iii) the part is being sold or offered for sale.
5329	(4) (a) Any person enjoined under Subsection (3) may file a petition for a review of the
5330	court's order in the county in which the injunction was issued.
5331	(b) A copy of the petition shall be served on the department and the department shall
5332	have 30 days after the service to file an answer, but the petition shall not act as a stay of the
5333	injunction.
5334	(c) At the hearing on the petition, the judge shall sit without intervention of a jury and
5335	shall only receive evidence as to whether the parts in question:
5336	(i) are of a type for which approval by the department is required;
5337	(ii) have not been approved; and
5338	(iii) are being sold or offered for sale in violation of Section 41-6a-1619.
5339	(d) Following a hearing under Subsection (4)(c), the injunction shall be continued if
5340	the court finds that each condition under Subsection (4)(c) has been met.
5341	(5) Either party may appeal the decision of the court [in the same manner as in other
5342	civil appeals from the district court].
5343	Section 80. Section <b>51-2a-401</b> is amended to read:
5344	51-2a-401. Prohibiting access to and withholding funds from an entity that does
5345	not comply with the accounting report requirements.
5346	(1) If a political subdivision, interlocal organization, or other local entity does not
5347	comply with the accounting report requirements of Section 51-2a-201, the state auditor may:
5348	(a) withhold allocated state funds to pay the cost of the accounting report, in
5349	accordance with Subsection (2); or
5350	(b) prohibit financial access, in accordance with Subsection (3).
5351	(2) (a) If the state auditor does not prohibit financial access in accordance with
5352	Subsection (3), the state auditor may withhold allocated state funds sufficient to pay the cost of
5353	the accounting report from any local entity described in Subsection (1).
5354	(b) If no allocated state funds are available for withholding, the local entity shall
5355	reimburse the state auditor for any cost incurred in completing the accounting reports required
5356	under Section 51-2a-402.
5357	(c) The state auditor shall release the withheld funds if the local entity meets the

5358	accounting report requirements either voluntarily or by action under Section 51-2a-402.
5359	(3) (a) If the state auditor does not withhold funds in accordance with Subsection (2),
5360	the state auditor may prohibit any local entity described in Subsection (1) from accessing:
5361	(i) money held by the state; and
5362	(ii) money held in an account of a financial institution by:
5363	(A) contacting the entity's financial institution and requesting that the institution
5364	prohibit access to the account; or
5365	(B) filing an action in [district court] a court with jurisdiction under Title 78A,
5366	Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial
5367	institution from providing the entity access to the account.
5368	(b) The state auditor shall remove the prohibition on accessing funds described in
5369	Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily
5370	or by action under Section 51-2a-402.
5371	Section 81. Section <b>51-7-22.5</b> is amended to read:
5372	51-7-22.5. Enforcement.
5373	(1) Whenever it appears to the council that any person has engaged, is engaging, or is
5374	about to engage in any act or practice constituting a violation of this chapter or any rule issued
5375	under authority of this chapter:
5376	(a) the council may bring an action in [the appropriate district court of this state or the
5377	appropriate court of] a court with jurisdiction under Title 78A, Judiciary and Judicial
5378	Administration, or a court with jurisdiction in another state, to enjoin the acts or practices and
5379	to enforce compliance with this chapter or any rule under this chapter; and
5380	(b) upon a proper showing in an action brought under this section, the court may:
5381	(i) issue a permanent or temporary, prohibitory, or mandatory injunction;
5382	(ii) issue a restraining order or writ of mandamus or other extraordinary writ;
5383	(iii) enter a declaratory judgment;
5384	(iv) order disgorgement;
5385	(v) order rescission;
5386	(vi) impose a fine of not more than \$50,000 for each violation of the chapter; or
5387	(vii) provide any other relief that the court considers appropriate.
5388	(2) An indictment or information may not be returned nor may a civil complaint be

5389	filed under this chapter more than five years after discovery of the alleged violation.
5390	Section 82. Section 53-2d-605 (Effective 07/01/24) is amended to read:
5391	53-2d-605 (Effective 07/01/24). Service interruption or cessation Receivership
5392	Default coverage Notice.
5393	(1) (a) Acting in the public interest, the department may petition [the district court
5394	where an ambulance or paramedic provider operates or the district court with jurisdiction in
5395	Salt Lake County] a court with jurisdiction under Title 78A, Judiciary and Judicial
5396	Administration, to appoint the bureau or an independent receiver to continue the operations of
5397	a provider upon any one of the following conditions:
5398	[(a)] (i) the provider ceases or intends to cease operations;
5399	[(b)] (ii) the provider becomes insolvent;
5400	[(c)] (iii) the bureau has initiated proceedings to revoke the provider's license and has
5401	determined that the lives, health, safety, or welfare of the population served within the
5402	provider's exclusive geographic service area are endangered because of the provider's action or
5403	inaction pending a full hearing on the license revocation; or
5404	$\left[\frac{d}{d}\right]$ (iv) the bureau has revoked the provider's license and has been unable to
5405	adequately arrange for another provider to take over the provider's exclusive geographic service
5406	area.
5407	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the department
5408	brings a petition described in Subsection (1)(a) in the district court, the department shall bring
5409	the petition in:
5410	(i) Salt Lake County; or
5411	(ii) the county in which the ambulance or paramedic provider operates.
5412	(2) If a licensed or designated provider ceases operations or is otherwise unable to
5413	provide services, the bureau may arrange for another licensed provider to provide services on a
5414	temporary basis until a license is issued.
5415	(3) A licensed provider shall give the department 30 days' notice of its intent to cease
5416	operations.
5417	Section 83. Section <b>53-7-406</b> is amended to read:
5418	53-7-406. Penalties.
5419	(1) (a) Except as provided in Subsection (1)(b), a manufacturer, wholesale dealer,

5420	agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than
5421	through retail sale, in violation of Section 53-7-403:
5422	(i) for a first offense shall be liable for a civil penalty not to exceed \$10,000 per each
5423	sale of cigarettes; and
5424	(ii) for a subsequent offense shall be liable for a civil penalty not to exceed \$25,000 per
5425	each sale of such cigarettes.
5426	(b) A penalty imposed under Subsection (1)(a) may not exceed \$100,000 during any
5427	30-day period against any one entity described in Subsection (1).
5428	(2) (a) Except as provided in Subsection (2)(b), a retail dealer who knowingly sells
5429	cigarettes in violation of Section 53-7-403 shall:
5430	(i) for a first offense for each sale or offer for sale of cigarettes, if the total number of
5431	cigarettes sold or offered for sale:
5432	(A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$500
5433	for each sale or offer of sale; and
5434	(B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$1,000 for
5435	each sale or offer of sale; and
5436	(ii) for a subsequent offense, if the total number of cigarettes sold or offered for sale:
5437	(A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$2,000
5438	for each sale or offer of sale; and
5439	(B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$5,000 for
5440	each sale or offer of sale.
5441	(b) A penalty imposed under Subsection (2)(a) against any retail dealer shall not
5442	exceed \$25,000 during a 30-day period.
5443	(3) In addition to any penalty prescribed by law, any corporation, partnership, sole
5444	proprietor, limited partnership, or association engaged in the manufacture of cigarettes that
5445	knowingly makes a false certification pursuant to Section 53-7-404 shall, for each false
5446	certification:
5447	(a) for a first offense, be liable for a civil penalty of at least \$75,000; and
5448	(b) for a subsequent offense, be liable for a civil penalty not to exceed \$250,000.
5449	(4) Any person violating any other provision in this part shall be liable for a civil
5450	penalty for each violation:

5451	(a) for a first offense, not to exceed \$1,000; and
5452	(b) for a subsequent offense, not to exceed \$5,000.
5453	(5) (a) In addition to any other remedy provided by law, the state fire marshal or
5454	attorney general may [file an action in district court] bring an action in a court with jurisdiction
5455	under Title 78A, Judiciary and Judicial Administration, for a violation of this part, including
5456	petitioning for injunctive relief or to recover any costs or damages suffered by the state because
5457	of a violation of this part, including enforcement costs relating to the specific violation and
5458	attorney fees.
5459	(b) Each violation of this part or of rules or regulations adopted under this part
5460	constitutes a separate civil violation for which the state fire marshal or attorney general may
5461	obtain relief.
5462	Section 84. Section <b>53B-28-506</b> is amended to read:
5463	53B-28-506. Penalties.
5464	(1) A third-party contractor that knowingly or recklessly permits unauthorized
5465	collecting, sharing, or use of student data under this part:
5466	(a) except as provided in Subsection $[(1)(d)]$ (2), may not enter into a future contract
5467	with an institution; [and]
5468	(b) may be required by the board to pay a civil penalty of up to \$25,000[ <del>.</del> ]; and
5469	(c) may be required to pay:
5470	(i) an institution's cost of notifying parents and students of the unauthorized sharing or
5471	use of student data; and
5472	(ii) any expense incurred by the institution as result of the unauthorized sharing or use
5473	of student data.
5474	[(d)] (2) An education entity may enter into a contract with a third-party contractor that
5475	knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:
5476	[(i)] (a) the education entity determines that the third-party contractor has corrected the
5477	errors that caused the unauthorized collecting, sharing, or use of student data; and
5478	[(ii)] (b) the third-party contractor demonstrates:
5479	[(A)] (i) if the third-party contractor is under contract with the education entity, current
5480	compliance with this part; or
5401	[(D)] (ii) on ability to comply with the new increase of this part

5481 [(B)] (ii) an ability to comply with the requirements of this part.

5482	[ <del>(c)</del> ]
5483	(3) (a) [The] If necessary, the board may bring an action in [the district court of the
5484	county in which the office of the education entity is located, if necessary,] a court with
5485	jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce payment of the
5486	civil penalty described in Subsection (1)(b).
5487	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the board shall
5488	bring an action described in Subsection (3)(a) in the county in which the office of the education
5489	entity is located if the action is brought in the district court.
5490	[(f)] (4) An individual who knowingly or intentionally permits unauthorized collecting,
5491	sharing, or use of student data may be found guilty of a class A misdemeanor.
5492	[(2)] (a) A student or a minor student's parent may bring an action against a
5493	third-party contractor in a court [of competent jurisdiction] with jurisdiction under Title 78A,
5494	Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation
5495	of Section 53B-28-505 by a third-party contractor.
5496	(b) If the court finds that a third-party contractor has violated Section 53B-28-505, the
5497	court may award to the parent or student:
5498	(i) damages; and
5499	(ii) costs.
5500	Section 85. Section <b>53E-9-310</b> is amended to read:
5501	53E-9-310. Penalties.
5502	(1) (a) A third-party contractor that knowingly or recklessly permits unauthorized
5503	collecting, sharing, or use of student data under this part:
5504	(i) except as provided in Subsection (1)(b), may not enter into a future contract with an
5505	education entity;
5506	(ii) may be required by the state board to pay a civil penalty of up to \$25,000; and
5507	(iii) may be required to pay:
5508	(A) the education entity's cost of notifying parents and students of the unauthorized
5509	sharing or use of student data; and
5510	(B) expenses incurred by the education entity as a result of the unauthorized sharing or
5511	use of student data.
5512	(b) An education entity may enter into a contract with a third-party contractor that

5513	knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:
5514	(i) the state board or education entity determines that the third-party contractor has
5515	corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and
5516	(ii) the third-party contractor demonstrates:
5517	(A) if the third-party contractor is under contract with an education entity, current
5518	compliance with this part; or
5519	(B) an ability to comply with the requirements of this part.
5520	(c) The state board may assess the civil penalty described in Subsection (1)(a)(ii) in
5521	accordance with Title 63G, Chapter 4, Administrative Procedures Act.
5522	(d) (i) The state board may bring an action [in the district court of the county in which
5523	the office of the state board is located] in a court with jurisdiction under Title 78A, Judiciary
5524	and Judicial Administration, if necessary, to enforce payment of the civil penalty described in
5525	Subsection (1)(a)(ii).
5526	(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state board
5527	shall bring an action described in Subsection (1)(d)(i) in the county in which the office of the
5528	state board is located if the action is brought in the district court.
5529	(e) An individual who knowingly or intentionally permits unauthorized collecting,
5530	sharing, or use of student data may be found guilty of a class A misdemeanor.
5531	(2) (a) A parent or adult student may bring an action in a court [of competent
5532	jurisdiction] with jurisdiction under Title 78A, Judiciary and Judicial Administration, for
5533	damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party
5534	contractor.
5535	(b) If the court finds that a third-party contractor has violated Section 53E-9-309, the
5536	court may award to the parent or student:
5537	(i) damages; and
5538	(ii) costs.
5539	Section 86. Section <b>53G-5-501</b> is amended to read:
5540	53G-5-501. Noncompliance Rulemaking.
5541	(1) If a charter school is found to be out of compliance with the requirements of
5542	Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify
5543	the following in writing that the charter school has a reasonable time to remedy the deficiency,

5544	except as otherwise provided in Subsection 53G-5-503(4):
5545	(a) the charter school governing board; and
5546	(b) if the charter school is a qualifying charter school with outstanding bonds issued in
5547	accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School
5548	Finance Authority.
5549	(2) (a) If the charter school does not remedy the deficiency within the established
5550	timeline, the authorizer may:
5551	(i) subject to the requirements of Subsection (4), take one or more of the following
5552	actions:
5553	(A) remove a charter school director or finance officer;
5554	(B) remove a charter school governing board member;
5555	(C) appoint an interim director, mentor, or finance officer to work with the charter
5556	school; or
5557	(D) appoint a governing board member;
5558	(ii) subject to the requirements of Section 53G-5-503, terminate the school's charter
5559	agreement; or
5560	(iii) transfer operation and control of the charter school to a high performing charter
5561	school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to
5562	effectuate the transfer.
5563	(b) The authorizer may prohibit the charter school governing board from removing an
5564	appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the
5565	appointment.
5566	(3) The costs of an interim director, mentor, or finance officer appointed under
5567	Subsection (2)(a) shall be paid from the funds of the charter school for which the interim
5568	director, mentor, or finance officer is working.
5569	(4) The authorizer shall notify the Utah Charter School Finance Authority before the
5570	authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying
5571	charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit
5572	Enhancement Program.
5573	(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5574	state board shall make rules:

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5575	(a) specifying the timeline for remedying deficiencies under Subsection (1); and
5576	(b) ensuring the compliance of a charter school with its approved charter agreement.
5577	(6) (a) (i) An authorizer may petition [the district court where a charter school is
5578	located or incorporated to appoint a receiver, and the district court] a court with jurisdiction
5579	under Title 78A, Judiciary and Judicial Administration, to appoint a receiver.
5580	(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the authorizer
5581	shall bring a petition described in Subsection (6)(a)(i) in the county in which a charter school is
5582	located or incorporated if the action is brought in the district court.
5583	(b) The court may appoint a receiver if the authorizer establishes that the charter
5584	school:
5585	(i) is subject to closure under Section $53G-5-503$ ; and
5586	(ii) (A) has disposed, or there is a demonstrated risk that the charter school will
5587	dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or
5588	(B) cannot, or there is a demonstrated risk that the charter school will not, make
5589	repayment of amounts owed to the federal government or the state.
5590	[(b)] (c) The court shall describe the powers and duties of the receiver in the court's
5591	appointing order, and may amend the order from time to time.
5592	[(c)] (d) Among other duties ordered by the court, the receiver shall:
5593	(i) ensure the protection of the charter school's assets;
5594	(ii) preserve money owed to creditors; and
5595	(iii) if requested by the authorizer, carry out charter school closure procedures
5596	described in Section 53G-5-504, and state board rules, as directed by the authorizer.
5597	[(d)] (e) If the authorizer does not request, or the court does not appoint, a receiver:
5598	(i) the authorizer may reconstitute the governing board of a charter school; or
5599	(ii) if a new governing board cannot be reconstituted, the authorizer shall complete the
5600	closure procedures described in Section 53G-5-504, including liquidation and assignment of
5601	assets, and payment of liabilities and obligations in accordance with Subsection 53G-5-504(7)
5602	and state board rule.
5603	[(c)] (f) For a qualifying charter school with outstanding bonds issued in accordance
5604	with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the
5605	consent of the Utah Charter School Finance Authority before the authorizer takes the following

5606	actions:
5607	(i) petitions [a district court] a court to appoint a receiver, as described in Subsection
5608	(6)(a);
5609	(ii) reconstitutes the governing board, as described in Subsection $[(6)(d)(i)] (6)(e)(i)$ ; or
5610	(iii) carries out closure procedures, as described in Subsection [(6)(d)(ii)] (6)(e)(ii).
5611	Section 87. Section <b>54-4-27</b> is amended to read:
5612	54-4-27. Payment of dividends Notice Restraint.
5613	(1) No gas or electric corporation doing business in this state shall pay any dividend
5614	upon its common stock prior to 30 days after the date of the declaration of such dividend by the
5615	board of directors of such utility corporation.
5616	(2) Within five days after the declaration of such dividend the management of such
5617	corporation shall:
5618	(a) notify the utilities commission in writing of the declaration of said dividend, the
5619	amount thereof, the date fixed for payment of the same; and
5620	(b) publish a notice, including the information described in Subsection (2)(a):
5621	(i) in a newspaper having general circulation in the city or town where its principal
5622	place of business is located; and
5623	(ii) as required in Section 45-1-101.
5624	(3) If the commission, after investigation, shall find that the capital of any such
5625	corporation is being impaired or that its service to the public is likely to become impaired or is
5626	in danger of impairment, it may issue an order directing such utility corporation to refrain from
5627	the payment of said dividend until such impairment is made good or danger of impairment is
5628	avoided.
5629	(4) [The district court of any county in which said utility is doing business in this state
5630	is authorized upon a suit by the commission to] A court may enforce the order of the
5631	commission[, and empowered to] and issue a restraining order pending final determination of
5632	the action.
5633	Section 88. Section 54-5-3 is amended to read:
5634	54-5-3. Default in payment of fee Procedure to collect Penalties.
5635	(1) (a) If the public utility fee is due and the payment is in default, [a lien in the amount
5636	of the fee may be filed against the property of the utility and may be foreclosed in an action

5637	brought by the executive director of the Department of Commerce in the district court of any
5638	county in which property of the delinquent utility is located.] the executive director of the
5639	Department of Commerce may:
5640	(i) file a lien in the amount of the property of the utility; and
5641	(ii) bring an action to foreclose the property in a court with jurisdiction under Title
5642	78A, Judiciary and Judicial Administration.
5643	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the executive
5644	director shall bring an action described in Subsection (1)(a)(ii) in the county in which the
5645	property of the delinquent utility is located if the action is brought in the district court.
5646	(2) (a) If the fee computed and imposed under this chapter is not paid within 60 days
5647	after it becomes due, the rights and privileges of the delinquent utility shall be suspended.
5648	(b) The executive director of the Department of Commerce shall transmit the name of
5649	the utility to the Public Service Commission, which may immediately enter an order
5650	suspending the operating rights of the utility.
5651	Section 89. Section 54-8a-12 is amended to read:
5652	54-8a-12. Enforcement Attorney general.
5653	(1) (a) (i) The attorney general may bring an action [in the district court located] in a
5654	court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this
5655	chapter.
5656	(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the attorney
5657	general shall bring the action described in Subsection (1)(a)(i) in the county in which the
5658	excavation is located [to enforce this chapter] if the attorney general brings the action in the
5659	district court.
5660	(b) The right of any person to bring a civil action for damage arising from an
5661	excavator's or operator's actions or conduct relating to underground facilities is not affected by:
5662	(i) a proceeding commenced by the attorney general under this chapter; or
5663	(ii) the imposition of a civil penalty under this chapter.
5664	(c) If the attorney general does not bring an action under Subsection (1)(a), the operator
5665	or excavator may pursue any remedy, including a civil penalty.
5666	(2) Any civil penalty imposed and collected under this chapter shall be deposited into
5667	the General Fund.

5668 Section 90. Section 54-8b-13 is amended to read: 5669 54-8b-13. Rules governing operator assisted services. 5670 (1) The commission shall make rules to implement the following requirements 5671 pertaining to the provision of operator assisted services: 5672 (a) Rates, surcharges, terms, or conditions for operator assisted services shall be provided to customers upon request without charge. 5673 5674 (b) A customer shall be made aware, prior to incurring any charges, of the identity of 5675 the operator service provider handling the operator assisted call by a form of signage placed on 5676 or near the telephone or by verbal identification by the operator service provider. 5677 (c) Any contract between an operator service provider and an aggregator shall contain 5678 language which assures that any person making a telephone call on any telephone owned or 5679 controlled by the aggregator or operator service provider can access: 5680 (i) where technically feasible, any other operator service provider operating in the 5681 relevant geographic area; and 5682 (ii) the public safety emergency telephone numbers for the jurisdiction where the 5683 aggregator's telephone service is geographically located. 5684 (d) No operator service provider shall transfer a call to another operator service 5685 provider unless that transfer is accomplished at, and billed from, the call's place of origin. If 5686 such a transfer is not technically possible, the operator service provider shall inform the caller 5687 that the call cannot be transferred as requested and that the caller should hang up and attempt to 5688 reach another operator service provider through the means provided by that other operator 5689 service provider. (2) (a) The Division of Public Utilities shall be responsible for enforcing any rule 5690 5691 adopted by the commission under this section. 5692 (b) If the Division of Public Utilities determines that any person, or any officer or 5693 employee of any person, is violating any rule adopted under this section, the division shall 5694 serve written notice upon the alleged violator which: 5695 (i) specifies the violation; 5696 (ii) alleges the facts constituting the violation; and

- 5697 (iii) specifies the corrective action to be taken.
- 5698 (c) After serving notice as required in Subsection (2)(b), the division may request the

5699	commission to issue an order to show cause.
5700	(d) After a hearing, the commission may impose penalties and, if necessary, may
5701	request the attorney general to enforce the order in [district] $\underline{a}$ court.
5702	(3) (a) Any person who violates any rule made under this section or fails to comply
5703	with any order issued pursuant to this section is subject to a penalty not to exceed \$2,000 per
5704	violation.
5705	(b) In the case of a continuing violation, each day that the violation continues
5706	constitutes a separate and distinct offense.
5707	(4) A penalty assessment under this section does not relieve the person assessed from
5708	civil liability for claims arising out of any act which was a violation of any rule under this
5709	section.
5710	Section 91. Section <b>54-13-7</b> is amended to read:
5711	54-13-7. Minimum distances for placement of structures and facilities near main
5712	and transmission lines.
5713	(1) As used in this section:
5714	(a) "Main" has the meaning set forth in 49 C.F.R. Section 192.3.
5715	(b) "Minimum distance" means:
5716	(i) the width of a recorded easement when the width is described;
5717	(ii) 15 feet when the width of a recorded easement is undefined; or
5718	(iii) for any underground facility, it means an area measured one foot vertically and
5719	three feet horizontally from the outer surface of a main or transmission line.
5720	(c) "Transmission line" has the meaning set forth in 49 C.F.R. Section 192.3.
5721	(d) "Underground facility" has the meaning set forth in Section 54-8a-2.
5722	(2) (a) After April 30, 1995, a building or structure requiring slab support or footings,
5723	or an underground facility may not be placed within the minimum distance of a main or
5724	transmission line.
5725	(b) Subsection (2)(a) does not apply if:
5726	(i) the building or structure is used for public or railroad transportation, natural gas
5727	pipeline purposes, or by a public utility subject to the jurisdiction or regulation of the Public
5728	Service Commission;
5729	(ii) in order to receive natural gas service, the building or structure must be located

5730	within the minimum distance of the pipeline;
5731	(iii) the owner or operator of the main or transmission line has been notified prior to
5732	construction or placement pursuant to Section 54-8a-4 and has given written permission; or
5733	(iv) the commission by rule exempts such action from the provisions of Subsection
5734	(2)(a).
5735	(3) (a) An owner or operator of a main or transmission line may obtain a mandatory
5736	injunction from [the district court of the judicial district] a court with jurisdiction under Title
5737	78A, Judiciary and Judicial Administration, against any person who violates Subsection (2).
5738	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the owner or
5739	operator shall bring an action described in Subsection (3)(a) in the county in which the main or
5740	transmission line is located [against any person who violates Subsection (2)] if the action is
5741	brought in the district court.
5742	(4) The penalties specified in [Title 54, Chapter 7, Hearings, Practice, and Procedure]
5743	Chapter 7, Hearings, Practice, and Procedure, do not apply to a violation of this section.
5744	Section 92. Section <b>54-13-8</b> is amended to read:
5745	54-13-8. Violation of chapter Penalty.
5746	(1) Any person engaged in intrastate pipeline transportation who is determined by the
5747	commission, after notice and an opportunity for a hearing, to have violated any provision of
5748	this chapter or any rule or order issued under this chapter, is liable for a civil penalty of not
5749	more than \$100,000 for each violation for each day the violation persists.
5750	(2) The maximum civil penalty assessed under this section may not exceed \$1,000,000
5751	for any related series of violations.
5752	(3) The amount of the penalty shall be assessed by the commission by written notice.
5753	(4) In determining the amount of the penalty, the commission shall consider:
5754	(a) the nature, circumstances, and gravity of the violation; and
5755	(b) with respect to the person found to have committed the violation:
5756	(i) the degree of culpability;
5757	(ii) any history of prior violations;
5758	(iii) the effect on the person's ability to continue to do business;
5759	(iv) any good faith in attempting to achieve compliance;
5760	(v) the person's ability to pay the penalty; and

5761	(vi) any other matter, as justice may require.
5762	(5) (a) A civil penalty assessed under this section may be recovered in an action
5763	brought by the attorney general on behalf of the state in [the appropriate district court] a court
5764	with jurisdiction under Title 78A, Judiciary and Judicial Administration, or before referral to
5765	the attorney general, it may be compromised by the commission.
5766	(b) The amount of the penalty, when finally determined, or agreed upon in
5767	compromise, may be deducted from any sum owed by the state to the person charged.
5768	(6) Any penalty collected under this section shall be deposited in the General Fund.
5769	Section 93. Section 54-14-308 is amended to read:
5770	54-14-308. Judicial review in formal adjudicative proceedings.
5771	The Court of Appeals has jurisdiction to review any decision of the board in a formal
5772	adjudicative proceeding as described in Sections 63G-4-403 and 78A-4-103.
5773	Section 94. Section 54-22-205 is amended to read:
5774	54-22-205. Disputes.
5775	A dispute under this chapter involving an electric entity shall be resolved as follows:
5776	(1) if the electric entity is a public utility, in accordance with Section 54-7-9; and
5777	(2) if the electric entity is not a public utility, by [filing an action with the district court]
5778	bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial
5779	Administration.
5780	Section 95. Section 57-11-11 is amended to read:
5781	57-11-11. Rules of division Notice and hearing requirements Filing
5782	advertising material Injunctions Intervention by division in suits General powers
5783	of division.
5784	(1) (a) The division shall prescribe reasonable rules which shall be adopted, amended,
5785	or repealed only after a public hearing.
5786	(b) The division shall:
5787	(i) publish notice of the public hearing described in Subsection (1)(a) for the state, as a
5788	class A notice under Section 63G-30-102, for at least 20 days before the day of the hearing; and
5789	(ii) send a notice to a nonprofit organization which files a written request for notice
5790	with the division at least 20 days before the day of the hearing.
5791	(2) The rules shall include but need not be limited to:

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5792 (a) provisions for advertising standards to assure full and fair disclosure; and

- (b) provisions for escrow or trust agreements, performance bonds, or other means
  reasonably necessary to assure that all improvements referred to in the application for
  registration and advertising will be completed and that purchasers will receive the interest in
  land contracted for.
- 5797 (3) These provisions, however, shall not be required if the city or county in which the 5798 subdivision is located requires similar means of assurance of a nature and in an amount no less 5799 adequate than is required under said rules:
- 5800

(a) provisions for operating procedures;

(b) provisions for a shortened form of registration in cases where the division
determines that the purposes of this act do not require a subdivision to be registered pursuant to
an application containing all the information required by Section 57-11-6 or do not require that
the public offering statement contain all the information required by Section 57-11-7; and

5805

(c) other rules necessary and proper to accomplish the purpose of this chapter.

(4) The division by rule or order, after reasonable notice, may require the filing of
advertising material relating to subdivided lands prior to its distribution, provided that the
division must approve or reject any advertising material within 15 days from the receipt thereof
or the material shall be considered approved.

(5) (a) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in [the district court of the district where said person maintains his residence or a place of business or where said act or practice has occurred or is about to occur,] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder.

5817(b) Upon proper showing, a court may grant injunctive relief or temporary restraining5818orders [shall be granted, and] or appoint a receiver or conservator [may be appointed].

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(c) The division shall not be required to post a bond in any court proceedings.

5820 (6) The division shall be allowed to intervene in a suit involving subdivided lands,

5821 either as a party or as an amicus curiae, where it appears that the interpretation or

5822 constitutionality of any provision of law will be called into question. In any suit by or against a

5823 subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice 5824 of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division, 5825 constitute grounds for the division withholding any approval required by this chapter.

5826 (7) The division may:

5827

- (a) accept registrations filed in other states or with the federal government;
- 5828 (b) contract with public agencies or qualified private persons in this state or other

5829 jurisdictions to perform investigative functions; and

5830 (c) accept grants-in-aid from any source.

5831 (8) The division shall cooperate with similar agencies in other jurisdictions to establish 5832 uniform filing procedures and forms, uniform public offering statements, advertising standards, 5833 rules, and common administrative practices.

5834 Section 96. Section 57-11-13 is amended to read:

5835 57-11-13. Enforcement powers of division -- Cease and desist orders.

5836 (1) (a) If the director has reason to believe that any person has been or is engaging in 5837 conduct violating this chapter, or has violated any lawful order or rule of the division, the 5838 director shall issue and serve upon the person a cease and desist order and may also order the 5839 person to take such affirmative actions the director determines will carry out the purposes of 5840 this chapter.

5841 (b) The person served may request an adjudicative proceeding within 10 days after 5842 receiving the order.

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(c) The cease and desist order remains in effect pending the hearing.

(d) The division shall follow the procedures and requirements of Title 63G, Chapter 4, 5844 5845 Administrative Procedures Act, if the person served requests a hearing.

5846 (2) (a) After the hearing the director may issue an order making the cease and desist 5847 order permanent if the director finds there has been a violation of this chapter.

5848 (b) If no hearing is requested and the person served does not obey the director's order. 5849 the director shall [file suit] bring an action in a court with jurisdiction under Title 78A,

Judiciary and Judicial Administration, in the name of the Department of Commerce and the 5850

5851 Division of Real Estate to enjoin the person from violating this chapter. [The action shall be

5852 filed in the district court in the county in which the conduct occurred or where the person

5853 resides or carries on business.]

5854	(3) The remedies and action provided in this section may not interfere with or prevent
5855	the prosecution of any other remedies or actions including criminal prosecutions.
5856	Section 97. Section 57-11-18 is amended to read:
5857	57-11-18. Dispositions subject to chapter Jurisdiction of courts.
5858	(1) Dispositions of subdivided lands are subject to this [act, and the district courts of
5859	this state have jurisdiction in claims or causes of action arising under this act,] chapter.
5860	(2) A court of this state has jurisdiction in a claim or action arising under this chapter
5861	if:
5862	[(1)] (a) [The] the subdivided lands offered for disposition are located in this state;
5863	[(2)] (b) [The] the subdivider's principal office is located in this state; or
5864	[(3)] (c) [Any] any offer or disposition of subdivided lands is made in this state,
5865	whether or not the offeror or offeree is then present in this state, if the offer originates within
5866	this state or is directed by the offeror to a person or place in this state and received by the
5867	person or at the place to which it is directed.
5868	Section 98. Section <b>58-37-11</b> is amended to read:
5869	58-37-11. Court action to enjoin violations Jury trial.
5870	(1) [The district courts of this state shall have jurisdiction in proceedings in accordance
5871	with the rules of those courts to] A court may enjoin violations of this act.
5872	(2) If an alleged violation of an injunction or restraining order issued under this section
5873	occurs, the accused may demand a jury trial in accordance with [the rules of the district courts]
5874	the Utah Rules of Civil Procedure.
5875	Section 99. Section 63A-3-507 is amended to read:
5876	63A-3-507. Administrative garnishment order.
5877	(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may
5878	issue an administrative garnishment order against the debtor's personal property, including
5879	wages, in the possession of a party other than the debtor in the same manner and with the same
5880	effect as if the order was a writ of garnishment issued by a court with jurisdiction.
5881	(2) The office may issue the administrative garnishment order if:
5882	(a) the order is signed by the director or the director's designee; and
5883	(b) the underlying debt is for:
5884	(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

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5885	(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court,
5886	based on an administrative order for payment issued by an agency of the state.
5887	(3) An administrative garnishment order issued in accordance with this section is
5888	subject to the procedures and due process protections provided by Rule 64D, Utah Rules of
5889	Civil Procedure, except as provided by Section 70C-7-103.
5890	(4) An administrative garnishment order issued by the office shall:
5891	(a) contain a statement that includes:
5892	(i) if known:
5893	(A) the nature, location, account number, and estimated value of the property; and
5894	(B) the name, address, and phone number of the person holding the property;
5895	(ii) whether any of the property consists of earnings;
5896	(iii) the amount of the judgment and the amount due on the judgment; and
5897	(iv) the name, address, and phone number of any person known to the plaintiff to claim
5898	an interest in the property;
5899	(b) identify the defendant, including the defendant's name and last known address;
5900	(c) notify the defendant of the defendant's right to reply to answers and request a
5901	hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and
5902	(d) state where the garnishee may deliver property.
5903	(5) The office may, in the office's discretion, include in an administrative garnishment
5904	order:
5905	(a) the last four digits of the defendant's Social Security number;
5906	(b) the last four digits of the defendant's driver license number;
5907	(c) the state in which the defendant's driver license was issued;
5908	(d) one or more interrogatories inquiring:
5909	(i) whether the garnishee is indebted to the defendant and, if so, the nature of the
5910	indebtedness;
5911	(ii) whether the garnishee possesses or controls any property of the defendant and, if
5912	so, the nature, location, and estimated value of the property;
5913	(iii) whether the garnishee knows of any property of the defendant in the possession or
5914	under the control of another and, if so:
5915	(A) the nature, location, and estimated value of the property; and

5916	(B) the name, address, and telephone number of the person who has possession or
5917	control of the property;
5918	(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim
5919	against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant,
5920	and the amount deducted;
5921	(v) the date and manner of the garnishee's service of papers upon the defendant and any
5922	third party;
5923	(vi) the dates on which any previously served writs of continuing garnishment were
5924	served; and
5925	(vii) any other relevant information, including the defendant's position, rate of pay,
5926	method of compensation, pay period, and computation of the amount of the defendant's
5927	disposable earnings.
5928	(6) (a) A garnishee who acts in accordance with this section and the administrative
5929	garnishment issued by the office is released from liability unless an answer to an interrogatory
5930	is successfully controverted.
5931	(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an
5932	administrative garnishment issued by the office without a court or final administrative order
5933	directing otherwise, the garnishee is liable to the office for an amount determined by the court.
5934	(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:
5935	(i) (A) the value of the judgment; or
5936	(B) the value of the property, if the garnishee shows that the value of the property is
5937	less than the value of the judgment;
5938	(ii) reasonable costs; and
5939	(iii) attorney fees incurred by the parties as a result of the garnishee's failure.
5940	(d) If the garnishee shows that the steps taken to secure the property were reasonable,
5941	the court may excuse the garnishee's liability in whole or in part.
5942	(7) (a) If the office has reason to believe that a garnishee has failed to comply with the
5943	requirements of this section in the garnishee's response to a garnishment order issued under this
5944	section, the office may submit a motion to the court requesting the court to issue an order
5945	against the garnishee requiring the garnishee to appear and show cause why the garnishee
5946	should not be held liable under this section.

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5947	(b) The office shall attach to a motion under Subsection (7)(a) a statement that the
5948	office has in good faith conferred or attempted to confer with the garnishee in an effort to settle
5949	the issue without court action.
5950	(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a
5951	negotiable instrument if the instrument is not in the possession or control of the garnishee at
5952	the time of service of the administrative garnishment order.
5953	(9) (a) A person indebted to the defendant may pay to the office the amount of the debt
5954	or an amount to satisfy the administrative garnishment.
5955	(b) The office's receipt of an amount described in Subsection (9)(a) discharges the
5956	debtor for the amount paid.
5957	(10) A garnishee may deduct from the property any liquidated claim against the
5958	defendant.
5959	(11) (a) If a debt to the garnishee is secured by property, the office:
5960	(i) is not required to apply the property to the debt when the office issues the
5961	administrative garnishment order; and
5962	(ii) may obtain a court order authorizing the office to buy the debt and requiring the
5963	garnishee to deliver the property.
5964	(b) Notwithstanding Subsection (11)(a)(i):
5965	(i) the administrative garnishment order remains in effect; and
5966	(ii) the office may apply the property to the debt.
5967	(c) The office or a third party may perform an obligation of the defendant and require
5968	the garnishee to deliver the property upon completion of performance or, if performance is
5969	refused, upon tender of performance if:
5970	(i) the obligation is secured by property; and
5971	(ii) (A) the obligation does not require the personal performance of the defendant; and
5972	(B) a third party may perform the obligation.
5973	(12) (a) The office may issue a continuing garnishment order against a nonexempt
5974	periodic payment.
5975	(b) This section is subject to the Utah Exemptions Act.
5976	(c) A continuing garnishment order issued in accordance with this section applies to
5977	payments to the defendant from the date of service upon the garnishee until the earliest of the

5978	following:
5979	(i) the last periodic payment;
5980	(ii) the judgment upon which the administrative garnishment order is issued is stayed,
5981	vacated, or satisfied in full; or
5982	(iii) the office releases the order.
5983	(d) No later than seven days after the last day of each payment period, the garnishee
5984	shall with respect to that period:
5985	(i) answer each interrogatory;
5986	(ii) serve an answer to each interrogatory on the office, the defendant, and any other
5987	person who has a recorded interest in the property; and
5988	(iii) deliver the property to the office.
5989	(e) If the office issues a continuing garnishment order during the term of a writ of
5990	continuing garnishment issued by [the district] a court, the order issued by the office:
5991	(i) is tolled when a writ of garnishment or other income withholding is already in effect
5992	and is withholding greater than or equal to the maximum portion of disposable earnings
5993	described in Subsection (13);
5994	(ii) is collected in the amount of the difference between the maximum portion of
5995	disposable earnings described in Subsection (13) and the amount being garnished by an
5996	existing writ of continuing garnishment if the maximum portion of disposable earnings exceed
5997	the existing writ of garnishment or other income withholding; and
5998	(iii) shall take priority upon the termination of the current term of existing writs.
5999	(13) The maximum portion of disposable earnings of an individual subject to seizure in
6000	accordance with this section is the lesser of:
6001	(a) 25% of the defendant's disposable earnings for any other judgment; or
6002	(b) the amount by which the defendant's disposable earnings for a pay period exceeds
6003	the number of weeks in that pay period multiplied by 30 times the federal minimum wage as
6004	provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.
6005	(14) (a) In accordance with the requirements of this Subsection (14), the office may, at
6006	its discretion, determine a dollar amount that a garnishee is to withhold from earnings and
6007	deliver to the office in a continuing administrative garnishment order issued under this section.
6008	(b) The office may determine the dollar amount that a garnishee is to withhold from

6009 earnings under Subsection (14)(a) if the dollar amount determined by the office: 6010 (i) does not exceed the maximum amount allowed under Subsection (13); and 6011 (ii) is based on: 6012 (A) earnings information received by the office directly from the [Utah] Department of 6013 Workforce Services; or 6014 (B) previous garnishments issued to the garnishee by the office where payments were 6015 received at a consistent dollar amount. 6016 (c) The earnings information or previous garnishments relied on by the office under 6017 Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be: 6018 (i) for one debtor; 6019 (ii) from the same employer; 6020 (iii) for two or more consecutive quarters; and 6021 (iv) received within the last six months. 6022 (15) (a) A garnishee who provides the calculation for withholdings on a defendant's 6023 wages in the garnishee's initial response to an interrogatory in an administrative garnishment 6024 order under this section is not required to provide the calculation for withholdings after the 6025 garnishee's initial response if: 6026 (i) the garnishee's accounting system automates the amount of defendant's wages to be 6027 paid under the garnishment; and 6028 (ii) the defendant's wages do not vary by more than five percent from the amount 6029 disclosed in the garnishee's initial response. 6030 (b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a 6031 garnishee shall provide, for the last pay period or other pay period specified by the office or 6032 defendant, a calculation of the defendant's wages and withholdings and the amount garnished. 6033 (16) (a) A garnishee under an administrative garnishment order under this section is 6034 entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of: 6035 (i) \$10 per garnishment order, for a noncontinuing garnishment order; and 6036 (ii) \$25, as a one-time fee, for a continuing garnishment order. 6037 (b) A garnishee may deduct the amount of the garnishee fee from the amount to be 6038 remitted to the office under the administrative garnishment order, if the amount to be remitted 6039 exceeds the amount of the fee.

6040 (c) If the amount to be remitted to the office under an administrative garnishment order 6041 does not exceed the amount of the garnishee fee:

6042 (i) the garnishee shall notify the office that the amount to be remitted does not exceed6043 the amount of the garnishee fee; and

6044 (ii) (A) the garnishee under a noncontinuing garnishment order shall return the
6045 administrative garnishment order to the office, and the office shall pay the garnishee the
6046 garnishee fee; or

6047 (B) the garnishee under a continuing garnishment order shall delay remitting to the 6048 office until the amount to be remitted exceeds the garnishee fee.

6049 (d) If, upon receiving the administrative garnishment order, the garnishee does not 6050 possess or control any property, including money or wages, in which the defendant has an 6051 interest:

(i) the garnishee under a continuing or noncontinuing garnishment order shall, except
as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office,
and the office shall pay the garnishee the applicable garnishee fee; or

(ii) if the garnishee under a continuing garnishment order believes that the garnishee
will, within 90 days after issuance of the continuing garnishment order, come into possession
or control of property in which the defendant owns an interest, the garnishee may retain the
garnishment order and deduct the garnishee fee for a continuing garnishment once the amount
to be remitted exceeds the garnishee fee.

6060 (17) Section 78A-2-216 does not apply to an administrative garnishment order issued6061 under this section.

(18) An administrative garnishment instituted in accordance with this section shall
continue to operate and require that a person withhold the nonexempt portion of earnings at
each succeeding earning disbursement interval until the total amount due in the garnishment is
withheld or the garnishment is released in writing by the court or office.

6066 (19) If the office issues an administrative garnishment order under this section to
6067 collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the
6068 administrative garnishment order shall be construed as a continuation of the criminal action for
6069 which the civil accounts receivable or civil judgment of restitution arises if the amount owed is
6070 from a fine, fee, or restitution for the criminal action.

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6071 Section 100. Section 63G-4-403 is amended to read: 6072 63G-4-403. Judicial review -- Formal adjudicative proceedings. 6073 (1) As provided by statute, the Supreme Court or the Court of Appeals has jurisdiction 6074 to review all final agency action resulting from formal adjudicative proceedings as described in 6075 Sections 78A-3-102 and 78A-4-103. 6076 (2) (a) To seek judicial review of final agency action resulting from formal adjudicative 6077 proceedings, the petitioner shall file a petition for review of agency action with the appropriate 6078 appellate court in the form required by the appellate rules of the appropriate appellate court. 6079 (b) The appellate rules of the appropriate appellate court shall govern all additional 6080 filings and proceedings in the appellate court. 6081 (3) The contents, transmittal, and filing of the agency's record for judicial review of 6082 formal adjudicative proceedings are governed by the Utah Rules of Appellate Procedure, 6083 except that: 6084 (a) all parties to the review proceedings may stipulate to shorten, summarize, or 6085 organize the record; and 6086 (b) the appellate court may tax the cost of preparing transcripts and copies for the 6087 record: (i) against a party who unreasonably refuses to stipulate to shorten, summarize, or 6088 6089 organize the record; or 6090 (ii) according to any other provision of law. 6091 (4) The appellate court shall grant relief only if, on the basis of the agency's record, it 6092 determines that a person seeking judicial review has been substantially prejudiced by any of the 6093 following: 6094 (a) the agency action, or the statute or rule on which the agency action is based, is 6095 unconstitutional on its face or as applied; 6096 (b) the agency has acted beyond the jurisdiction conferred by any statute: 6097 (c) the agency has not decided all of the issues requiring resolution; 6098 (d) the agency has erroneously interpreted or applied the law; 6099 (e) the agency has engaged in an unlawful procedure or decision-making process, or 6100 has failed to follow prescribed procedure: 6101 (f) the persons taking the agency action were illegally constituted as a decision-making

6102	body or were subject to disqualification;
6103	(g) the agency action is based upon a determination of fact, made or implied by the
6104	agency, that is not supported by substantial evidence when viewed in light of the whole record
6105	before the court; <u>or</u>
6106	(h) the agency action is:
6107	(i) an abuse of the discretion delegated to the agency by statute;
6108	(ii) contrary to a rule of the agency;
6109	(iii) contrary to the agency's prior practice, unless the agency justifies the inconsistency
6110	by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency; or
6111	(iv) otherwise arbitrary or capricious.
6112	Section 101. Section 63G-7-501 is amended to read:
6113	63G-7-501. Actions brought under this chapter.
6114	[(1) The district courts have exclusive, original jurisdiction over any action brought
6115	under this chapter. (2)] An action brought under this chapter may not be tried as a small claims
6116	action.
6117	Section 102. Section 63G-7-502 is amended to read:
6118	63G-7-502. Venue of actions.
	<b>63G-7-502.</b> Venue of actions. (1) [Actions against the state may be brought in the county in which the claim arose or
6118	
6118 6119	(1) [Actions against the state may be brought in the county in which the claim arose or
6118 6119 6120	(1) [Actions against the state may be brought in the county in which the claim arose or in Salt Lake County.] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a
6118 6119 6120 6121	(1) [Actions against the state may be brought in the county in which the claim arose or in Salt Lake County.] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action described in this chapter in:
<ul> <li>6118</li> <li>6119</li> <li>6120</li> <li>6121</li> <li>6122</li> </ul>	<ul> <li>(1) [Actions against the state may be brought in the county in which the claim arose or in Salt Lake County.] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action described in this chapter in:         <ul> <li>(a) Salt Lake County; or</li> </ul> </li> </ul>
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6133	(3) [Actions against all other political subdivisions, including cities and towns, shall be
6134	brought in the county in which the political subdivision is located or in the county in which the
6135	claim arose.] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
6136	bring an action against any other political subdivision, including a city or a town, in the county
6137	in which:
6138	(a) the political subdivision is located; or
6139	(b) the claim arose.
6140	Section 103. Section 63G-20-204 is amended to read:
6141	63G-20-204. Remedies Attorney fees and costs.
6142	(1) (a) A person aggrieved by a violation of this part may:
6143	(i) seek injunctive or other civil relief to require a state or local government or a state
6144	or local government official to comply with the requirements of this part; or
6145	(ii) seek removal of the local government official for malfeasance in office according
6146	to the procedures and requirements of Title 77, Chapter 6, Removal by Judicial Proceedings.
6147	(b) The court may award reasonable attorney fees and costs to the prevailing party.
6148	(2) (a) A person aggrieved by a violation of this part may bring a civil action in [district
6149	court] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
6150	(b) If the plaintiff establishes one or more violations of this part by a preponderance of
6151	the evidence, the court:
6152	(i) shall grant the plaintiff appropriate legal or equitable relief; and
6153	(ii) may award reasonable attorney fees and costs to the prevailing party.
6154	Section 104. Section 63G-20-302 is amended to read:
6155	63G-20-302. Remedies Civil action Attorney fees and costs.
6156	(1) A person aggrieved by a violation of this part may bring a civil action in [district
6157	court] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
6158	(2) If the plaintiff establishes one or more violations of this part by a preponderance of
6159	the evidence, the court:
6160	(a) shall grant the plaintiff appropriate legal or equitable relief; and
6161	(b) may award reasonable attorney fees and costs to the prevailing party.
6162	Section 105. Section 63G-23-102 is amended to read:
6163	63G-23-102. Definitions.

6164	As used in this chapter:
6165	(1) "Public official" means, except as provided in Subsection (3), the same as that term
6166	is defined in Section 36-11-102.
6167	(2) "Public official" includes a judge or justice of:
6168	(a) the Utah Supreme Court;
6169	(b) the Utah Court of Appeals; [ <del>or</del> ]
6170	(c) a district court[ <del>.</del> ];
6171	(d) a juvenile court; or
6172	(e) the Business and Chancery Court.
6173	(3) "Public official" does not include a local official or an education official as defined
6174	in Section 36-11-102.
6175	Section 106. Section 63H-1-601 is amended to read:
6176	63H-1-601. Resolution authorizing issuance of authority bonds Characteristics
6177	of bonds.
6178	(1) The authority may not issue bonds under this part unless the authority board first:
6179	(a) adopts a parameters resolution that sets forth:
6180	(i) the maximum:
6181	(A) amount of the bonds;
6182	(B) term; and
6183	(C) interest rate; and
6184	(ii) the expected security for the bonds; and
6185	(b) submits the parameters resolution for review and recommendation to the State
6186	Finance Review Commission created in Section 63C-25-201.
6187	(2) (a) As provided in the authority resolution authorizing the issuance of bonds under
6188	this part or the trust indenture under which the bonds are issued, bonds issued under this part
6189	may be issued in one or more series and may be sold at public or private sale and in the manner
6190	provided in the resolution or indenture.
6191	(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest
6192	at the rate, be in the denomination and in the form, carry the conversion or registration
6193	privileges, have the rank or priority, be executed in the manner, be subject to the terms of
6194	redemption or tender, with or without premium, be payable in the medium of payment and at

6195	the place, and have other characteristics as provided in the authority resolution authorizing
6196	their issuance or the trust indenture under which they are issued.
6197	(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the
6198	board may provide for the publication of the resolution:
6199	(a) in a newspaper having general circulation in the authority's boundaries; and
6200	(b) as required in Section 45-1-101.
6201	(4) In lieu of publishing the entire resolution, the board may publish notice of bonds
6202	that contains the information described in Subsection 11-14-316(2).
6203	(5) For a period of 30 days after the publication, any person in interest may contest:
6204	(a) the legality of the resolution or proceeding;
6205	(b) any bonds that may be authorized by the resolution or proceeding; or
6206	(c) any provisions made for the security and payment of the bonds.
6207	(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified
6208	written complaint, within 30 days of the publication under Subsection (5), in [the district court
6209	of the county in which the person resides] a court with jurisdiction under Title 78A, Judiciary
6210	and Judicial Administration.
6211	(b) A person may not contest the matters set forth in Subsection (5), or the regularity,
6212	formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for
6213	contesting provided in Subsection (6)(a).
6214	(7) No later than 60 days after the closing day of any bonds, the authority shall report
6215	the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:
6216	(a) the Executive Appropriations Committee; and
6217	(b) the State Finance Review Commission created in Section 63C-25-201.
6218	Section 107. Section 63L-5-301 is amended to read:
6219	63L-5-301. Remedies.
6220	(1) (a) A person whose free exercise of religion has been substantially burdened by a
6221	government entity in violation of Section 63L-5-201 may bring an action in [the district court
6222	of] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
6223	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall
6224	bring an action described in Subsection (1)(a) in the county where the largest portion of the
6225	property subject to the land use regulation is located if the action is brought in the district court.

6226	(2) Any person who asserts a claim or defense against a government entity under this
6227	chapter may request:
6228	(a) declaratory relief;
6229	(b) temporary or permanent injunctive relief to prevent the threatened or continued
6230	violation; or
6231	(c) a combination of declaratory and injunctive relief.
6232	(3) A person may not bring an action under this chapter against an individual, other
6233	than an action against an individual acting in the individual's official capacity as an officer of a
6234	government entity.
6235	Section 108. Section 63L-8-304 is amended to read:
6236	63L-8-304. Enforcement authority.
6237	(1) The director shall issue rules as necessary to implement the provisions of this
6238	chapter with respect to the management, use, and protection of the public land and property
6239	located on the public land.
6240	(2) At the request of the director, the attorney general may [ $\frac{1}{1}$ institute a civil action in a
6241	district court] bring an action in a court with jurisdiction under Title 78A, Judiciary and
6242	Judicial Administration, for an injunction or other appropriate remedy to prevent any person
6243	from utilizing public land in violation of this chapter or rules issued by the director under this
6244	chapter.
6245	(3) The use, occupancy, or development of any portion of the public land contrary to
6246	any rule issued by the DLM in accordance with this chapter, and without proper authorization,
6247	is unlawful and prohibited.
6248	(4) (a) The locally elected county sheriff is the primary law enforcement authority with
6249	jurisdiction on public land to enforce:
6250	(i) all the laws of this state; and
6251	(ii) this chapter and rules issued by the director pursuant to Subsection (1).
6252	(b) The governor may utilize the Department of Public Safety for the purposes of
6253	assisting the county sheriff in enforcing:
6254	(i) all the laws of this state and this chapter; and
6255	(ii) rules issued by the director pursuant to Subsection (1).
6256	(c) Conservation officers employed by the Division of Wildlife Resources have

6257	authority to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the
6258	sake of any protected wildlife.
6259	(d) A conservation officer shall work cooperatively with the locally elected county
6260	sheriff to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the
6261	sake of protected wildlife.
6262	(e) Nothing herein shall be construed as enlarging or diminishing the responsibility or
6263	authority of a state certified peace officer in performing the officer's duties on public land.
6264	Section 109. Section 65A-8a-104 is amended to read:
6265	65A-8a-104. Notification of intent to conduct forest practices.
6266	(1) No later than 30 days before an operator commences forest practices, the operator
6267	shall notify the division of the operator's intent to conduct forest practices.
6268	(2) The notification shall include:
6269	(a) the name and address of the operator;
6270	(b) the name, address, and other current contact information of the landowner;
6271	(c) a legal description of the area in which the forest practices are to be conducted;
6272	(d) a description of the proposed forest practices to be conducted, including the number
6273	of acres with timber to be harvested; and
6274	(e) an agreement granting the state forestry personnel permission to enter the area in
6275	which the forest practices are to be conducted to conduct an inspection, when the state forestry
6276	personnel reasonably consider an inspection necessary to ensure compliance with this chapter.
6277	(3) Upon the receipt of notification, the division shall, within 10 days, mail to the
6278	landowner and the operator:
6279	(a) an acknowledgment of notification;
6280	(b) information on Forest Water Quality Guidelines; and
6281	(c) any other information the division believes would assist the landowner and operator
6282	in conducting forest practices.
6283	(4) (a) Failure to notify the division in accordance with this section is a class B
6284	misdemeanor.
6285	(b) (i) The division may [file an action in the district court of any county in which the
6286	area in which the forest practices are to be conducted is located] bring an action in a court with
6287	jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin an operator

6288	engaged in conduct violating this chapter from operating until the operator complies with this
6289	chapter.
6290	(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the division shall
6291	bring an action described in Subsection (4)(b)(i) in the county in which the forest practices are
6292	to be conducted is located if the division brings the action in the district court.
6293	(c) In an action by the division in accordance with Subsection (4)(b), the operator shall
6294	pay reasonable attorney fees and all court costs incurred by the division because of the action.
6295	Section 110. Section 67-3-1 is amended to read:
6296	67-3-1. Functions and duties.
6297	(1) (a) The state auditor is the auditor of public accounts and is independent of any
6298	executive or administrative officers of the state.
6299	(b) The state auditor is not limited in the selection of personnel or in the determination
6300	of the reasonable and necessary expenses of the state auditor's office.
6301	(2) The state auditor shall examine and certify annually in respect to each fiscal year,
6302	financial statements showing:
6303	(a) the condition of the state's finances;
6304	(b) the revenues received or accrued;
6305	(c) expenditures paid or accrued;
6306	(d) the amount of unexpended or unencumbered balances of the appropriations to the
6307	agencies, departments, divisions, commissions, and institutions; and
6308	(e) the cash balances of the funds in the custody of the state treasurer.
6309	(3) (a) The state auditor shall:
6310	(i) audit each permanent fund, each special fund, the General Fund, and the accounts of
6311	any department of state government or any independent agency or public corporation as the law
6312	requires, as the auditor determines is necessary, or upon request of the governor or the
6313	Legislature;
6314	(ii) perform the audits in accordance with generally accepted auditing standards and
6315	other auditing procedures as promulgated by recognized authoritative bodies; and
6316	(iii) as the auditor determines is necessary, conduct the audits to determine:
6317	(A) honesty and integrity in fiscal affairs;
6318	(B) accuracy and reliability of financial statements;

6319 (C) effectiveness and adequacy of financial controls; and

6320 (D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that theaudit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from anappropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not
specifically provide for payment of audit costs, the costs of the federal compliance portions of
the audit shall be allocated on the basis of the percentage that each state entity's federal funding
bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
funds passed through the state to local governments and to reflect any reduction in audit time
obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
financial audits, and as the auditor determines is necessary, conduct performance and special
purpose audits, examinations, and reviews of any entity that receives public funds, including a
determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

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(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, andcost-efficient manner;

6340 (iv) whether the entity's programs have been effective in accomplishing the intended6341 objectives; and

6342 (v) whether the entity's management, control, and information systems are adequate,6343 effective, and secure.

(b) The auditor may not conduct performance and special purpose audits,

6345 examinations, and reviews of any entity that receives public funds if the entity:

- 6346 (i) has an elected auditor; and
- 6347 (ii) has, within the entity's last budget year, had the entity's financial statements or6348 performance formally reviewed by another outside auditor.

6349 (5) The state auditor:

6350	(a) shall administer any oath or affirmation necessary to the performance of the duties
6351	of the auditor's office; and
6352	(b) may:
6353	(i) subpoena witnesses and documents, whether electronic or otherwise; and
6354	(ii) examine into any matter that the auditor considers necessary.
6355	(6) The state auditor may require all persons who have had the disposition or
6356	management of any property of this state or its political subdivisions to submit statements
6357	regarding the property at the time and in the form that the auditor requires.
6358	(7) The state auditor shall:
6359	(a) except where otherwise provided by law, institute suits in Salt Lake County in
6360	relation to the assessment, collection, and payment of revenues against:
6361	(i) persons who by any means have become entrusted with public money or property
6362	and have failed to pay over or deliver the money or property; and
6363	(ii) all debtors of the state;
6364	(b) collect and pay into the state treasury all fees received by the state auditor;
6365	(c) perform the duties of a member of all boards of which the state auditor is a member
6366	by the constitution or laws of the state, and any other duties that are prescribed by the
6367	constitution and by law;
6368	(d) stop the payment of the salary of any state official or state employee who:
6369	(i) refuses to settle accounts or provide required statements about the custody and
6370	disposition of public funds or other state property;
6371	(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
6372	board or department head with respect to the manner of keeping prescribed accounts or funds;
6373	or
6374	(iii) fails to correct any delinquencies, improper procedures, and errors brought to the
6375	official's or employee's attention;
6376	(e) establish accounting systems, methods, and forms for public accounts in all taxing
6377	or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
6378	(f) superintend the contractual auditing of all state accounts;
6379	(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
6380	property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that

officials and employees in those taxing units comply with state laws and procedures in thebudgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county,
if necessary, to ensure that officials and employees in the county comply with Section
59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local
government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if
the state auditor finds the withholding necessary to ensure that the entity registers and
maintains the entity's registration with the lieutenant governor, in accordance with Section
67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
written notice of noncompliance from the auditor and has been given 60 days to make the
specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local
fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by thestate; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an
account of a financial institution by filing an action in [district court] a court with jurisdiction
under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to
prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection
(8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
financial reporting of public funds.

6409 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with6410 state law, the state auditor:

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(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to

6412	comply;
6413	(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
6414	state; and
6415	(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
6416	account of a financial institution by:
6417	(A) contacting the taxing or fee-assessing unit's financial institution and requesting that
6418	the institution prohibit access to the account; or
6419	(B) filing an action in [district court] a court with jurisdiction under Title 78A,
6420	Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial
6421	institution from providing the taxing or fee-assessing unit access to an account.
6422	(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
6423	law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
6424	(8)(d).
6425	(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
6426	received formal written notice of noncompliance from the auditor and has been given 60 days
6427	to make the specified corrections.
6428	(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
6429	auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.
6430	(b) If the state auditor receives a notice of non-registration, the state auditor may
6431	prohibit the local government entity or limited purpose entity, as those terms are defined in
6432	Section 67-1a-15, from accessing:
6433	(i) money held by the state; and
6434	(ii) money held in an account of a financial institution by:
6435	(A) contacting the entity's financial institution and requesting that the institution
6436	prohibit access to the account; or
6437	(B) filing an action in [district court] a court with jurisdiction under Title 78A,
6438	Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial
6439	institution from providing the entity access to an account.
6440	(c) The state auditor shall remove the prohibition on accessing funds described in
6441	Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
6442	Section 67-1a-15, from the lieutenant governor.

6443	(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
6444	state auditor:
6445	(a) shall authorize a disbursement by a local government entity or limited purpose
6446	entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
6447	unit if the disbursement is necessary to:
6448	(i) avoid a major disruption in the operations of the local government entity, limited
6449	purpose entity, or state or local taxing or fee-assessing unit; or
6450	(ii) meet debt service obligations; and
6451	(b) may authorize a disbursement by a local government entity, limited purpose entity,
6452	or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.
6453	(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
6454	take temporary custody of public funds if an action is necessary to protect public funds from
6455	being improperly diverted from their intended public purpose.
6456	(b) If the state auditor seeks relief under Subsection (12)(a):
6457	(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
6458	and
6459	(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
6460	court orders the public funds to be protected from improper diversion from their public
6461	purpose.
6462	(13) The state auditor shall:
6463	(a) establish audit guidelines and procedures for audits of local mental health and
6464	substance abuse authorities and their contract providers, conducted pursuant to Title 17,
6465	Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
6466	Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental
6467	Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
6468	Organizations, and Other Local Entities Act; and
6469	(b) ensure that those guidelines and procedures provide assurances to the state that:
6470	(i) state and federal funds appropriated to local mental health authorities are used for
6471	mental health purposes;
6472	(ii) a private provider under an annual or otherwise ongoing contract to provide
6473	comprehensive mental health programs or services for a local mental health authority is in

6474 compliance with state and local contract requirements and state and federal law;

- 6475 (iii) state and federal funds appropriated to local substance abuse authorities are used6476 for substance abuse programs and services; and
- 6477 (iv) a private provider under an annual or otherwise ongoing contract to provide
  6478 comprehensive substance abuse programs or services for a local substance abuse authority is in
  6479 compliance with state and local contract requirements, and state and federal law.
- (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
  political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
  Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
  investigations of any political subdivision that are necessary to determine honesty and integrity
  in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
  financial controls and compliance with the law.
- (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
  Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
  initiate an audit or investigation of the public entity subject to the notice to determine
  compliance with Section 11-41-103.
- 6490 (15) (a) The state auditor may not audit work that the state auditor performed before6491 becoming state auditor.
- (b) If the state auditor has previously been a responsible official in state governmentwhose work has not yet been audited, the Legislature shall:
- (i) designate how that work shall be audited; and
- 6495 (ii) provide additional funding for those audits, if necessary.
- 6496 (16) The state auditor shall:
- (a) with the assistance, advice, and recommendations of an advisory committee
  appointed by the state auditor from among special district boards of trustees, officers, and
  employees and special service district boards, officers, and employees:
- 6500

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting
procedures for special districts under Title 17B, Limited Purpose Local Government Entities Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
District Act;

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6505 (B) conforms with generally accepted accounting principles; and 6506 (C) prescribes reasonable exceptions and modifications for smaller districts to the 6507 uniform system of accounting, budgeting, and reporting; 6508 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to 6509 reflect generally accepted accounting principles; 6510 (iii) conduct a continuing review and modification of procedures in order to improve 6511 them; 6512 (iv) prepare and supply each district with suitable budget and reporting forms; and 6513 (v) (A) prepare instructional materials, conduct training programs, and render other 6514 services considered necessary to assist special districts and special service districts in 6515 implementing the uniform accounting, budgeting, and reporting procedures; and 6516 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 6517 63G. Chapter 22. State Training and Certification Requirements: and (b) continually analyze and evaluate the accounting, budgeting, and reporting practices 6518 6519 and experiences of specific special districts and special service districts selected by the state 6520 auditor and make the information available to all districts. 6521 (17) (a) The following records in the custody or control of the state auditor are 6522 protected records under Title 63G, Chapter 2, Government Records Access and Management 6523 Act: 6524 (i) records that would disclose information relating to allegations of personal 6525 misconduct, gross mismanagement, or illegal activity of a past or present governmental 6526 employee if the information or allegation cannot be corroborated by the state auditor through 6527 other documents or evidence, and the records relating to the allegation are not relied upon by 6528 the state auditor in preparing a final audit report; 6529 (ii) records and audit workpapers to the extent the workpapers would disclose the 6530 identity of an individual who during the course of an audit, communicated the existence of any 6531 waste of public funds, property, or manpower, or a violation or suspected violation of a law, 6532 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or 6533 any recognized entity of the United States, if the information was disclosed on the condition

- that the identity of the individual be protected;
- 6535

(iii) before an audit is completed and the final audit report is released, records or drafts

6536 circulated to an individual who is not an employee or head of a governmental entity for the 6537 individual's response or information;

6538 (iv) records that would disclose an outline or part of any audit survey plans or audit 6539 program; and

6540

(v) requests for audits, if disclosure would risk circumvention of an audit.

6541 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure 6542 of records or information that relate to a violation of the law by a governmental entity or 6543 employee to a government prosecutor or peace officer.

6544 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to 6545 the state auditor to classify a document as public, private, controlled, or protected under Title 6546 63G, Chapter 2, Government Records Access and Management Act.

6547 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the 6548 state auditor and the subject of an audit performed by the state auditor as to whether the state 6549 auditor may release a record, as defined in Section 63G-2-103, to the public that the state 6550 auditor gained access to in the course of the state auditor's audit but which the subject of the 6551 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records 6552 Access and Management Act.

6553 (ii) The state auditor may submit a record dispute to the State Records Committee. 6554 created in Section 63G-2-501, for a determination of whether the state auditor may, in 6555 conjunction with the state auditor's release of an audit report, release to the public the record 6556 that is the subject of the record dispute.

6557 (iii) The state auditor or the subject of the audit may seek judicial review of a State 6558 Records Committee determination under Subsection (17)(d)(ii), as provided in Section 6559 63G-2-404.

6560 (18) If the state auditor conducts an audit of an entity that the state auditor has 6561 previously audited and finds that the entity has not implemented a recommendation made by 6562 the state auditor in a previous audit, the state auditor shall notify the Legislative Management 6563 Committee through the Legislative Management Committee's audit subcommittee that the 6564 entity has not implemented that recommendation.

6565 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13. 6566

6567	(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
6568	another government entity reports, on the financial, operational, and performance metrics for
6569	the state system of higher education and the state system of public education, including metrics
6570	in relation to students, programs, and schools within those systems.
6571	(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits
6572	of:
6573	(i) the scholarship granting organization for the Special Needs Opportunity Scholarship
6574	Program, created in Section 53E-7-402;
6575	(ii) the State Board of Education for the Carson Smith Scholarship Program, created in
6576	Section 53F-4-302; and
6577	(iii) the scholarship program manager for the Utah Fits All Scholarship Program,
6578	created in Section 53F-6-402.
6579	(b) Nothing in this subsection limits or impairs the authority of the State Board of
6580	Education to administer the programs described in Subsection (21)(a).
6581	(22) The state auditor shall, based on the information posted by the Office of
6582	Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy,
6583	track and post the following information on the state auditor's website:
6584	(a) the information posted under Subsections <u>36-12-12.1(2)(a)</u> through (e);
6585	(b) an indication regarding whether the policy is timely adopted, adopted late, or not
6586	adopted;
6587	(c) an indication regarding whether the policy complies with the requirements
6588	established by law for the policy; and
6589	(d) a link to the policy.
6590	(23) (a) A legislator may request that the state auditor conduct an inquiry to determine
6591	whether a government entity, government official, or government employee has complied with
6592	a legal obligation directly imposed, by statute, on the government entity, government official,
6593	or government employee.
6594	(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct
6595	the inquiry requested.
6596	(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
6597	auditor shall post the results of the inquiry on the state auditor's website.

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6598 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple 6599 determination, without conducting an audit, regarding whether the obligation was fulfilled. 6600 Section 111. Section 67-3-3 is amended to read: 6601 67-3-3. Disbursements of public funds -- Suspension of disbursements --6602 Procedure upon suspension. 6603 (1) The state auditor may suspend any disbursement of public funds whenever, in the 6604 state auditor's opinion, the disbursement is contrary to law. 6605 (2) (a) If the validity of a disbursement described in Subsection (1) is not established within six months from the date of original suspension, the state auditor shall refer the matter 6606 6607 to the attorney general for appropriate action. 6608 (b) If, in the attorney general's opinion, the suspension described in Subsection (2)(a)was justified, the attorney general shall immediately notify the state auditor, who shall 6609 6610 immediately make demand upon the surety of the disbursing or certifying officer. (c) If the state auditor makes a demand under Subsection (2)(b), the surety shall 6611 immediately meet the demand and pay into the state treasury by certified check or legal tender 6612 6613 any amount or amounts disbursed and involved in the suspension. 6614 (3) (a) The state auditor shall ensure that each suspension is in writing. 6615 (b) The state auditor shall: 6616 (i) prepare a form to be known as the notice of suspension; 6617 (ii) ensure that the form contains complete information as to: (A) the payment suspended; 6618 (B) the reason for the suspension; 6619 (C) the amount of money involved; and 6620 6621 (D) any other information that will clearly establish identification of the payment; 6622 (iii) retain the original of the suspension notice; 6623 (iv) serve one copy of the suspension notice upon: (A) the disbursing or certifying officer; 6624 (B) any member of the finance commission: and 6625 6626 (C) the surety of the disbursing or certifying officer, except that mailing the copy to the 6627 surety company constitutes legal service; 6628 (v) attach one copy of the suspension notice to the document under suspension; and

6629	(vi) take receipts entered upon the original suspension notice held by the state auditor
6630	from the disbursing or certifying officer, the finance commission, and the surety.
6631	(4) (a) Immediately upon any suspension becoming final, the finance commission
6632	shall:
6633	(i) cause an entry to be made debiting the disbursing or certifying officer with the
6634	amount of money involved in any suspension notice; and
6635	(ii) credit the account originally charged by the payment.
6636	(b) Upon release of final suspension by the state auditor, the finance commission shall
6637	make a reversing entry, crediting the disbursing or certifying officer, and like credit shall be
6638	given in all recoveries from the surety.
6639	(5) (a) In accordance with this Subsection (5), the state auditor may prohibit the access
6640	of a state or local taxing or fee-assessing unit to money held by the state or in an account of a
6641	financial institution, if the state auditor determines that the local taxing or fee-assessing unit is
6642	not in compliance with state law regarding budgeting, expenditures, financial reporting of
6643	public funds, and transparency.
6644	(b) The state auditor may not withhold funds under Subsection (5)(a) until the state
6645	auditor:
6646	(i) sends formal notice of noncompliance to the state or local taxing or fee-assessing
6647	unit; and
6648	(ii) allows the state or local taxing or fee-assessing unit 60 calendar days to:
6649	(A) make the specified corrections; or
6650	(B) demonstrate to the state auditor that the specified corrections are not legally
6651	required.
6652	(c) If, after receiving notice under Subsection (5)(b), the state or local fee-assessing
6653	unit does not make the specified corrections and the state auditor does not agree with any
6654	demonstration under Subsection (5)(b)(ii)(B), the state auditor:
6655	(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
6656	comply;
6657	(ii) shall provide a recommended timeline for corrective actions;
6658	(iii) may prohibit the taxing or fee-assessing unit from accessing money held by the
((50	

state; and

6660	(iv) may prohibit the taxing or fee-assessing unit from accessing money held in an
6661	account of a financial institution by:
6662	(A) contacting the taxing or fee-assessing unit's financial institution and requesting that
6663	the institution prohibit access to the account; or
6664	(B) filing an action in [district court] a court with jurisdiction under Title 78A,
6665	Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial
6666	institution from providing the taxing or fee-assessing unit access to an account.
6667	(d) The state auditor shall remove the prohibition on accessing funds described in
6668	Subsections (5)(c)(iii) and (iv) if:
6669	(i) the state or local taxing or fee-assessing unit makes the specified corrections
6670	described in Subsection (5)(b); or
6671	(ii) the state auditor agrees with a demonstration under Subsection (5)(b)(ii)(B).
6672	Section 112. Section <b>70A-2-807</b> is amended to read:
6673	70A-2-807. Consumer may not waive rights under chapter Enforcement
6674	Remedies not exclusive.
6675	(1) Any waiver by a consumer of rights under this chapter is void.
6676	(2) (a) A consumer may bring an action in [district court] a court with jurisdiction
6677	under Title 78A, Judiciary and Judicial Administration, to enforce the consumer's rights under
6678	this chapter.
6679	(b) The court shall award a consumer who prevails in an action under this chapter
6680	twice the amount of any pecuniary loss, together with costs, disbursements, reasonable
6681	attorney's fees, and any equitable relief that the court determines is appropriate.
6682	(3) (a) The attorney general may file an action in [district court] a court with
6683	jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this chapter on
6684	behalf of any consumer or in its own behalf.
6685	(b) In addition to the other remedies provided in this chapter, the attorney general is
6686	also entitled to an award for reasonable attorney's fees, court costs, and investigative expenses.
6687	(4) This chapter shall not be construed as imposing any liability on an authorized
6688	dealer or lessor or as creating a cause of action by a consumer against a dealer or lessor, except
6689	regarding any express warranties made by the dealer or lessor apart from the manufacturer's
6690	warranties.

6691	(5) Nothing in this chapter shall limit or impair the rights or remedies which are
6692	otherwise available to a consumer under any other provision of law.
6693	Section 113. Section <b>70C-8-105</b> is amended to read:
6694	70C-8-105. Judicial review.
6695	(1) (a) Any party aggrieved by any rule, order, temporary order, decision, ruling, or
6696	other act or failure to act by the department under this title is entitled to judicial review.
6697	(b) Within 30 days after receiving notice of a rule, order, temporary order, decision, or
6698	other ruling, or within 120 days after the department has failed to act upon a request or
6699	application, the aggrieved party may file an application for judicial review with [a court of
6700	competent jurisdiction] a court with jurisdiction under Title 78A, Judiciary and Judicial
6701	Administration.
6702	(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the aggrieved
6703	party shall file an application in the county in which the applicant is located or in the Third
6704	District Court if the application is brought in the district court.
6705	(d) The court may void any rule, order, temporary order, decision, ruling, or other act
6706	of the department it finds to be arbitrary, capricious, an abuse of discretion, in excess of the
6707	department's authority, or otherwise contrary to law.
6708	(2) (a) Any party upon showing that it may be subject to potential irreparable injury by
6709	any proposed rule or order of the department may, without exhausting its administrative
6710	remedies, apply for a declaratory judgment as to any question of law arising out of the rule or
6711	order.
6712	(b) The applications shall be filed in the Third District Court.
6713	(3) Any action for judicial review of acts or failures to act of the department shall be
6714	heard by the court and shall be based on the record made before the department unless the court
6715	finds good cause to admit additional and otherwise proper evidence.
6716	(4) (a) Filing an application for judicial review does not stay the adoption or
6717	enforcement of any rule, order, temporary order, decision, or ruling of the department.
6718	(b) The court may expressly stay any rule, order, decision, or ruling of the department
6719	during the pendency of judicial proceedings challenging them upon terms and conditions it
6720	deems appropriate after finding that the possible harm to all interested parties is, on balance,
6721	likely to be less if the stay is imposed, or if the applicant and the department stipulate to the

6722	imposition of a stay.
6723	Section 114. Section <b>70D-2-504</b> is amended to read:
6724	70D-2-504. Orders.
6725	(1) If the commissioner determines that a person engaging in business as a lender,
6726	broker, or servicer is violating, has violated, or the commissioner has reasonable cause to
6727	believe is about to violate this chapter or a rule of the commissioner made under this chapter,
6728	the commissioner may:
6729	(a) order the person to cease and desist from committing a further violation; and
6730	(b) in the most serious instances may prohibit the person from continuing to engage in
6731	business as a lender, broker, or servicer.
6732	(2) (a) If the commissioner determines that a practice that the commissioner alleges is
6733	unlawful should be enjoined during the pendency of a proceeding incident to an allegation, the
6734	commissioner may issue a temporary order in accordance with Section 63G-4-502:
6735	(i) at the commencement of the proceedings; or
6736	(ii) at any time after the proceeding commences.
6737	(b) For purposes of Section 63G-4-502, an immediate and significant danger to the
6738	public health, safety, or welfare exists if the commissioner finds from specific facts supported
6739	by sworn statement or the records of a person subject to the order that loan applicants or
6740	mortgagors are otherwise likely to suffer immediate and irreparable injury, loss, or damage
6741	before a proceeding incident to a final order can be completed.
6742	(3) The commissioner may not award damages or penalties under this chapter against a
6743	lender, broker, or servicer.
6744	(4) (a) An order issued by the commissioner under this chapter shall:
6745	(i) be in writing;
6746	(ii) be delivered to or served upon the person affected; and
6747	(iii) specify the order's effective date, which may be immediate or at a later date.
6748	(b) An order remains in effect until:
6749	(i) withdrawn by the commissioner; or
6750	(ii) terminated by a court order.
6751	(c) [An order of the commissioner, upon] Upon an application made on or after the
6752	order's effective date [to the Third District Court, or in any other district court, may be

6753	enforced] to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration,
6754	the court may enforce an order of the commissioner exparte and without notice by an order to
6755	comply entered by the court.
6756	Section 115. Section 72-10-106 is amended to read:
6757	72-10-106. Enforcement of chapter Fees for services by department.
6758	(1) (a) The department and every county and municipal officer required to enforce state
6759	laws shall enforce and assist in the enforcement of this chapter.
6760	(b) The department may enforce this chapter by [injunction in the district courts of this
6761	state] seeking an injunction in a court with jurisdiction under Title 78A, Judiciary and Judicial
6762	Administration.
6763	(c) Other departments and political subdivisions of this state may cooperate with the
6764	department in the development of aeronautics within this state.
6765	(2) (a) Unless otherwise provided by statute, the department may adopt a schedule of
6766	fees assessed for services provided by the department.
6767	(b) Each fee shall be reasonable and fair, and shall reflect the cost of the service
6768	provided.
6769	(c) Each fee established in this manner shall be submitted to and approved by the
6770	Legislature as part of the department's annual appropriations request.
6771	(d) The department may not charge or collect any fee proposed in this manner without
6772	approval by the Legislature.
6773	Section 116. Section 72-16-401 is amended to read:
6774	72-16-401. Penalty for violation.
6775	(1) If an owner-operator or operator violates a provision of this chapter with respect to
6776	an amusement ride, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
6777	the director may:
6778	(a) deny, suspend, or revoke, in whole or in part, the owner-operator's annual
6779	amusement ride permit or multi-ride permit for the amusement ride; or
6780	(b) impose fines or administrative penalties in accordance with rules made by the
6781	committee.
6782	(2) Upon a violation of a provision of this chapter, the director may [file an action in
6783	district court] bring an action in a court with jurisdiction under Title 78A, Judiciary and

6784	Judicial Administration, to enjoin the operation of an amusement ride.
6785	Section 117. Section <b>75-2-105</b> is amended to read:
6786	75-2-105. No taker Minerals and mineral proceeds.
6787	(1) As used in this section:
6788	(a) "Mineral" means the same as that term is defined in Section 67-4a-102.
6789	(b) "Mineral proceeds" means the same as that term is defined in Section 67-4a-102.
6790	(c) "Operator" means the same as that term is defined in Section 40-6-2, 40-8-4, or
6791	40-10-3, and includes any other person holding mineral proceeds of an owner.
6792	(d) "Owner" means the same as that term is defined in Section 38-10-101, 40-6-2, or
6793	40-8-4.
6794	(e) "Payor" means the same as that term is defined in Section 40-6-2, and includes a
6795	person who undertakes or has a legal obligation to distribute any mineral proceeds.
6796	(2) If there is no taker under this chapter, the intestate estate passes upon the decedent's
6797	death to the state for the benefit of the permanent state school fund.
6798	(3) When minerals or mineral proceeds pass to the state pursuant to Subsection (2), the
6799	Utah School and Institutional Trust Lands Administration shall administer the interests in the
6800	minerals or mineral proceeds for the support of the common schools pursuant to Sections
6801	53C-1-102 and 53C-1-302, but may exercise its discretion to abandon or decline to administer
6802	property of no value or of insufficient value to justify its collection or continued administration.
6803	(4) (a) If a probate or other proceeding has not adjudicated the state's rights under
6804	Subsection (2), the state, and the Utah School and Institutional Trust Lands Administration
6805	with respect to any minerals or mineral proceeds referenced in Subsection (3), may bring an
6806	action [in district court in any district in which part of the property related to the minerals or
6807	mineral proceeds is located] in a court with jurisdiction under Title 78A, Judiciary and Judicial
6808	Administration, to quiet title the minerals, mineral proceeds, or property.
6809	(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state or the
6810	Utah School and Institutional Trust Lands Administration, shall bring an action described in
6811	Subsection (4)(a) in the county in which the property related to the minerals or mineral process
6812	is located if the action is brought in the district court.
6813	(5) In an action brought under Subsection (4), the [district] court shall quiet title to the
6814	minerals, mineral proceeds, or property in the state if:

6815	(a) no interested person appears in the action and demonstrates entitlement to the
6816	minerals, mineral proceeds, or property after notice has been given pursuant to Section
6817	78B-6-1303 and in the manner described in Section 75-1-401; and
6818	(b) the requirements of Section 78B-6-1315 are met.
6819	(6) (a) If an operator, owner, or payor determines that minerals or mineral proceeds
6820	form part of a decedent's intestate estate, and has not located an heir of the decedent, the
6821	operator, owner, or payor shall submit to the Utah School and Institutional Trust Lands
6822	Administration the information in the operator's, owner's, or payor's possession concerning the
6823	identity of the decedent, the results of a good faith search for heirs specified in Section
6824	75-2-103, the property interest from which the minerals or mineral proceeds derive, and any
6825	potential heir.
6826	(b) The operator, owner, or payor shall submit the information described in Subsection
6827	(6)(a) within 180 days of acquiring the information.
6828	Section 118. Section <b>75-2-801</b> is amended to read:
6829	75-2-801. Disclaimer of property interests Time Form Effect Waiver and
6830	bar Remedy not exclusive Application.
6831	(1) A person, or the representative of a person, to whom an interest in or with respect
6832	to property or an interest therein devolves by whatever means may disclaim it in whole or in
6833	part by delivering or filing a written disclaimer under this section. The right to disclaim exists

6834 notwithstanding:

(a) any limitation on the interest of the disclaimant in the nature of a spendthriftprovision or similar restriction; or

(b) any restriction or limitation on the right to disclaim contained in the governing
instrument. For purposes of this subsection, the "representative of a person" includes a
personal representative of a decedent, a conservator of a person with a disability, a guardian of
a minor or incapacitated person, and an agent acting on behalf of the person within the
authority of a power of attorney.

6842

(2) The following rules govern the time when a disclaimer shall be filed or delivered:

(a) (i) If the property or interest has devolved to the disclaimant under a testamentary
instrument or by the laws of intestacy, the disclaimer shall be filed, if of a present interest, not
later than nine months after the death of the deceased owner or deceased donee of a power of

appointment and, if of a future interest, not later than nine months after the event determining
that the taker of the property or interest is finally ascertained and his interest is indefeasibly
vested.

6849 (ii) The disclaimer shall be filed in [the district court of the county] <u>a court with</u>
6850 jurisdiction under Title 78A, Judiciary and Judicial Administration.

(iii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
 bring an action described in Subsection (2)(a) in the county in which proceedings for the
 administration of the estate of the deceased owner or deceased donee of the power have been
 commenced if the action is brought in the district court.

6855 (iv) A copy of the disclaimer shall be delivered in person or mailed by registered or
 6856 certified mail, return receipt requested, to any personal representative or other fiduciary of the
 6857 decedent or donee of the power.

6858 (b) If a property or interest has devolved to the disclaimant under a nontestamentary 6859 instrument or contract, the disclaimer shall be delivered or filed, if of a present interest, not 6860 later than nine months after the effective date of the nontestamentary instrument or contract 6861 and, if of a future interest, not later than nine months after the event determining that the taker 6862 of the property or interest is finally ascertained and his interest is indefeasibly vested. If the 6863 person entitled to disclaim does not know of the existence of the interest, the disclaimer shall 6864 be delivered or filed not later than nine months after the person learns of the existence of the 6865 interest. The effective date of a revocable instrument or contract is the date on which the 6866 maker no longer has power to revoke it or to transfer to the maker or another the entire legal 6867 and equitable ownership of the interest. The disclaimer or a copy thereof shall be delivered in 6868 person or mailed by registered or certified mail, return receipt requested, to the person who has 6869 legal title to or possession of the interest disclaimed.

(c) A surviving joint tenant or tenant by the entireties may disclaim as a separate
interest any property or interest therein devolving to him by right of survivorship. A surviving
joint tenant or tenant by the entireties may disclaim the entire interest in any property or interest
therein that is the subject of a joint tenancy or tenancy by the entireties devolving to the
surviving joint tenant or tenant by the entireties, if the joint tenancy or tenancy by the entireties
was created by act of a deceased joint tenant or tenant by the entireties, the survivor did not
join in creating the joint tenancy or tenancy by the entireties, and has not accepted a benefit

6877 under it.

6878 (d) If real property or an interest therein is disclaimed, a copy of the disclaimer may be
6879 recorded in the office of the county recorder of the county in which the property or interest
6880 disclaimed is located.

- 6881 (3) The disclaimer shall:
- 6882 (a) describe the property or interest disclaimed;
- (b) declare the disclaimer and extent thereof; and
- 6884

(c) be signed by the disclaimant.

6885 (4) The effects of a disclaimer are:

6886 (a) If property or an interest therein devolves to a disclaimant under a testamentary 6887 instrument, under a power of appointment exercised by a testamentary instrument, or under the 6888 laws of intestacy, and the decedent has not provided for another disposition of that interest, 6889 should it be disclaimed, or of disclaimed, or failed interests in general, the disclaimed interest 6890 devolves as if the disclaimant had predeceased the decedent, but if by law or under the 6891 testamentary instrument the descendants of the disclaimant would share in the disclaimed 6892 interest per capita at each generation or otherwise were the disclaimant to predecease the 6893 decedent, then the disclaimed interest passes per capita at each generation, or passes as directed 6894 by the governing instrument, to the descendants of the disclaimant who survive the decedent. 6895 A future interest that takes effect in possession or enjoyment after the termination of the estate 6896 or interest disclaimed takes effect as if the disclaimant had predeceased the decedent. A disclaimer relates back for all purposes to the date of death of the decedent. 6897

6898 (b) If property or an interest therein devolves to a disclaimant under a nontestamentary 6899 instrument or contract and the instrument or contract does not provide for another disposition 6900 of that interest, should it be disclaimed, or of disclaimed or failed interests in general, the 6901 disclaimed interest devolves as if the disclaimant has predeceased the effective date of the 6902 instrument or contract, but if by law or under the nontestamentary instrument or contract the 6903 descendants of the disclaimant would share in the disclaimed interest per capita at each 6904 generation or otherwise were the disclaimant to predecease the effective date of the instrument. 6905 then the disclaimed interest passes per capita at each generation, or passes as directed by the 6906 governing instrument, to the descendants of the disclaimant who survive the effective date of 6907 the instrument. A disclaimer relates back for all purposes to that date. A future interest that

6908	takes effect in possession or enjoyment at or after the termination of the disclaimed interest
6909	takes effect as if the disclaimant had died before the effective date of the instrument or contract
6910	that transferred the disclaimed interest.
6911	(c) The disclaimer or the written waiver of the right to disclaim is binding upon the
6912	disclaimant or person waiving and all persons claiming through or under either of them.
6913	(5) The right to disclaim property or an interest therein is barred by:
6914	(a) an assignment, conveyance, encumbrance, pledge, or transfer of the property or
6915	interest, or a contract therefor;
6916	(b) a written waiver of the right to disclaim;
6917	(c) an acceptance of the property or interest or a benefit under it; or
6918	(d) a sale of the property or interest under judicial sale made before the disclaimer is
6919	made.
6920	(6) This section does not abridge the right of a person to waive, release, disclaim, or
6921	renounce property or an interest therein under any other statute.
6922	(7) An interest in property that exists on July 1, 1998, as to which, if a present interest,
6923	the time for filing a disclaimer under this section has not expired or, if a future interest, the
6924	interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed
6925	within nine months after July 1, 1998.
6926	Section 119. Section <b>75-2a-120</b> is amended to read:
6927	75-2a-120. Judicial relief.
6928	A [district] court may enjoin or direct a health care decision, or order other equitable
6929	relief based on a petition filed by:
6930	(1) a patient;
6931	(2) an agent of a patient;
6932	(3) a guardian of a patient;
6933	(4) a default surrogate of a patient;
6934	(5) a health care provider of a patient;
6935	(6) a health care facility providing care for a patient; or
6936	(7) an individual who meets the requirements of Section 75-2a-108.
6937	Section 120. Section <b>75-5a-102</b> is amended to read:
6938	75-5a-102. Definitions.

6939	As used in this part:
6940	(1) "Adult" means an individual who is 21 years [of age] old or older.
6941	<ul><li>(2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.</li></ul>
6942	<ul><li>(2) "Broker" means a person lawfully engaged in the business of effecting transactions</li></ul>
6943	in securities or commodities for the person's own account or for the accounts of others.
6944	(4) "Conservator" means a person appointed or qualified by a court to act as general,
6945	limited, or temporary guardian of a minor's property or a person legally authorized to perform
6946	substantially the same functions.
6947	[(5) "Court" means the probate division of the district court for the county in which the
6948	custodian resides.]
6949	(5) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial
6950	Administration.
6951	(6) "Custodial property" means:
6952	(a) any interest in property transferred to a custodian under this part; and
6953	(b) the income from and proceeds of that interest in property.
6954	(7) "Custodian" means a person so designated under Section 75-5a-110 or a successor
6955	or substitute custodian designated under Section 75-5a-119.
6956	(8) "Financial institution" means a bank, trust company, savings institution, or credit
6957	union, chartered and supervised under state or federal law.
6958	(9) "Legal representative" means an individual's personal representative or conservator.
6959	(10) "Member of the minor's family" means the minor's parent, stepparent, spouse,
6960	grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.
6961	(11) "Minor" means an individual who is [not yet 21 years of age] under 21 years old.
6962	(12) "Person" means an individual, corporation, organization, or other legal entity.
6963	(13) "Personal representative" means an executor, administrator, successor personal
6964	representative, or special administrator of a decedent's estate or a person legally authorized to
6965	perform substantially the same functions.
6966	(14) "State" includes any state of the United States, the district of Columbia, the
6967	Commonwealth of Puerto Rico, and any territory or possession subject to the legislative
6968	authority of the United States.
6969	(15) "Transfer" means a transaction that creates custodial property under Section

6970	75-5a-110.
6971	(16) "Transferor" means a person who makes a transfer under this part.
6972	(17) "Trust company" means a financial institution, corporation, or other legal entity,
6973	authorized to exercise general trust powers.
6974	Section 121. Section <b>75-7-105</b> is amended to read:
6975	75-7-105. Default and mandatory rules.
6976	(1) Except as otherwise provided in the terms of the trust, this chapter governs the
6977	duties and powers of a trustee, relations among trustees, and the rights and interests of a
6978	beneficiary.
6979	(2) Except as specifically provided in this chapter, the terms of a trust prevail over any
6980	provision of this chapter except:
6981	(a) the requirements for creating a trust;
6982	(b) subject to Sections 75-12-109, 75-12-111, and 75-12-112, the duty of a trustee to
6983	act in good faith and in accordance with the purposes of the trust;
6984	(c) the requirement that a trust and the terms of the trust be for the benefit of the trust's
6985	beneficiaries;
6986	(d) the power of the court to modify or terminate a trust under Sections 75-7-410
6987	through 75-7-416;
6988	(e) the effect of a spendthrift provision, Section 25-6-502, and the rights of certain
6989	creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift
6990	and Discretionary Trusts;
6991	(f) the power of the court under Section 75-7-702 to require, dispense with, or modify
6992	or terminate a bond;
6993	(g) the effect of an exculpatory term under Section 75-7-1008;
6994	(h) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a
6995	trustee or beneficiary;
6996	(i) periods of limitation for commencing a judicial proceeding; and
6997	(j) the [subject-matter jurisdiction of the court and venue for commencing a proceeding
6998	as provided] jurisdiction and venue requirements for an action involving the trust as described
6999	in Sections 75-7-203 and 75-7-205.
7000	Section 122. Section <b>75-7-203</b> is amended to read:

7001	75-7-203. Jurisdiction over an action involving a trust.
7002	[(1) The district court has exclusive jurisdiction of proceedings in this state brought by
7003	a trustee or beneficiary concerning the administration of a trust.]
7004	[(2) The district court has concurrent jurisdiction with other courts of this state of other
7005	proceedings involving a trust.]
7006	(1) A court of this state has jurisdiction as described in Title 78A, Judiciary and
7007	Judicial Administration, over an action involving a trust.
7008	[(3)] (2) This section does not preclude judicial or nonjudicial alternative dispute
7009	resolution.
7010	Section 123. Section <b>75-7-205</b> is amended to read:
7011	75-7-205. Venue.
7012	[(1) Except as otherwise provided in Subsection (2), venue for a judicial proceeding
7013	involving a trust is in the county in which the trust's principal place of administration is or will
7014	be located and, if the trust is created by will and the estate is not yet closed, in the county in
7015	which the decedent's estate is being administered.]
7016	[(2) If a trust has no trustee, venue for a judicial proceeding for the appointment of a
7017	trustee is in any county of this state in which a beneficiary resides, in any county in which any
7018	trust property is located, and if the trust is created by will, in the county in which the decedent's
7019	estate was or is being administered.]
7020	(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and except as
7021	provided in Subsection (2), a person shall bring an action involving a trust, if the action is
7022	brought in the district court, in:
7023	(a) the county in which the trust's principal place of administration is or will be located;
7024	<u>or</u>
7025	(b) if the trust is created by a will and the estate is not yet closed, the county in which
7026	the decedent's estate is being administered.
7027	(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and if a trust has
7028	no trustee, a person shall bring an action for the appointment of a trustee, if the action is
7029	brought in the district court, in:
7030	(a) a county of this state in which a beneficiary resides;
7031	(b) a county in which any trust property is located; or

7032	(c) if the trust is created by a will, the county in which the decedent's estate was or is
7033	being administered.
7034	Section 124. Section <b>75-11-102</b> is amended to read:
7035	75-11-102. Definitions.
7036	As used in this chapter:
7037	(1) "Account" means an arrangement under a terms of service agreement in which a
7038	custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides
7039	goods or services to the user.
7040	(2) "Agent" means an attorney in fact granted authority under a durable or nondurable
7041	power of attorney.
7042	(3) "Carries" means engages in the transmission of an electronic communication.
7043	(4) "Catalogue of electronic communications" means information that identifies each
7044	person with which a user has had an electronic communication, the time and date of the
7045	communication, and the electronic address of the person.
7046	(5) (a) "Conservator" means a person appointed by a court to manage the estate of a
7047	living individual.
7048	(b) "Conservator" includes a limited conservator.
7049	(6) "Content of an electronic communication" means information concerning the
7050	substance or meaning of the communication that:
7051	(a) has been sent or received by a user;
7052	(b) is in electronic storage by a custodian providing an electronic communication
7053	service to the public or is carried or maintained by a custodian providing a remote computing
7054	service to the public; and
7055	(c) is not readily accessible to the public.
7056	(7) "Court" means [the district court] a court with jurisdiction under Title 78A,
7057	Judiciary and Judicial Administration.
7058	(8) "Custodian" means a person that carries, maintains, processes, receives, or stores a
7059	digital asset of a user.
7060	(9) "Designated recipient" means a person chosen by a user using an online tool to
7061	administer digital assets of the user.
7062	(10) (a) "Digital asset" means an electronic record in which an individual has a right or

7063	interest.

(b) "Digital asset" does not include an underlying asset or liability unless the asset orliability is itself an electronic record.

(11) "Electronic" means relating to technology having electrical, digital, magnetic,
wireless, optical, electromagnetic, or similar capabilities.

(12) "Electronic communication" has the same meaning as the definition in 18 U.S.C.Sec. 2510(12).

(13) "Electronic communication service" means a custodian that provides to a user theability to send or receive an electronic communication.

7072 (14) "Fiduciary" means an original, additional, or successor personal representative,
7073 conservator, guardian, agent, or trustee.

7074 (15) (a) "Guardian" means a person appointed by a court to manage the affairs of a7075 living individual.

7076

(b) "Guardian" includes a limited guardian.

7077 (16) "Information" means data, text, images, videos, sounds, codes, computer
7078 programs, software, databases, or the like.

(17) "Online tool" means an electronic service provided by a custodian that allows the
user, in an agreement distinct from the terms of service agreement between the custodian and
user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(18) "Person" means an individual, estate, business or nonprofit entity, public
corporation, government or governmental subdivision, agency, instrumentality, or other legal
entity.

(19) "Personal representative" means an executor, administrator, special administrator,
or person that performs substantially the same function under the law of this state other than
this chapter.

(20) "Power of attorney" means a record that grants an agent authority to act in theplace of a principal.

7090 (21) "Principal" means an individual who grants authority to an agent in a power of7091 attorney.

(22) (a) "Protected person" means an individual for whom a conservator or guardianhas been appointed.

7094	(b) "Protected person" includes an individual for whom an application for the
7095	appointment of a conservator or guardian is pending.
7096	(23) "Record" means information that is inscribed on a tangible medium or that is
7097	stored in an electronic or other medium and is retrievable in perceivable form.
7098	(24) "Remote computing service" means a custodian that provides to a user computer
7099	processing services or the storage of digital assets by means of an electronic communications
7100	system, as defined in 18 U.S.C. Sec. 2510(14).
7101	(25) "Terms of service agreement" means an agreement that controls the relationship
7102	between a user and a custodian.
7103	(26) (a) "Trustee" means a fiduciary with legal title to property pursuant to an
7104	agreement or declaration that creates a beneficial interest in another.
7105	(b) "Trustee" includes a successor trustee.
7106	(27) "User" means a person that has an account with a custodian.
7107	(28) "Will" includes a codicil, a testamentary instrument that only appoints an
7108	executor, and an instrument that revokes or revises a testamentary instrument.
7109	Section 125. Section 76-10-1605 is amended to read:
7110	76-10-1605. Remedies of person injured by a pattern of unlawful activity
7110 7111	76-10-1605. Remedies of person injured by a pattern of unlawful activity Double damages Costs, including attorney fees Arbitration Agency Burden of
7111	Double damages Costs, including attorney fees Arbitration Agency Burden of
7111 7112	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of
7111 7112 7113	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court.
7111 7112 7113 7114	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court. (1) A person injured in his person, business, or property by a person engaged in
<ul> <li>7111</li> <li>7112</li> <li>7113</li> <li>7114</li> <li>7115</li> </ul>	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court. (1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [sue in an appropriate district
<ul> <li>7111</li> <li>7112</li> <li>7113</li> <li>7114</li> <li>7115</li> <li>7116</li> </ul>	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court. (1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [sue in an appropriate district court and recover twice the damages he sustains] bring an action in a court with jurisdiction
<ul> <li>7111</li> <li>7112</li> <li>7113</li> <li>7114</li> <li>7115</li> <li>7116</li> <li>7117</li> </ul>	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court. (1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [sue in an appropriate district court and recover twice the damages he sustains] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the
<ul> <li>7111</li> <li>7112</li> <li>7113</li> <li>7114</li> <li>7115</li> <li>7116</li> <li>7117</li> <li>7118</li> </ul>	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court. (1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [sue in an appropriate district court and recover twice the damages he sustains] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether:
<ul> <li>7111</li> <li>7112</li> <li>7113</li> <li>7114</li> <li>7115</li> <li>7116</li> <li>7117</li> <li>7118</li> <li>7119</li> </ul>	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court. (1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [sue in an appropriate district court and recover twice the damages he sustains] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether: (a) the injury is separate or distinct from the injury suffered as a result of the acts or
<ul> <li>7111</li> <li>7112</li> <li>7113</li> <li>7114</li> <li>7115</li> <li>7116</li> <li>7117</li> <li>7118</li> <li>7119</li> <li>7120</li> </ul>	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court. (1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [sue in an appropriate district court and recover twice the damages he sustains] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether: (a) the injury is separate or distinct from the injury suffered as a result of the acts or conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or
<ul> <li>7111</li> <li>7112</li> <li>7113</li> <li>7114</li> <li>7115</li> <li>7116</li> <li>7117</li> <li>7118</li> <li>7119</li> <li>7120</li> <li>7121</li> </ul>	<ul> <li>Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court.</li> <li>(1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [sue in an appropriate district court and recover twice the damages he sustains] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether:</li> <li>(a) the injury is separate or distinct from the injury suffered as a result of the acts or conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or (b) the conduct has been adjudged criminal by any court of the state or of the United</li> </ul>
<ul> <li>7111</li> <li>7112</li> <li>7113</li> <li>7114</li> <li>7115</li> <li>7116</li> <li>7117</li> <li>7118</li> <li>7119</li> <li>7120</li> <li>7121</li> <li>7122</li> </ul>	Double damages Costs, including attorney fees Arbitration Agency Burden of proof Actions by attorney general or county attorney Dismissal Statute of limitations Authorized orders of a court. (1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [sue in an appropriate district court and recover twice the damages he sustains] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether: (a) the injury is separate or distinct from the injury suffered as a result of the acts or conduct constituting the pattern of unlawful conduct alleged as part of the state or of the United States.

(3) All actions arising under this section which are grounded in fraud are subject toarbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(4) In all actions under this section, a principal is liable for actual damages for harm
caused by an agent acting within the scope of either his employment or apparent authority. A
principal is liable for double damages only if the pattern of unlawful activity alleged and
proven as part of the cause of action was authorized, solicited, requested, commanded,
undertaken, performed, or recklessly tolerated by the board of directors or a high managerial
agent acting within the scope of his employment.

(5) In all actions arising under this section, the burden of proof is clear and convincingevidence.

(6) The attorney general, county attorney, or, if within a prosecution district, the district
attorney may maintain actions under this section on behalf of the state, the county, or any
person injured by a person engaged in conduct forbidden by any provision of Section
76-10-1603, to prevent, restrain, or remedy injury as defined in this section and may recover
the damages and costs allowed by this section.

(7) In all actions under this section, the elements of each claim or cause of action shallbe stated with particularity against each defendant.

(8) If an action, claim, or counterclaim brought or asserted by a private party under this section is dismissed prior to trial or disposed of on summary judgment, or if it is determined at trial that there is no liability, the prevailing party shall recover from the party who brought the action or asserted the claim or counterclaim the amount of its reasonable expenses incurred because of the defense against the action, claim, or counterclaim, including a reasonable attorney's fee.

(9) An action or proceeding brought under this section shall be commenced within
three years after the conduct prohibited by Section 76-10-1603 terminates or the cause of action
accrues, whichever is later. This provision supersedes any limitation to the contrary.

(10) (a) In any action brought under this section, [the district court has jurisdiction to]
 the court may prevent, restrain, or remedy injury as defined by this section by issuing
 appropriate orders after making provisions for the rights of innocent persons.

(b) Before liability is determined in any action brought under this section, the [district]
court may:

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7156 (i) issue restraining orders and injunctions; 7157 (ii) require satisfactory performance bonds or any other bond it considers appropriate 7158 and necessary in connection with any property or any requirement imposed upon a party by the 7159 court; and 7160 (iii) enter any other order the court considers necessary and proper. 7161 (c) After a determination of liability, the [district] court may, in addition to granting the relief allowed in Subsection (1), do any one or all of the following: 7162 (i) order any person to divest himself of any interest in or any control, direct or indirect, 7163 of any enterprise; 7164 7165 (ii) impose reasonable restrictions on the future activities or investments of any person, 7166 including prohibiting any person from engaging in the same type of endeavor as the enterprise 7167 engaged in, to the extent the Utah Constitution and the Constitution of the United States 7168 permit: or 7169 (iii) order the dissolution or reorganization of any enterprise. 7170 (d) However, if an action is brought to obtain any relief provided by this section, and if 7171 the conduct prohibited by Section 76-10-1603 has for its pattern of unlawful activity acts or 7172 conduct illegal under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court 7173 may not enter any order that would amount to a prior restraint on the exercise of an affected 7174 party's rights under the First Amendment to the Constitution of the United States, or Article I, 7175 Sec. 15 of the Utah Constitution. The court shall, upon the request of any affected party, and 7176 upon the notice to all parties, prior to the issuance of any order provided for in this subsection, 7177 and at any later time, hold hearings as necessary to determine whether any materials at issue are 7178 obscene or pornographic and to determine if there is probable cause to believe that any act or 7179 conduct alleged violates Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222. In 7180 making its findings the court shall be guided by the same considerations required of a court 7181 making similar findings in criminal cases brought under Section 76-10-1204, 76-10-1205, 7182 76-10-1206, or 76-10-1222, including, but not limited to, the definitions in Sections 7183 76-10-1201, 76-10-1203, and 76-10-1216, and the exemptions in Section 76-10-1226. 7184 Section 126. Section 78A-1-103.5 (Effective 07/01/24) is amended to read: 7185 78A-1-103.5 (Effective 07/01/24). Number of Business and Chancery Court 7186 judges -- Disqualification or recusal of a Business and Chancery Court judge.

7187	(1) The Business and Chancery Court shall consist of one judge.
7188	(2) If there are fewer than three judges for the Business and Chancery Court under
7189	Subsection (1), the presiding officer of the Judicial Council shall designate a pool of two
7190	district court judges to preside over actions in the Business and Chancery Court.
7191	(3) A district court judge designated under Subsection (2) may preside over an action
7192	when each Business and Chancery Court judge is unable to preside over an action due to
7193	recusal or disqualification.
7194	Section 127. Section <b>78A-5-102</b> is amended to read:
7195	78A-5-102. Jurisdiction of the district court Appeals.
7196	(1) Except as otherwise provided by the Utah Constitution or by statute, the district
7197	court has original jurisdiction in all matters civil and criminal.
7198	(2) A district court judge may:
7199	(a) issue all extraordinary writs and other writs necessary to carry into effect the district
7200	court judge's orders, judgments, and decrees[-]; and
7201	(b) preside over an action for which the Business and Chancery Court has jurisdiction
7202	<u>if:</u>
7203	(i) the district court judge is designated by the presiding officer of the Judicial Council
7204	to preside over an action in the Business and Chancery Court as described in Section
7205	<u>78A-1-103.5; and</u>
7206	(ii) a Business and Chancery Court judge is unable to preside over the action due to
7207	recusal or disqualification.
7208	(3) The district court has jurisdiction:
7209	(a) over matters of lawyer discipline consistent with the rules of the Supreme Court[ $-$ ];
7210	[(4)] (b) [The district court has jurisdiction] over all matters properly filed in the circuit
7211	court prior to July 1, 1996[ <del>.</del> ];
7212	(c) to enforce foreign protective orders as described in Subsection 78B-7-303(8);
7213	(d) to enjoin a violation of Title 58, Chapter 37, Utah Controlled Substances Act;
7214	(e) over a petition seeking to terminate parental rights as described in Section
7215	<u>78B-6-112;</u>
7216	(f) except as provided in Subsection 78A-6-103(2)(a)(xiv), an adoption proceeding;
7217	and

7218	(g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4,
7219	Declaratory Judgments;
7220	$\left[\frac{(5)}{(4)}\right]$ The district court has appellate jurisdiction over judgments and orders of the
7221	justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance
7222	with Section 78A-8-106.
7223	[(6) Jurisdiction over appeals from the final orders, judgments, and decrees of the
7224	district court is described in Sections 78A-3-102 and 78A-4-103.]
7225	[(7)] (5) The district court has jurisdiction to review:
7226	[(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,
7227	Administrative Procedures Act, and shall comply with the requirements of that chapter in the
7228	district court's review of agency adjudicative proceedings; and]
7229	[(b) municipal administrative proceedings in accordance with Section 10-3-703.7.]
7230	(a) a municipal administrative proceeding as described in Section 10-3-703.7;
7231	(b) a decision resulting from a formal adjudicative proceeding by the State Tax
7232	Commission as described in Section 59-1-601;
7233	(c) except as provided in Section 63G-4-402, a final agency action resulting from an
7234	informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative
7235	Procedures Act; and
7236	(d) by trial de novo, a final order of the Department of Transportation resulting from
7237	formal and informal adjudicative proceedings under Title 72, Chapter 7, Part 2, Junkyard
7238	Control Act.
7239	(6) The district court has original and exclusive jurisdiction over an action brought
7240	under Title 63G, Chapter 7, Governmental Immunity Act of Utah.
7241	[(8)] (7) Notwithstanding Section 78A-7-106, the district court has original jurisdiction
7242	over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an
7243	ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:
7244	(a) there is no justice court with territorial jurisdiction;
7245	(b) the offense occurred within the boundaries of the municipality in which the district
7246	courthouse is located and that municipality has not formed, or has [not formed and then]
7247	formed and dissolved, a justice court; or

7248 (c) the offense is included in an indictment or information covering a single criminal

7249	episode alleging the commission of a felony or a class A misdemeanor by an individual who is
7250	18 years old or older [ <del>.</del> ].
7251	[(9)] (8) If a district court has jurisdiction in accordance with Subsection $[(5), (8)(a), or$
7252	(8)(b)] (4), (7)(a), or (7)(b), the district court has jurisdiction over an offense listed in
7253	Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17
7254	years old.
7255	[(10)] (9) The district court has subject matter jurisdiction over an action under Title
7256	78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the
7257	district court.
7258	[(11)] (10) (a) The district court has subject matter jurisdiction over a criminal action
7259	that the justice court transfers to the district court.
7260	(b) Notwithstanding Subsection 78A-7-106(1), the district court has original
7261	jurisdiction over any refiled case of a criminal action transferred to the district court if the
7262	district court dismissed the transferred case without prejudice.
7263	(11) The Supreme Court and Court of Appeals have jurisdiction over an appeal from a
7264	final order, judgment, and decree of the district court as described in Sections 78A-3-102 and
7265	<u>78A-4-103.</u>
7266	Section 128. Section 78A-5a-101 (Effective 07/01/24) is amended to read:
7267	78A-5a-101 (Effective 07/01/24). Definitions.
7268	(1) "Action" means a lawsuit or case commenced in a court.
7269	(2) (a) "Asset" means property of all kinds, real or personal and tangible or intangible.
7270	(b) "Asset" includes:
7271	(i) cash, except for any reasonable compensation or salary for services rendered;
7272	(ii) stock or other investments;
7273	(iii) goodwill;
7274	(iv) an ownership interest;
7275	(v) a license;
7276	(vi) a cause of action; and
7277	(vii) any similar property.
7278	(3) "Beneficial shareholder" means the same as that term is defined in Section
7279	16-10a-1301.

7280	(4) "Blockchain" means [a cryptographically secured, chronological, and decentralized
7281	consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other
7282	interaction] the same as that term is defined in Section 63A-16-108.
7283	(5) "Blockchain technology" means computer software or hardware or collections of
7284	computer software or hardware, or both, that utilize or enable a blockchain.
7285	(6) "Board" means the board of directors or trustees of a corporation.
7286	(7) "Business" means any enterprise carried on for the purpose of gain or economic
7287	profit.
7288	(8) (a) "Business organization" means an organization in any form that is primarily
7289	engaged in business.
7290	(b) "Business organization" includes:
7291	(i) an association;
7292	(ii) a corporation;
7293	(iii) a joint stock company;
7294	(iv) a joint venture;
7295	(v) a limited liability company;
7296	(vi) a mutual fund trust;
7297	(vii) a partnership; or
7298	(viii) any other similar form of an organization described in Subsections (8)(b)(i)
7299	through (vii).
7300	(c) "Business organization" does not include a governmental entity as defined in
7301	Section 63G-7-102.
7302	(9) "Claim" means a written demand or assertion in an action.
7303	(10) "Commercial tenant" means the same as that term is defined in Section
7304	<u>78B-6-801</u>
7305	[(10)] (11) "Consumer contract" means a contract entered into by a consumer for the
7306	purchase of goods or services for personal, family, or household purposes.
7307	[(11)] (12) "Court" means the Business and Chancery Court established in Section
7308	78A-5a-102.
7309	[(12)] (13) "Decentralized autonomous organization" means [an organization that is
7310	created by a smart contract deployed on a permissionless blockchain that implements specific

7311	decision-making or governance rules enabling individuals to coordinate themselves in a
7312	decentralized fashion] the same as that term is defined in Section 48-5-101.
7313	[(13)] (14) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec.
7314	436.1.
7315	[(14)] (15) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec.
7316	436.1.
7317	(16) "Governmental entity" means the same as that term is defined in Section
7318	<u>63G-7-102.</u>
7319	[(15)] (17) "Health care" means the same as that term is defined in Section 78B-3-403.
7320	[(16)] (18) "Health care provider" means the same as that term is defined in Section
7321	78B-3-403.
7322	[(17)] (19) "Monetary damages" does not include:
7323	(a) punitive or exemplary damages;
7324	(b) prejudgment or postjudgment interest; or
7325	(c) attorney fees or costs.
7326	[(18)] (20) "Officer" means an individual designated by a board, or other governing
7327	body of a business organization, to act on behalf of the business organization.
7328	[(19)] (21) "Owner" means a person who, directly or indirectly, owns or controls an
7329	ownership interest in a business organization regardless of whether the person owns or controls
7330	the ownership interest through another person, a power of attorney, or another business
7331	organization.
7332	[(20)] (22) "Ownership interest" means an interest owned in a business organization,
7333	including any shares, membership interest, partnership interest, or governance or transferable
7334	interest.
7335	[(21) "Permissionless blockchain" means a public distributed ledger that allows an
7336	individual to transact and produce blocks in accordance with the blockchain protocol, whereby
7337	the validity of the block is not determined by the identity of the producer.]
7338	[(22)] (23) "Personal injury" means a physical or mental injury, including wrongful
7339	death.
7340	[(23)] (24) "Professional" means an individual whose profession requires a license,
7341	registration, or certification on the basis of experience, education, testing, or training.

7342	(25) (a) "Provisional remedy" means a temporary order by a court while an action is
7343	pending.
7344	(b) "Provisional remedy" includes a preliminary injunction, a temporary restraining
7345	order, a prejudgment writ, or an appointment of a receiver.
7346	[(24)] (26) "Security" means the same as that term is defined in Section 61-1-13.
7347	[(25)] (27) "Shareholder" means the record shareholder or the beneficial shareholder.
7348	[(26) "Smart contract" means code deployed on a permissionless blockchain that
7349	consists of a set of predefined instructions executed in a distributed manner by the nodes of an
7350	underlying blockchain network that produces a change on the blockchain network.]
7351	[(27)] (28) "Record shareholder" means the same as that term is defined in Section
7352	16-10a-1301.
7353	[(28)] (29) "Trustee" means a person that holds or administers an ownership interest on
7354	behalf of a third party.
7355	Section 129. Section 78A-5a-103 (Effective 10/01/24) is amended to read:
7356	78A-5a-103 (Effective 10/01/24). Concurrent jurisdiction of the Business and
7357	Chancery Court Exceptions.
7358	(1) The Business and Chancery Court has jurisdiction, concurrent with the district
7359	court, over an action:
7360	(a) seeking monetary damages of at least \$300,000 or seeking solely equitable relief;
7361	and
7362	(b) (i) with a claim arising from:
7363	(A) a breach of a contract;
7364	(B) a breach of a fiduciary duty;
7365	(C) a dispute over the internal affairs or governance of a business organization;
7366	(D) the sale, merger, or dissolution of a business organization;
7367	(E) the sale of substantially all of the assets of a business organization;
7368	(F) the receivership or liquidation of a business organization;
7369	(G) a dispute over liability or indemnity between or among owners of the same
7370	business organization;
7371	(H) a dispute over liability or indemnity of an officer or owner of a business
7372	organization;

7373	(I) a tortious or unlawful act committed against a business organization, including an
7374	act of unfair competition, tortious interference, or misrepresentation or fraud;
7375	(J) a dispute between a business organization and an insurer regarding a commercial
7376	insurance policy;
7377	(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;
7378	(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade
7379	Secrets Act;
7380	(M) the misappropriation of intellectual property;
7381	(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or
7382	confidentiality agreement, regardless of whether the agreement is oral or written;
7383	(O) a relationship between a franchisor and a franchisee;
7384	(P) the purchase or sale of a security or an allegation of security fraud;
7385	(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous
7386	organization;
7387	(R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or
7388	(S) a contract with a forum selection clause for a chancery, business, or commercial
7389	court of this state or any other state;
7390	(ii) with a malpractice claim concerning services that a professional provided to a
7391	business organization; [ <del>or</del> ]
7392	(iii) that is a shareholder derivative action[-]; or
7393	(iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4,
7394	Declaratory Judgments.
7395	[(2) The Business and Chancery Court may exercise supplemental jurisdiction over all
7396	claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1),
7397	except that the Business and Chancery Court may not exercise jurisdiction over:]
7398	(2) Except as provided in Subsection (3), the Business and Chancery Court may
7399	exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of
7400	the Business and Chancery Court under Subsection (1) if the claim arises from the same set of
7401	facts or circumstances as the action.
7402	(3) The Business and Chancery Court may not exercise supplemental jurisdiction over:
7403	(a) any claim arising from:

7404	(i) a consumer contract;
7405	(ii) a personal injury, including [any] a personal injury relating to or arising out of
7406	health care rendered or which should have been rendered by the health care provider;
7407	[(iii) a wrongful termination of employment or a prohibited or discriminatory
7408	employment practice;]
7409	[(iv)] (iii) a violation of Title 13, Chapter 7, Civil Rights;
7410	(iv) Title 20A, Election Code;
7411	(v) Title 30, Husband and Wife;
7412	(vi) Title 63G, Chapter 4, Administrative Procedures Act;
7413	(vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;
7414	(viii) Title 78B, Chapter 6, Part 5, Eminent Domain;
7415	(ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is
7416	brought against a commercial tenant;
7417	(x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
7418	(xi) Title 78B, Chapter 12, Utah Child Support Act;
7419	(xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement
7420	Act;
7421	(xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;
7422	(xiv) Title 78B, Chapter 15, Utah Uniform Parentage Act;
7423	(xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or
7424	(xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and
7425	Visitation Act; [ <del>or</del> ]
7426	(b) any action in which a governmental entity is a party; or
7427	[(b)] (c) any criminal matter, unless the criminal matter is an act or omission of
7428	contempt that occurs in an action before the Business and Chancery Court.
7429	(4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise
7430	supplemental jurisdiction over a claim that is barred under Subsection (3):
7431	(a) if the claim is a compulsory counterclaim;
7432	(b) if there would be a material risk of inconsistent outcomes if the claim were tried in
7433	a separate action; or
7434	(c) solely to resolve a request for a provisional remedy related to the claim before the

7435	Business and Chancery Court transfers the claim as described in Subsection (5).
7436	(5) If an action contains a claim for which the Business and Chancery Court may not
7437	exercise supplemental jurisdiction under this section, the Business and Chancery Court shall
7438	bifurcate the action and transfer any claim for which the Business and Chancery Court does not
7439	have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial
7440	Administration.
7441	(6) Before the Business and Chancery Court transfers a claim as described in
7442	Subsection (5), the Business and Chancery Court may resolve:
7443	(a) all claims for which the Business and Chancery Court has jurisdiction; and
7444	(b) any request for a provisional remedy related to a claim that is being transferred.
7445	Section 130. Section 78A-5a-104 (Effective 07/01/24) is amended to read:
7446	78A-5a-104 (Effective 07/01/24). Trier of fact and law Demand for jury trial.
7447	(1) The Business and Chancery Court is the trier of fact and law in an action before the
7448	Business and Chancery Court.
7449	(2) [The] Notwithstanding Section 78A-5a-103, the Business and Chancery Court shall
7450	transfer an action, or any claim in an action, to the district court if:
7451	(a) a party to the action demands a trial by jury in accordance with the Utah Rules of
7452	[Civil Procedure] Business and Chancery Procedure; and
7453	(b) the Business and Chancery Court finds the party that made the demand has the right
7454	to a trial by jury on a claim in the action.
7455	(3) Before the Business and Chancery Court transfers an action or a claim under
7456	Subsection (2), the Business and Chancery Court may:
7457	(a) bifurcate the action and resolve all claims in which the party does not have a right
7458	to a trial by jury; and
7459	(b) administrate and adjudicate the action or claim being transferred prior to a trial by
7460	jury, including any pleading, provisional remedy, discovery, or motion.
7461	Section 131. Section 78A-5a-204 (Effective 07/01/24) is amended to read:
7462	78A-5a-204 (Effective 07/01/24). Location of the Business and Chancery Court
7463	Court facilities Costs.
7464	[(1) The Business and Chancery Court is located in Salt Lake City.]
7465	[(2)] (1) The Business and Chancery Court may perform any of the Business and

7466	Chancery Court's functions in any location within the state.
7467	[(3)] (2) The Judicial Council shall provide, from appropriations made by the
7468	Legislature, court space suitable for the conduct of court business for the Business and
7469	Chancery Court.
7470	[(4)] (3) The Judicial Council may, in order to carry out the Judicial Council's
7471	obligation to provide facilities for the Business and Chancery Court, lease space to be used by
7472	the Business and Chancery Court.
7473	[(5)] (4) A lease or reimbursement for the Business and Chancery Court must comply
7474	with the standards of the Division of Facilities Construction and Management that are
7475	applicable to state agencies.
7476	[(6)] (5) The cost of salaries, travel, and training required for the discharge of the
7477	duties of judges, secretaries of judges or court executives, court executives, and court reporters
7478	for the Business and Chancery Court are paid from appropriations made by the Legislature.
7479	Section 132. Section <b>78A-6-103</b> is amended to read:
7480	78A-6-103. Original jurisdiction of the juvenile court Magistrate functions
7481	Findings Transfer of a case from another court.
7482	(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile
7483	court has original jurisdiction over:
7484	(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
7485	state, or federal law, that was committed by a child;
7486	(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
7487	state, or federal law, that was committed by an individual:
7488	(i) who is under 21 years old at the time of all court proceedings; and
7489	(ii) who was under 18 years old at the time the offense was committed; and
7490	(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state
7491	law, that was committed:
7492	(i) by an individual:
7493	(A) who was 18 years old and enrolled in high school at the time of the offense; and
7494	(B) who is under 21 years old at the time of all court proceedings; and
7495	(ii) on school property where the individual was enrolled:
7496	(A) when school was in session; or

7497	(B) during a school-sponsored activity, as defined in [Subsection] Section 53G-8-211.
7498	(2) The juvenile court has original jurisdiction over:
7499	(a) any proceeding concerning:
7500	(i) a child who is an abused child, neglected child, or dependent child;
7501	(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child
7502	Protective Orders;
7503	(iii) the appointment of a guardian of the individual or other guardian of a minor who
7504	comes within the court's jurisdiction under other provisions of this section;
7505	(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;
7506	(v) the termination of parental rights in accordance with Title 80, Chapter 4,
7507	Termination and Restoration of Parental Rights, including termination of residual parental
7508	rights and duties;
7509	(vi) the treatment or commitment of a minor who has an intellectual disability;
7510	(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in
7511	accordance with Section 30-1-9;
7512	(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);
7513	(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;
7514	(x) the treatment or commitment of a child with a mental illness;
7515	(xi) the commitment of a child to a secure drug or alcohol facility in accordance with
7516	Section 26B-5-204;
7517	(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6,
7518	Part 4, Competency;
7519	(xiii) de novo review of final agency actions resulting from an informal adjudicative
7520	proceeding as provided in Section 63G-4-402;
7521	(xiv) adoptions conducted in accordance with the procedures described in Title 78B,
7522	Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order
7523	terminating the rights of a parent and finds that adoption is in the best interest of the child;
7524	(xv) an ungovernable or runaway child who is referred to the juvenile court by the
7525	Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the
7526	Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:
7527	(A) is beyond the control of the child's parent, guardian, or custodian to the extent that

7528	the child's behavior or condition endangers the child's own welfare or the welfare of others; or
7529	(B) has run away from home; and
7530	(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an
7531	adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to
7532	comply with a promise to appear and bring a child to the juvenile court;
7533	(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and
7534	Expungement; and
7535	(c) the extension of a nonjudicial adjustment under Section 80-6-304.
7536	(3) The juvenile court has original jurisdiction over a petition for special findings under
7537	Section 80-3-505.
7538	(4) It is not necessary for a minor to be adjudicated for an offense or violation of the
7539	law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection
7540	(2)(a)(xvi), (b), or (c).
7541	(5) This section does not restrict the right of access to the juvenile court by private
7542	agencies or other persons.
7543	(6) The juvenile court has jurisdiction of all magistrate functions relative to cases
7544	arising under Title 80, Chapter 6, Part 5, Transfer to District Court.
7545	(7) The juvenile court has jurisdiction to make a finding of substantiated,
7546	unsubstantiated, or without merit, in accordance with Section 80-3-404.
7547	(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by
7548	another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.
7549	(9) The juvenile court has jurisdiction to enforce foreign protection orders as described
7550	<u>in Subsection 78B-7-303(8).</u>
7551	Section 133. Section <b>78A-7-106</b> is amended to read:
7552	78A-7-106. Jurisdiction.
7553	(1) (a) Except for an offense for which the district court has original jurisdiction under
7554	Subsection [78A-5-102(8)] 78A-5-102(7) or an offense for which the juvenile court has
7555	original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction
7556	over class B and C misdemeanors, violation of ordinances, and infractions committed within
7557	the justice court's territorial jurisdiction by an individual who is 18 years old or older.
7558	(b) A justice court has original jurisdiction over the following offenses committed

7559	within the justice court's territorial jurisdiction by an individual who is 18 years old or older:
7560	(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
7561	Licensing Act; and
7562	(ii) class B and C misdemeanor and infraction violations of:
7563	(A) Title 23A, Wildlife Resources Act;
7564	(B) Title 41, Chapter 1a, Motor Vehicle Act;
7565	(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
7566	Under the Influence and Reckless Driving;
7567	(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
7568	Operators Act;
7569	(E) Title 41, Chapter 22, Off-highway Vehicles;
7570	(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;
7571	(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
7572	(H) Title 73, Chapter 18b, Water Safety; and
7573	(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators
7574	Act.
7575	(2) Except for an offense for which the district court has exclusive jurisdiction under
7576	Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under
7577	Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses
7578	committed within the justice court's territorial jurisdiction by an individual who is 16 or 17
7579	years old:
7580	(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
7581	Licensing Act; and
7582	(b) class B and C misdemeanor and infraction violations of:
7583	(i) Title 23A, Wildlife Resources Act;
7584	(ii) Title 41, Chapter 1a, Motor Vehicle Act;
7585	(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
7586	Under the Influence and Reckless Driving;
7587	(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
7588	Operators Act;
7589	(v) Title 41, Chapter 22, Off-highway Vehicles;

7590	(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section
7591	73-18-12;
7592	(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
7593	(viii) Title 73, Chapter 18b, Water Safety; and
7594	(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
7595	Operators Act.
7596	(3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake,
7597	or reservoir, whether natural or man-made.
7598	(b) An offense is committed within the territorial jurisdiction of a justice court if:
7599	(i) conduct constituting an element of the offense or a result constituting an element of
7600	the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
7601	itself unlawful;
7602	(ii) either an individual committing an offense or a victim of an offense is located
7603	within the court's jurisdiction at the time the offense is committed;
7604	(iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs
7605	within the court's jurisdiction;
7606	(iv) an individual commits any act constituting an element of an inchoate offense
7607	within the court's jurisdiction, including an agreement in a conspiracy;
7608	(v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another
7609	individual in the planning or commission of an offense within the court's jurisdiction;
7610	(vi) the investigation of the offense does not readily indicate in which court's
7611	jurisdiction the offense occurred, and:
7612	(A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
7613	passing within the court's jurisdiction;
7614	(B) the offense is committed on or in any body of water bordering on or within this
7615	state if the territorial limits of the justice court are adjacent to the body of water;
7616	(C) an individual who commits theft exercises control over the affected property within
7617	the court's jurisdiction; or
7618	(D) the offense is committed on or near the boundary of the court's jurisdiction;
7619	(vii) the offense consists of an unlawful communication that was initiated or received
7620	within the court's jurisdiction; or

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7621 (viii) jurisdiction is otherwise specifically provided by law. 7622 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may 7623 transfer the case to the juvenile court for further proceedings if the justice court judge 7624 determines and the juvenile court concurs that the best interests of the defendant would be 7625 served by the continuing jurisdiction of the juvenile court. 7626 (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, 7627 Small Claims Courts, if a defendant resides in or the debt arose within the territorial 7628 jurisdiction of the justice court. 7629 (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as 7630 that term is defined in Section 77-36-1. 7631 (b) If a justice court has jurisdiction over a criminal action involving a domestic 7632 violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from 7633 7634 the justice court to the district court. 7635 (c) If a justice court receives a notice of transfer from the prosecuting attorney or the 7636 defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court. 7637 7638 Section 134. Section 78A-10a-501 (Effective 07/01/24) is amended to read: 7639 78A-10a-501 (Effective 07/01/24). Definitions. 7640 As used in this part: 7641 (1) "Commission" means the Business and Chancery Court Nominating Commission created in Section 78A-10a-502. 7642 7643 (2) "Commissioner" means an individual appointed by the governor to serve on the 7644 Business and Chancery Court Nominating Commission. 7645 Section 135. Section 78A-10a-502 (Effective 07/01/24) is amended to read: 7646 78A-10a-502 (Effective 07/01/24). Creation. 7647 (1) There is created the Business and Chancery Court Nominating Commission. 7648 (2) The Business and Chancery Court Nominating Commission shall nominate 7649 individuals to fill judicial vacancies on the Business and Chancery Court. 7650 Section 136. Section 78A-10a-503 (Effective 07/01/24) is amended to read: 7651 78A-10a-503 (Effective 07/01/24). Membership -- Appointment -- Vacancies --

7652	Removal.
7653	(1) The Business and Chancery Court Nominating Commission shall consist of seven
7654	commissioners, each appointed by the governor to serve a four-year term.
7655	(2) A commissioner shall:
7656	(a) be a United States citizen;
7657	(b) be a resident of Utah; and
7658	(c) serve until the commissioner's successor is appointed.
7659	(3) The governor may not appoint:
7660	(a) a commissioner to serve successive terms; or
7661	(b) a member of the Legislature to serve as a member of the commission.
7662	(4) In determining whether to appoint an individual to serve as a commissioner, the
7663	governor shall consider whether the individual's appointment would ensure that the
7664	commission selects applicants without any regard to partisan political consideration.
7665	(5) The governor shall appoint the chair of the commission from among the
7666	membership of the commission.
7667	(6) The governor shall fill any vacancy in the commission caused by the expiration of a
7668	commissioner's term.
7669	(7) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the
7670	governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.
7671	(b) A replacement commissioner appointed under Subsection (7)(a) may not be
7672	reappointed upon expiration of the term of service.
7673	(8) The governor may remove a commissioner from the commission at any time with
7674	or without cause.
7675	Section 137. Section 78A-10a-504 (Effective 07/01/24) is amended to read:
7676	78A-10a-504 (Effective 07/01/24). Procedure Staff Rules Recusal.
7677	(1) Four commissioners are a quorum.
7678	(2) The governor shall appoint a member of the governor's staff to serve as staff to the
7679	commission.
7680	(3) The governor shall:
7681	(a) ensure that the commission follows the rules promulgated by the State Commission
7682	on Criminal and Juvenile Justice under Section 78A-10a-201; and

7683	(b) resolve any questions regarding the rules described in Subsection (3)(a).
7684	(4) A commissioner who is a licensed attorney may recuse oneself if there is a conflict
7685	of interest that makes the commissioner unable to serve.
7686	Section 138. Section 78A-10a-505 (Effective 07/01/24) is amended to read:
7687	78A-10a-505 (Effective 07/01/24). Expenses Per diem and travel.
7688	A commissioner may not receive compensation or benefits for the commissioner's
7689	service but may receive per diem and travel expenses in accordance with:
7690	(1) Section 63A-3-106;
7691	(2) Section 63A-3-107; and
7692	(3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
7693	63A-3-107.
7694	Section 139. Section <b>78B-6-105</b> is amended to read:
7695	78B-6-105. District court venue Jurisdiction of juvenile court Jurisdiction
7696	over nonresidents Time for filing.
7697	(1) [An adoption proceeding shall be commenced by filing a petition in]
7698	Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an
7699	adoption proceeding in a court with jurisdiction under Title 78A, Judiciary and Judicial
7700	Administration:
7701	(a) [the district court in the district] in the county where the prospective adoptive
7702	parent resides;
7703	(b) if the prospective adoptive parent is not a resident of this state, [the district court in
7704	the district] in the county where:
7705	(i) the adoptee was born;
7706	(ii) the adoptee resides on the day on which the petition is filed; or
7707	(iii) a parent of the proposed adoptee resides on the day on which the petition is filed;
7708	or
7709	(c) [the juvenile court as provided in Subsection 78A-6-103(2)(a)(xiv) and] if the
7710	adoption proceeding is brought in the juvenile court as described in Subsection
7711	<u>78A-6-103(2)(a)(xiv), in accordance with</u> Section 78A-6-350.
7712	(2) All orders, decrees, agreements, and notices in an adoption proceeding shall be
7713	filed with the clerk of the court where the adoption proceeding is commenced under Subsection

7714	(1).
7715	(3) A petition for adoption:
7716	(a) may be filed before the birth of a child;
7717	(b) may be filed before or after the adoptee is placed in the home of the petitioner for
7718	the purpose of adoption; and
7719	(c) shall be filed no later than 30 days after the day on which the adoptee is placed in
7720	the home of the petitioners for the purpose of adoption, unless:
7721	(i) the time for filing has been extended by the court; or
7722	(ii) the adoption is arranged by a child-placing agency in which case the agency may
7723	extend the filing time.
7724	(4) (a) If a person whose consent for the adoption is required under Section 78B-6-120
7725	or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state
7726	shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,
7727	provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.
7728	(b) The notice may not include the name of:
7729	(i) a prospective adoptive parent; or
7730	(ii) an unmarried mother without her consent.
7731	(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction
7732	over the person served in the same manner and to the same extent as if the person served was
7733	served personally within the state.
7734	(6) In the case of service outside the state, service completed not less than five days
7735	before the time set in the notice for appearance of the person served is sufficient to confer
7736	jurisdiction.
7737	(7) Computation of periods of time not otherwise set forth in this section shall be made
7738	in accordance with the Utah Rules of Civil Procedure.
7739	Section 140. Section <b>78B-6-112</b> is amended to read:
7740	78B-6-112. District court jurisdiction over termination of parental rights
7741	proceedings.
7742	(1) A [district court has jurisdiction to terminate parental rights in a child if the party
7743	that filed the petition is] party may bring a petition seeking to terminate parental rights in the
7744	child for the purpose of facilitating the adoption of the child in a court with jurisdiction under

7746(2) A petition to terminate parental rights under this section may be:7747(a) joined with a proceeding on an adoption petition; or7748(b) filed as a separate proceeding before or after a petition to adopt the child is filed.7749(3) A court may enter a final order terminating parental rights before a final decree of7750adoption is entered.7751(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to7752proceedings to terminate parental rights as described in Section 78A-6-103.7753(b) [This section does not grant jurisdiction to a district court to] A court may not7754terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a7755proceeding.7756(5) The [district] court may terminate an individual's parental rights in a child if:7757(a) the individual executes a voluntary consent to adoption, or relinquishment for7858adoption, of the child, in accordance with:7759(i) the requirements of this chapter; or7760(ii) the laws of another state or country, if the consent is valid and irrevocable;7761(b) the individual is an unmarried biological father who is not entitled to consent to7765(ii) failed to file a motion for relief, under Subsection 78B-6-120;7766(iii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days7767(i) the court finds, under Section 78B-15-607, that the individual is not a parent of the7768(d) the court finds, under Section 78B-15-607, that the individual is not a paren	7745	Title 78A, Judiciary and Judicial Administration.
<ul> <li>(b) filed as a separate proceeding before or after a petition to adopt the child is filed.</li> <li>(c) A court may enter a final order terminating parental rights before a final decree of adoption is entered.</li> <li>(d) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.</li> <li>(b) [This section does not grant jurisdiction to a district court to] A court may not</li> <li>terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights in a child if:</li> <li>(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:</li> <li>(i) the requirements of this chapter; or</li> <li>(ii) the laws of another state or country, if the consent is valid and irrevocable;</li> <li>(b) the individual:</li> <li>(c) the individual:</li> <li>(d) the court of adoption, under Section 78B-6-120 or 78B-6-121;</li> <li>(e) the individual:</li> <li>(f) received notice of the adoption proceeding relating to the child under Section 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;</li> <li>(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or</li> <li>(e) the individual's parental rights are terminated on grounds described in Title 80, Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best interests of the child.</li> </ul>	7746	(2) A petition to terminate parental rights under this section may be:
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<ul> <li>(b) the individual is an unmarried biological father who is not entitled to consent to</li> <li>adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;</li> <li>(c) the individual:</li> <li>(c) the individual:</li> <li>(i) received notice of the adoption proceeding relating to the child under Section</li> <li>78B-6-110; and</li> <li>(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days</li> <li>after the day on which the individual was served with notice of the adoption proceeding;</li> <li>(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the</li> <li>child; or</li> <li>(e) the individual's parental rights are terminated on grounds described in Title 80,</li> <li>(f) Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best</li> <li>interests of the child.</li> <li>(f) The court shall appoint an indigent defense service provider in accordance with</li> <li>Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7759	(i) the requirements of this chapter; or
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<ul> <li>7765 78B-6-110; and</li> <li>7766 (ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days</li> <li>after the day on which the individual was served with notice of the adoption proceeding;</li> <li>7768 (d) the court finds, under Section 78B-15-607, that the individual is not a parent of the</li> <li>7769 child; or</li> <li>7770 (e) the individual's parental rights are terminated on grounds described in Title 80,</li> <li>7771 Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best</li> <li>7772 interests of the child.</li> <li>7773 (6) The court shall appoint an indigent defense service provider in accordance with</li> <li>7774 Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7763	(c) the individual:
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<ul> <li>after the day on which the individual was served with notice of the adoption proceeding;</li> <li>(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the</li> <li>child; or</li> <li>(e) the individual's parental rights are terminated on grounds described in Title 80,</li> <li>Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best</li> <li>interests of the child.</li> <li>(6) The court shall appoint an indigent defense service provider in accordance with</li> <li>Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7765	78B-6-110; and
<ul> <li>(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the</li> <li>child; or</li> <li>(e) the individual's parental rights are terminated on grounds described in Title 80,</li> <li>Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best</li> <li>interests of the child.</li> <li>(6) The court shall appoint an indigent defense service provider in accordance with</li> <li>Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7766	(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days
<ul> <li>child; or</li> <li>(e) the individual's parental rights are terminated on grounds described in Title 80,</li> <li>Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best</li> <li>interests of the child.</li> <li>(6) The court shall appoint an indigent defense service provider in accordance with</li> <li>Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7767	after the day on which the individual was served with notice of the adoption proceeding;
<ul> <li>(e) the individual's parental rights are terminated on grounds described in Title 80,</li> <li>Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best</li> <li>interests of the child.</li> <li>(6) The court shall appoint an indigent defense service provider in accordance with</li> <li>Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7768	(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the
<ul> <li>7771 Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best</li> <li>7772 interests of the child.</li> <li>7773 (6) The court shall appoint an indigent defense service provider in accordance with</li> <li>7774 Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7769	child; or
<ul> <li>interests of the child.</li> <li>(6) The court shall appoint an indigent defense service provider in accordance with</li> <li>Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7770	(e) the individual's parental rights are terminated on grounds described in Title 80,
<ul> <li>(6) The court shall appoint an indigent defense service provider in accordance with</li> <li>Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action</li> </ul>	7771	Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best
7774 Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action	7772	interests of the child.
	7773	(6) The court shall appoint an indigent defense service provider in accordance with
initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental	7774	Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action
	7775	initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental

7776	Rights, or whose parental rights are subject to termination under this section.
7777	(7) If a county incurs expenses in providing indigent defense services to an indigent
7778	individual facing any action initiated by a private party under Title 80, Chapter 4, Termination
7779	and Restoration of Parental Rights, or termination of parental rights under this section, the
7780	county may apply for reimbursement from the Utah Indigent Defense Commission in
7781	accordance with Section 78B-22-406.
7782	(8) A petition filed under this section is subject to the procedural requirements of this
7783	chapter.
7784	Section 141. Section <b>78B-6-401</b> is amended to read:
7785	78B-6-401. Power to issue declaratory judgment Form Effect.
7786	[ <del>(1) Each district court</del> ]
7787	(1) (a) A court with jurisdiction under Title 78A, Judiciary and Judicial
7788	Administration, has the power to issue declaratory judgments determining rights, status, and
7789	other legal relations within its respective jurisdiction.
7790	(b) An action or proceeding may not be open to objection on the ground that a
7791	declaratory judgment or decree is prayed for.
7792	(2) The declaration may be either affirmative or negative in form and effect and shall
7793	have the force and effect of a final judgment or decree.
7794	Section 142. Section <b>78B-6-408</b> is amended to read:
7795	78B-6-408. Rights, status, legal relations under instruments, or statutes may be
7796	determined.
7797	A person with an interest in a deed, will, or written contract, or whose rights, status, or
7798	other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may
7799	request the [district] court to determine any question of construction or validity arising under
7800	the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights,
7801	status, or other legal relations.
7802	Section 143. Section 78B-6-1238 is amended to read:
7803	78B-6-1238. Clerk of court to be custodian.
7804	(1) If the security of the proceeds of the sale is taken, or when an investment of any
7805	proceeds is made, it shall be done, except as otherwise provided, in the name of the clerk of the
7806	[district] court.

7807 (2) The clerk of the court shall hold the security for the use and benefit of the parties 7808 interested, subject to an order of the court. 7809 The following section is affected by a coordination clause at the end of this bill. 7810 Section 144. Repealer. 7811 This bill repeals: 7812 Section 17D-3-104. District court jurisdiction. 7813 Section 78B-12-103, District court jurisdiction. Section 145. Effective date. 7814 (1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2024. 7815 7816 (2) (a) Except as provided in Subsection (2)(b), if approved by two-thirds of all 7817 members elected to each house, Sections 78A-10a-501, 78A-10a-502, 78A-10a-503, 7818 78A-10a-504, and 78A-10a-505 take effect upon approval by the governor, or the day 7819 following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the 7820 governor's signature, or in the case of a veto, the date of veto override. 7821 (b) If this bill is not approved by two-thirds of all members elected to each house, Sections 78A-10a-501, 78A-10a-502, 78A-10a-503, 78A-10a-504, and 78A-10a-505 take 7822 7823 effect on May 1, 2024. 7824 (3) The actions affecting Section 78A-5a-103 (Effective 10/01/24) take effect on 7825 October 1, 2024. Section 146. Coordinating H.B. 300 with H.B. 342. 7826 7827 If H.B. 300, Court Amendments, and H.B. 342, Electronic Information Privacy 7828 Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the 7829 changes to Section 13-63-301 in H.B. 342 supersede the changes to Section 13-63-301 in H.B. 7830 300. Section 147. Coordinating H.B. 300 with S.B. 95 7831 7832 If H.B. 300, Court Amendments, and S.B. 95, Domestic Relations Recodification, both 7833 pass and become law, the Legislature intends that, on September 1, 2024, the amendments to 7834 Section 78B-12-103 in S.B. 95 supersede the amendments to Section 78B-12-103 in H.B. 300.