HB0300S03 compared with HB0300S01

~~{deleted text}~~ shows text that was in HB0300S01 but was deleted in HB0300S03.

inserted text shows text that was not in HB0300S01 but was inserted into HB0300S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Brady Brammer}~~Senator Kirk A. Cullimore proposes the following substitute bill:

COURT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: ~~{_____}~~Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to courts.

Highlighted Provisions:

This bill:

- amends provisions related to a district court;
- amends provisions related to court venue;
- addresses the effect of the consolidation of counties on actions, proceedings, and matters pending in the juvenile court;
- addresses actions pending in the juvenile court for a new county;
- clarifies the role and duties of a constable;
- clarifies the jurisdiction of the district court;

- amends the definition of a public official in Title 63G, Chapter 23, Property Donated to State by Public Official, to address a judge of a juvenile court or the Business and Chancery Court;
- allows the presiding officer of the Judicial Council to establish a pool of two district court judges to preside over actions in the Business and Chancery Court when there are fewer than three judges for the Business and Chancery Court and a Business and Chancery Court judge is unable to preside over an action due to recusal or disqualification;
- amends the jurisdiction of the district court to address a district court judge presiding over an action in the Business and Chancery Court;
- amends the definitions related to the Business and Chancery Court;
- amends the jurisdiction of the Business and Chancery Court;
- allows the Business and Chancery Court to resolve all claims for which the Business and Chancery Court has jurisdiction and any request for a provisional remedy related to a claim that is being transferred to another court due to a lack of jurisdiction or a demand for a jury trial;
- clarifies that the Business and Chancery Court is required to transfer an action or claim to the district court if a party demands a trial by jury in accordance with the Utah Rules of Business and Chancery Procedure and the Business and Chancery Court finds that the party has a right to trial by jury on a claim in the action;
- removes the requirement that the Business and Chancery Court is located in Salt Lake City;
- clarifies the jurisdiction of the juvenile court;
- repeals statutes related to district court jurisdiction; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

10-11-3, as last amended by Laws of Utah 2022, Chapter 432

11-13-309, as last amended by Laws of Utah 2010, Chapter 378

13-11-6, as last amended by Laws of Utah 2012, Chapter 152

13-11a-4, as enacted by Laws of Utah 1989, Chapter 205

13-11a-6, as enacted by Laws of Utah 2009, Chapter 133

13-12-7, as last amended by Laws of Utah 2010, Chapter 378

13-21-8, as last amended by Laws of Utah 2006, Chapter 47

13-22-3, as last amended by Laws of Utah 2008, Chapter 382

13-44-301, as last amended by Laws of Utah 2019, Chapter 348

13-45-401, as last amended by Laws of Utah 2019, Chapter 348

13-63-301, as enacted by Laws of Utah 2023, Chapter 498

13-63-501, as enacted by Laws of Utah 2023, Chapter 477

16-10a-809, as last amended by Laws of Utah 2008, Chapter 364

17-2-106, as renumbered and amended by Laws of Utah 2009, Chapter 350

17-3-7, as Utah Code Annotated 1953

17-16-6.5, as last amended by Laws of Utah 2023, Chapter 45

17-25-1, as last amended by Laws of Utah 2003, Chapter 204

17-50-103, as last amended by Laws of Utah 2023, Chapter 15

17B-1-313, as last amended by Laws of Utah 2023, Chapters 15, 435

17C-1-102, as last amended by Laws of Utah 2023, Chapter 15

17C-2-304, as last amended by Laws of Utah 2019, Chapter 376

17C-5-406, as last amended by Laws of Utah 2019, Chapter 376

17D-1-212, as enacted by Laws of Utah 2008, Chapter 360

17D-2-602, as last amended by Laws of Utah 2012, Chapter 369

17D-4-305, as renumbered and amended by Laws of Utah 2021, Chapter 314

18-1-4, as enacted by Laws of Utah 2014, Chapter 32

19-4-109, as last amended by Laws of Utah 2020, Chapter 256

19-4-113, as last amended by Laws of Utah 2023, Chapter 255

19-5-115, as last amended by Laws of Utah 2021, Chapter 139

19-6-115, as renumbered and amended by Laws of Utah 1991, Chapter 112

19-6-206, as renumbered and amended by Laws of Utah 1991, Chapter 112

19-6-306, as last amended by Laws of Utah 1995, Chapter 324

19-6-309, as last amended by Laws of Utah 1992, Chapter 30

19-6-310, as last amended by Laws of Utah 2009, Chapter 356

19-6-316, as last amended by Laws of Utah 2010, Chapter 324

19-6-318, as last amended by Laws of Utah 2010, Chapter 324

19-6-325, as last amended by Laws of Utah 2010, Chapter 324

19-6-424.5, as last amended by Laws of Utah 2012, Chapter 360

19-6-425, as last amended by Laws of Utah 2012, Chapter 360

19-6-804, as last amended by Laws of Utah 2020, Chapter 27

19-8-119, as last amended by Laws of Utah 2021, Chapter 202

23A-13-201, as renumbered and amended by Laws of Utah 2023, Chapter 103

26B-3-1110, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-3-1114, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-3-1115, as renumbered and amended by Laws of Utah 2023, Chapter 306

31A-22-305, as last amended by Laws of Utah 2023, Chapters 69, 185 and 327

31A-22-305.3, as last amended by Laws of Utah 2023, Chapters 69, 327

31A-22-321, as last amended by Laws of Utah 2015, Chapter 345

32B-4-205, as enacted by Laws of Utah 2010, Chapter 276

34-20-10, as last amended by Laws of Utah 2008, Chapter 382

34-20-11, as last amended by Laws of Utah 1997, Chapter 296

34-28-9.5, as enacted by Laws of Utah 2017, Chapter 85

34A-1-407, as last amended by Laws of Utah 2001, Chapter 291

34A-5-102, as last amended by Laws of Utah 2016, Chapters 330, 370

34A-6-202, as last amended by Laws of Utah 2013, Chapter 413

38-1a-308, as last amended by Laws of Utah 2015, Chapter 303

38-1a-804, as last amended by Laws of Utah 2020, Chapter 115

38-1a-805, as enacted by Laws of Utah 2015, Chapter 303

38-2-4, as last amended by Laws of Utah 1996, Chapter 198

38-9-204, as renumbered and amended by Laws of Utah 2014, Chapter 114

38-9-205, as renumbered and amended by Laws of Utah 2014, Chapter 114

38-9-303, as enacted by Laws of Utah 2014, Chapter 114

38-9a-201, as last amended by Laws of Utah 2008, Chapter 223

38-9a-202, as enacted by Laws of Utah 2005, Chapter 93

38-9a-205, as enacted by Laws of Utah 2005, Chapter 93

38-11-110, as last amended by Laws of Utah 2010, Chapter 31

40-8-9, as last amended by Laws of Utah 2007, Chapter 322

40-8-9.1, as enacted by Laws of Utah 2002, Chapter 194

40-10-14, as last amended by Laws of Utah 2008, Chapter 382

40-10-20, as last amended by Laws of Utah 1997, Chapter 99

40-10-21, as last amended by Laws of Utah 2008, Chapter 382

40-10-22, as last amended by Laws of Utah 2008, Chapter 3

41-6a-1622, as renumbered and amended by Laws of Utah 2005, Chapter 2

51-2a-401, as last amended by Laws of Utah 2018, Chapter 256

51-7-22.5, as enacted by Laws of Utah 2004, Chapter 248

53-2d-605 (Effective 07/01/24), as renumbered and amended by Laws of Utah 2023, Chapters 307, 310

53-7-406, as last amended by Laws of Utah 2013, Chapter 394

53B-28-506, as last amended by Laws of Utah 2023, Chapter 381

53E-9-310, as last amended by Laws of Utah 2019, Chapter 186

53G-5-501, as last amended by Laws of Utah 2023, Chapter 54

54-4-27, as last amended by Laws of Utah 2009, Chapter 388

54-5-3, as last amended by Laws of Utah 1993, Chapter 214

54-8a-12, as enacted by Laws of Utah 2008, Chapter 344

54-8b-13, as last amended by Laws of Utah 2010, Chapter 324

54-13-7, as last amended by Laws of Utah 2011, Chapter 340

54-13-8, as last amended by Laws of Utah 2015, Chapter 102

54-14-308, as enacted by Laws of Utah 1997, Chapter 197

54-22-205, as enacted by Laws of Utah 2018, Chapter 230

57-11-11, as last amended by Laws of Utah 2023, Chapter 435

57-11-13, as last amended by Laws of Utah 2008, Chapter 382

57-11-18, as enacted by Laws of Utah 1973, Chapter 158

58-37-11, as enacted by Laws of Utah 1971, Chapter 145

63A-3-507, as last amended by Laws of Utah 2021, Chapters 145, 260

63G-4-403, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-7-501, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-7-502, as last amended by Laws of Utah 2016, Chapter 33

63G-20-204, as enacted by Laws of Utah 2015, Chapter 46

63G-20-302, as enacted by Laws of Utah 2015, Chapter 46

63G-23-102, as last amended by Laws of Utah 2022, Chapter 125

63H-1-601, as last amended by Laws of Utah 2022, Chapter 207

63L-5-301, as renumbered and amended by Laws of Utah 2008, Chapter 382

63L-8-304, as last amended by Laws of Utah 2023, Chapter 34

65A-8a-104, as last amended by Laws of Utah 2010, Chapter 40

67-3-1, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

67-3-3, as last amended by Laws of Utah 2018, Chapter 256

70A-2-807, as enacted by Laws of Utah 1997, Chapter 166

70C-8-105, as enacted by Laws of Utah 1985, Chapter 159

70D-2-504, as renumbered and amended by Laws of Utah 2009, Chapter 72

72-10-106, as last amended by Laws of Utah 2019, Chapter 431

72-16-401, as last amended by Laws of Utah 2020, Chapter 423

75-2-105, as last amended by Laws of Utah 2019, Chapter 264

75-2-801, as last amended by Laws of Utah 2011, Chapter 366

75-2a-120, as enacted by Laws of Utah 2007, Chapter 31

75-5a-102, as enacted by Laws of Utah 1990, Chapter 272

75-7-105, as last amended by Laws of Utah 2019, Chapter 153

75-7-203, as repealed and reenacted by Laws of Utah 2004, Chapter 89

75-7-205, as repealed and reenacted by Laws of Utah 2004, Chapter 89

75-11-102, as enacted by Laws of Utah 2017, Chapter 16

76-10-1605, as last amended by Laws of Utah 2008, Chapter 3

78A-1-103.5 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394

78A-5-102, as last amended by Laws of Utah 2022, Chapters 155, 318

78A-5a-101 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394

78A-5a-103 (Effective 10/01/24), as enacted by Laws of Utah 2023, Chapter 394

78A-5a-104 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394

78A-5a-204 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394

78A-6-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330

78A-7-106, as last amended by Laws of Utah 2023, Chapter 34

78A-10a-501 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250

78A-10a-502 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250

78A-10a-503 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250

78A-10a-504 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250

78A-10a-505 (Effective 07/01/24), as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250

78B-6-105, as last amended by Laws of Utah 2023, Chapter 115

78B-6-112, as last amended by Laws of Utah 2021, Chapter 262

78B-6-401, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-408, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-1238, as renumbered and amended by Laws of Utah 2008, Chapter 3

REPEALS:

17D-3-104, as enacted by Laws of Utah 2008, Chapter 360

78B-12-103, as renumbered and amended by Laws of Utah 2008, Chapter 3

Utah Code Sections Affected By Coordination Clause:

13-63-301, as enacted by Laws of Utah 2023, Chapter 498

~~{78A-6-103}~~78B-12-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330

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

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

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

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

[~~(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.~~]

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

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

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

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

(2) Any action to reclaim title to grave sites, parcels, or lots shall be brought and 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.

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

10-2-710. Limitation on jurisdiction of court to consider disincorporation

petition.

[~~No district court has jurisdiction to~~] A court may not 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 date of an election held to decide the question of dissolution of the municipality which the petition seeks to dissolve.

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

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

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

(a) "Agent of a candidate" means:

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

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

(iii) the personal campaign committee of a candidate;

(iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or

(v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

(i) $50; or

(ii) an amount less than $50 that is specified in an ordinance of the municipality.

(c) (i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(d) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of

value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

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

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

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

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

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

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

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of

value for a political purpose;

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

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

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

(ii) "Expenditure" does not include:

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

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

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

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

(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:

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

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

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

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

(j) "Reporting entity" means:

(i) a candidate;

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

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

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

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

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

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

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

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

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

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

(3) Each candidate:

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

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

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

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

(i) 28 days before the day on which the municipal general election is held;

(ii) seven days before the day on which the municipal general election is held; and

(iii) 30 days after the day on which the municipal general election is held.

(c) Each candidate for municipal office who is eliminated at a municipal primary 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.

(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:

(a) 28 days before the day on which the municipal general election is held;

(b) seven days before the day on which the municipal general election is held; and

(c) 30 days after the day on which the municipal general election is held.

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

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

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

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

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

(ii) identify:

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

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

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

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

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

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

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

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

(ii) require greater disclosure of contributions or expenditures than is required in this

section; and

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

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

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

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

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

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

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

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

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

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

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

(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

(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

(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.

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

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

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

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

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

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

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

(i) shall:

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

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

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

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

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

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

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

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

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

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

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

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

(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 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 attorney fees to the prevailing party.

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

10-7-32. Actions to recover taxes.

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

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

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

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

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~~] a court of this state, 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.

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

10-11-3. Neglect of property owners -- Removal or abatement by municipality -- 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 Section 10-11-2, a municipal inspector may:

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

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

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

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

(i) include:

(A) the address of the property described in Subsection (1)(a);

(B) an itemized list of and demand for payment for all expenses, including administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and

(C) the address of the municipal treasurer where payment may be made for the expenses; and

(ii) notify the property owner:

(A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a lien on the property in accordance with Section 10-11-4;

(B) that the owner may file a written objection to all or part of the statement within 20 days after the day of the statement post-mark; and

(C) where the owner may file the objection, including the municipal office and address.

(c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed by certified mail addressed to the property owner's of record last-known address according to

the records of the county recorder.

(d) (i) A municipality may file a notice of a lien, including a copy of the statement described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the county recorder of the county in which the property is located.

(ii) If a municipality files a notice of a lien indicating that the municipality intends to certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section 10-11-4, the municipality shall file for record in the county recorder's office a release of the lien after all amounts owing are paid.

(2) (a) If an owner fails to file a timely written objection as described in Subsection (1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the municipality may:

(i) file an action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; or

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

(b) If a municipality pursues collection of the costs in accordance with Subsection (2)(a)(i) or (4)(a), the municipality may:

(i) sue for and receive judgment for all removal and destruction costs, including administrative costs, and reasonable attorney fees, interest, and court costs; and

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

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

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

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

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

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

(4) If the property owner fails to pay in accordance with Subsection (3)(c), the

municipality may:

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

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

(5) This section does not affect or limit:

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

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

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

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

[~~(1) Any~~]

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

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

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

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

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

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

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

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

13-11-6. Service of process.

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

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

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

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

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

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

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

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

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

(i) with the clerk of the court; and

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

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

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

[~~(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.

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

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

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

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

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

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

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

(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.

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

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

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

(2) This section does not apply to:

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

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

(c) a performing group at least one member of which was a member of the recording

group and has a legal right to use of the group name;

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) In any action for failure to renew an agreement, damages shall be limited to actual

damages, including the value of the dealer's equity in the dealership, together with reasonable [~~attorney's~~] attorney fees and costs.

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

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

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

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

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

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

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

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

(5) The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties provided by law.

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

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

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

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

(1) The division may make any investigation it considers necessary to determine 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:

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

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

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

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

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

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

(3) Whenever it appears to the director by a preponderance of the evidence that a person has engaged in or is engaging in any act or practice prohibited in this chapter or constituting a violation of this chapter or any rule made or order issued under this chapter, the director may assess an administrative fine of up to $500 per violation up to $10,000 for any series of violations arising out of the same operative facts.

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

(a) issue an injunction;

(b) enter a declaratory judgment;

(c) appoint a receiver for the defendant or the defendant's assets;

(d) order disgorgement of any money received in violation of this chapter;

(e) order rescission of agreements violating this chapter;

(f) impose a fine of not more than $2,000 for each violation of this chapter; and

(g) impose a civil penalty, or any other relief the court considers just.

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

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

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

(a) the requirements, prohibitions, and regulated practices under this chapter;

(b) suggestions for effective financial and organizational practices for charitable organizations;

(c) charitable giving and solicitation;

(d) potential problems with solicitations and fraudulent or deceptive practices; and

(e) any other matter relevant to the subject of this chapter.

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

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

(1) The attorney general may enforce this chapter's provisions.

(2) (a) Nothing in this chapter creates a private right of action.

(b) Nothing in this chapter affects any private right of action existing under other law, including contract or tort.

(3) A person who violates this chapter's provisions is subject to a civil penalty of:

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

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

(i) the violations concern:

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

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

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

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

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

(ii) attorney fees and costs.

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

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

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

(ii) [~~the district court for the district~~] the county in which resides a consumer who is affected by the violation.

(5) The attorney general shall deposit any amount received under Subsection (3), (4), or (10) into the Attorney General Litigation Fund created in Section 76-10-3114.

(6) In enforcing this chapter, the attorney general may:

(a) investigate the actions of any person alleged to violate Section 13-44-201 or 13-44-202;

(b) subpoena a witness;

(c) subpoena a document or other evidence;

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

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

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

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

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

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

(i) address a procedure;

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

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

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

(v) require that the attorney general:

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

(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.

(9) A person's failure to respond to a request or subpoena from the attorney general 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.

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

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

(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:

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

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

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

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

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

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

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

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

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

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

(i) the violations concern:

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

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

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

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

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

(ii) attorney fees and costs.

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

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

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

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

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

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

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

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

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this

section;

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

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

(v) require that the attorney general:

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

(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.

(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.

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

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

(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:

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

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

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

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

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

13-63-301. Private right of action.

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

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

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

(3) If a court finds that a person has violated a provision of Part 1, General Requirements, the person who brings an action under this section is entitled to:

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

(b) an amount equal to the greater of:

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

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

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

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

(1) Beginning March 1, 2024, a person may bring an action [~~under this section~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a social media company to recover damages incurred after March 1, 2024 by a Utah minor account

holder for any addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company's social media platform.

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

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

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

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

(b) an amount equal to the greater of:

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

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

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

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

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

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

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

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

(2) The court that removes a director may bar the director from reelection for a period

prescribed by the court.

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

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

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

17-2-106. Effect of consolidation.

(1) All territory included within the boundaries of the originating county becomes, 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 the originating 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.

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

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

(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

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

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

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

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

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

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

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

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

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

(i) candidates for county office; and

(ii) candidates for local school board office who reside in that county.

(b) The ordinance required by Subsection (1)(a) shall include:

(i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(iii) a requirement that the financial reports identify:

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

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

(iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account [~~in~~] into a financial institution;

(v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; and

(vi) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

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

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

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

(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:

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

(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).

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

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

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

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) an expenditure made from an account:

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

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

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

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

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

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

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

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

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

(ii) impose additional penalties.

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

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

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

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

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

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

(12) (a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report

described in Subsection (11) within 24 hours after the deadline for filing the report.

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

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

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

(a) shall:

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

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

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

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

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

(14) An election official may fulfill the requirement described in Subsection (13)(a) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to the county's website to inform the voter whether a candidate on the ballot is disqualified.

(15) A candidate is not disqualified if:

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

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

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

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

(i) the report is received in the county clerk's office no later than midnight, Mountain

Time, at the end of the day on which the report is due;

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

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

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

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

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

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

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

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

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

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

(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.

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

17-25-1. General powers and duties.

(1) [~~Every~~] A constable shall:

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

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

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

(2) A constable may:

(a) serve any process throughout the state; and

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

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

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

(b) the court authorizing or directing the constable.

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

Section ~~{23}~~24. Section **17-50-103** is amended to read:

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

(1) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

Section ~~{24}~~25. Section **17B-1-313** is amended to read:

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

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

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

(a) include, as the case may be:

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

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

(b) state that:

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

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

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

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

(4) After the expiration of the 30-day period under Subsection (3), no one may contest

the regularity, formality, or legality of the resolution or action for any cause.

Section ~~{25}~~26. Section **17C-1-102** is amended to read:

17C-1-102. Definitions.

As used in this title:

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

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

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

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

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

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

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

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the

agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001;

(c) a contribution, loan, grant, or other financial assistance from any public or private source;

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal

agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

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

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

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

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

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

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

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

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

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

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

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

(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 units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

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

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

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

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

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the

purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

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

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

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

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

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

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

(iii) requires remediation because:

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

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

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

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

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

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

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

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

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

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

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

(35) (a) " Local government building" means a building owned and operated by a

community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

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

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

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

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

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

(40) "Participant" means one or more persons that enter into a participation agreement with an agency.

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

(a) includes a description of:

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

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

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

(b) is approved by resolution of the board.

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

community reinvestment project area plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) relocating a business;

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

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

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

(l) any activity described in this Subsection (48) outside of a project area that the board 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.

(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 or intangible personal or real property.

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

(53) "Public entity" means:

(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.

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

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

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

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

(57) "Superfund site":

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

(b) includes an area formerly included in the National Priorities List, as described in Subsection (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

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

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

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

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

(60) "Taxable value" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{26}~~27. Section **17C-2-304** is amended to read:

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

(1) If the board makes a development impediment determination under Subsection 17C-2-102(1)(a)(ii)(B) and that determination is approved by resolution adopted by the taxing entity committee, a record owner of property located within the proposed urban renewal project

area may challenge the determination by [~~filing an action with the district court for the county in which the property is located~~] bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

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

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

Section ~~{27}~~28. Section **17C-5-406** is amended to read:

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

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

(2) In an action under this section:

(a) the agency shall transmit to the [~~district~~] court the record of the agency's proceedings, including any minutes, findings, determinations, orders, or transcripts of the agency's proceedings;

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

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

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

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

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

Section ~~{28}~~29. Section **17D-1-212** is amended to read:

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

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

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

(b) the person:

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

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

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

(B) alleges in the action that:

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

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

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

(2) If an action is not filed within the time specified under Subsection (1), a registered voter or an owner of property located within the special service district may not contest the creation of the special service district or a service that the special service district is proposed to provide.

Section ~~{29}~~30. Section **17D-2-602** is amended to read:

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

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

(a) a resolution or other proceeding;

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

(c) any provision made for the security or payment of local building authority bonds or

lease agreement.

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

Section ~~{30}~~31. Section **17D-4-305** is amended to read:

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

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

(a) set aside the proceeding; or

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

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

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

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

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

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

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

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

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

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

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

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

(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or

enforcement of a tax or fee; or

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

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

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

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

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

Section ~~{31)~~32. Section **18-1-4** is amended to read:

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

(1) A person injured as a result of a dog attack 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 if:

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

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

(ii) filed a notice to submit the claim to arbitration within 14 days after the complaint has been answered; and

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

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

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

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

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

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

de novo under Subsection (11).

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

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

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

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

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

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

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

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

(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.

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

(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.

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

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

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

(i) each side shall select one arbitrator; and

(ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional

arbitrator to be included in the panel.

(7) Unless otherwise agreed to in writing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) the arbitration award has been satisfied.

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

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

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

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

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

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

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

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

(ii) the costs of expert witnesses and depositions.

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

(14) (a) If a defendant, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs.

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

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

(ii) the costs of expert witnesses and depositions.

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

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

(a) writing prior to the arbitration proceeding; or

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

(16) If a [~~district~~] court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith, as described in Section

78B-5-825, the [~~district~~] court may award reasonable attorney fees to the nonmoving party.

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

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

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

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

Section ~~{32}~~33. Section **19-4-109** is amended to read:

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

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

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

(i) not to exceed $1,000 per day per violation, with respect to a public water system serving a population of less than 10,000 individuals; or

(ii) exactly $1,000 per day per violation, with respect to a public water system serving a population of more than 10,000 individuals.

(b) In all cases, each day of violation is considered a separate violation.

(3) The director may assess and make a demand for payment of an administrative penalty under this section and may compromise or settle that penalty.

(4) To make a demand for payment of an administrative penalty assessed under this section, the director shall issue a notice of agency action, specifying, in addition to the requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative Procedures Act:

(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

is alleged to have been violated;

(c) each penalty that the director proposes to assess, together with the amount and date of effect of that penalty; and

(d) that failure to pay the penalty or respond may result in a civil action for collection.

(5) A person notified according to Subsection (4) may request an adjudicative proceeding.

(6) Upon request by the director, the attorney general may institute a civil action to collect a penalty assessed under this section.

(7) (a) A person who, with criminal negligence, violates any rule or order made or issued pursuant to this chapter, or with criminal negligence fails to take corrective action required by an order, is guilty of a class B misdemeanor and subject to a fine of not more than $5,000 per day for each day of violation.

(b) In addition, the person is subject, in a civil proceeding, to a penalty of not more than $5,000 per day for each day of violation.

(8) (a) The director may bring a civil action for appropriate relief, including a permanent or temporary injunction, for a violation for which the director is authorized to issue a compliance order under Section 19-4-107.

(b) [~~The~~] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall bring an action under this Subsection (8) in the [~~district court~~] county where the violation occurs if the director brings the action in a district court.

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

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

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

(10) If a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled

to injunctive relief to prevent further or continued violation of the order.

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

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

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

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

(i) qualifying environmental enforcement activities; and

(ii) qualifying extraordinary expenses.

Section ~~{33)~~34. Section **19-4-113** is amended to read:

19-4-113. Water source protection ordinance .

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) designate a drinking water source protection zone in accordance with Subsection (5) for a groundwater source that is:

(i) used by a public water system; and

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

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

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

(i) notifies the retail water supplier or wholesale water supplier within 10 days of receiving notice of a violation of the ordinance that the county or municipality will not seek enforcement of the ordinance; or

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

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

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

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

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

(7) An ordinance authorized by Section 10-8-15 supercedes an ordinance required or

authorized by this section to the extent that the ordinances conflict.

(8) The board shall~~{~~

~~}~~ provide information, guidelines, and technical resources to a county or municipality preparing and implementing an ordinance in accordance with this section.

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

Section ~~{34}~~35. Section **19-5-115** is amended to read:

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

(1) As used in this section:

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

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

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

(d) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

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

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

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

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

(ii) violates Section 19-5-113;

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

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

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

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

(ii) violates Section 19-5-113;

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

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

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

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

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

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

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

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

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

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

(A) the defendant's conduct placed another person in imminent danger of death or

serious bodily injury; and

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

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

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

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

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

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

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

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

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

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

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

(b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or criminal, requested by the director, to abate a condition that exists in violation of, or to

prosecute for the violation of, or to enforce, the laws or the standards, orders, and rules of the board or the director issued under this chapter.

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

(9) If a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled 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 for the implementation of this chapter that are not inconsistent with this chapter.

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

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

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

(i) define qualifying environmental enforcement activities; and

(ii) define qualifying extraordinary expenses.

(12) (a) For purposes of this section or an ordinance or rule enacted by a political subdivision under Subsection (10), an act performed by an individual wholly within the scope of the individual's employment with an organization, is attributed to the organization.

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

(i) this section;

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

(iii) any local law or ordinance governing discharge.

Section ~~{35}~~36. Section **19-6-115** is amended to read:

19-6-115. Imminent danger to health or environment -- Authority of executive director to initiate action to restrain.

Notwithstanding any other provision of this part, upon receipt of evidence that the

handling, transportation, treatment, storage, or disposal of any solid or hazardous waste, or a release from an underground storage tank, is presenting an imminent and substantial danger to health or the environment, the executive director may bring suit on behalf of this state in [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to immediately restrain any person contributing, or who has contributed, to that action to stop the handling, storage, treatment, transportation, or disposal or to take other action as appropriate.

Section ~~(36)~~37. Section **19-6-206** is amended to read:

19-6-206. Exclusive remedy for devaluation of property caused by approved 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.

(b) Any action for damages from a modification shall be brought within nine months 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.

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

(b) As a condition of dismissal, however, the owner or operator shall compensate the plaintiff for any actual damage sustained as a result of construction or operation of the facility before abandonment together with court costs and a reasonable attorney's fee.

(6) Nothing in this part prevents a court from enjoining any activity at a hazardous waste facility that is outside of, or not in compliance with, the terms and conditions of an approved hazardous waste operations plan.

Section ~~{37}~~38. Section **19-6-306** is amended to read:

19-6-306. Penalties -- Lawsuits.

(1) Any person who violates any final order or rule issued or made under this part is subject in a civil proceeding to a penalty of not more than $10,000 per day for each day of violation.

(2) Any person who violates the terms of any agreement made under authority of this part is subject in a civil proceeding to pay:

(a) any penalties stipulated in the agreement; or

(b) if no penalties are stipulated in the agreement, a penalty of not more than $10,000 per day for each day of violation.

(3) The executive director shall deposit all civil penalties collected under the authority of this section into the General Fund.

(4) (a) The executive director may enforce any orders issued under authority of this part by bringing a suit to enforce the order in [~~the district court in Salt Lake County or in the district court in the county where the hazardous substances release occurred~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the executive director brings a suit described in Subsection (4)(a) in the district court, the executive director

shall bring the suit in:

(i) Salt Lake County; or

(ii) the county where the hazardous substances release occurred.

[~~(b)~~] (c) After a remedial investigation has been completed, the executive director may bring a suit in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against all responsible parties, asking the court for injunctive relief and to apportion liability among the responsible parties for performance of remedial action.

Section ~~(38)~~39. Section **19-6-309** is amended to read:

19-6-309. Emergency provisions.

(1) (a) If the executive director has reason to believe any hazardous materials release that occurred after March 18, 1985, is presenting a direct and immediate threat to public health or the environment, the executive director may:

(i) issue an order requiring the owner or operator of the facility to take abatement action within the time specified in the order; or

(ii) bring suit on behalf of the state in [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to require the owner or operator to take immediate abatement action.

(b) If the executive director determines the owner or operator cannot be located or is unwilling or unable to take abatement action, the executive director may:

(i) reach an agreement with one or more potentially responsible parties to take abatement action; or

(ii) use fund money to investigate the release and take abatement action.

(2) The executive director may use money from the fund created in Section 19-6-307:

(a) for abatement action even if an adjudicative proceeding or judicial review challenging an order or a decision to take abatement action is pending; and

(b) to investigate a suspected hazardous materials release if he has reason to believe the release may present a direct and immediate threat to public health.

(3) This section takes precedence over any conflicting provision in this part.

Section ~~(39)~~40. Section **19-6-310** is amended to read:

19-6-310. Apportionment of liability -- Liability agreements -- Legal remedies.

(1) The executive director may recover only the proportionate share of costs of any

investigation and abatement performed under Section 19-6-309 and this section from each responsible party, as provided in this section.

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

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

(ii) the apportionment of liability shall be based on equitable factors, including the quantity, mobility, persistence, and toxicity of hazardous materials 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 operation of the facility, and the release is not the result of an act or omission of the current or 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 each responsible 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).

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

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

(h) Each responsible party is strictly liable solely for his proportionate share of investigation and abatement costs.

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

(4) (a) Any party who incurs costs under Section 19-6-309 and this section in excess of [~~his~~] the party's liability may seek contribution from any other party who is or may be liable under Section 19-6-309 and this section 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 (4)(a), the court shall allocate costs using the standards set forth in Subsection (2).

(5) (a) A party who has resolved his liability in an agreement under Section 19-6-309 and this section 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 who are not parties to the agreement, unless the terms of the agreement provide otherwise.

(ii) An agreement made under this subsection reduces the potential liability of other 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 Section 19-6-309 and this section, the executive director may bring an action against any party who has not resolved his liability in an

agreement.

(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 Section 19-6-309 and this section may seek contribution from any person who is not party to an agreement under Section 19-6-309 and this section.

(7) (a) An agreement made under Section 19-6-309 and 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 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 section regarding cost recovery.

Section ~~(40)~~41. Section **19-6-316** is amended to read:

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 respective contribution 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 operation of the facility, and the release is not the result of an act or omission of the current or 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 each responsible 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).

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

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

(h) Each responsible party is strictly liable solely for his proportionate share of investigation costs.

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

(4) (a) Any party who incurs costs under this part in excess of his liability may seek contribution from any other party who is or may be liable under this part 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 (4)(a), the court shall allocate costs using the standards set forth in Subsection (2).

(5) (a) A party who has resolved his liability in an agreement under Sections 19-6-314 through this section 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 who are 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 of other 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.

(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.

Section ~~{41}~~42. Section **19-6-318** is amended to read:

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 respective contribution 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 operation of the facility, and the release is not the result of an act or omission of the current or 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 each responsible 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 of liability.

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

(h) Each responsible party is strictly liable solely for his proportionate share of remedial action costs.

(2) The failure of the executive director to name all responsible parties is not a defense to 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 costs using 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 who are 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 of other 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.

(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 the authority of Sections 19-6-317 through 19-6-320 or any other applicable authority.

Section ~~{42}~~43. Section **19-6-325** is amended to read:

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

(1) (a) Under this part, and subject to Subsection (1)(b), the executive director may enter into a voluntary agreement with a responsible party providing for the responsible party to conduct an investigation or a cleanup action on sites that contain hazardous materials.

(b) The executive director and a responsible party may not enter into a voluntary agreement under this part unless all known potentially responsible parties:

(i) have been notified by either the executive director or the responsible party of the proposed agreement; and

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

(2) (a) The executive director may receive funds from any responsible party that signs a voluntary agreement allowing the executive director to:

(i) review any proposals outlining how the investigation or cleanup action is to be performed; and

(ii) oversee the investigation or cleanup action.

(b) Funds received by the executive director under this section shall be deposited in the 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 entered into under this part, the executive director may take action and seek penalties to enforce the agreement as provided in the agreement.

(4) The executive director may not use the provisions of Section 19-6-310, 19-6-316, or 19-6-318 to recover costs received or expended pursuant to a voluntary agreement from any person not a party to that agreement.

(5) (a) Any party who incurs costs under a voluntary agreement in excess of his liability may seek contribution from any other party who is or may be liable under this part 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 (5)(a), the court shall allocate costs using the standards in Subsection 19-6-310(2).

(6) This section takes precedence over conflicting provisions in this chapter regarding agreements with responsible parties to conduct an investigation or cleanup action.

Section ~~{43}~~44. Section **19-6-424.5** is amended to read:

19-6-424.5. Apportionment of liability -- Liability agreements -- Legal remedies -- Amounts recovered.

(1) After providing notice and opportunity for comment to responsible parties identified and named under Section 19-6-420, the director may:

(a) issue written orders determining responsible parties;

(b) issue written orders apportioning liability among responsible parties; and

(c) take action, including legal action or issuing written orders, to recover costs from responsible parties, including costs of any investigation, abatement, and corrective action performed under this part.

(2) (a) In any apportionment of liability, whether made by the director or made in any administrative proceeding or judicial action, the following standards apply:

(i) liability shall be apportioned among responsible parties in proportion to their respective contributions to the release; and

(ii) the apportionment of liability shall be based on equitable factors, including the quantity, mobility, persistence, and toxicity of regulated 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) (i) The burden of proving proportionate contribution shall be borne by each responsible party.

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

(c) The court, the board, or the director may not impose joint and several liability.

(d) Each responsible party is strictly liable for his share of costs.

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

(4) The director may enter into an agreement with any responsible party regarding that party's proportionate share of liability or any action to be taken by that party.

(5) The director and a responsible party may not enter into an agreement under this part unless all responsible parties named and identified under Subsection 19-6-420(1)(a):

(a) have been notified in writing by either the director or the responsible party of the proposed agreement; and

(b) have been given an opportunity to comment on the proposed agreement prior to the parties' 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 costs using the standards in Subsection (2).

(7) (a) A party who has resolved his liability under this part is not liable for claims for contribution 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 the potential 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.

(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 may seek 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~~] into the Petroleum Storage Tank Cleanup Fund created under Section 19-6-405.7.

Section ~~{44}~~45. Section **19-6-425** is amended to read:

19-6-425. Violation of part -- Civil penalty -- Civil action.

(1) Except as provided in Section 19-6-407, any person who violates any requirement of this part or any order issued or rule made under the authority of this part is subject to a civil 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 under this part by bringing [~~a suit in the district court~~] an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall bring an action in the county where the underground storage tank or petroleum storage tank is located if the director brings the action in the district court.

(3) The department shall deposit the penalties collected under this part in the Petroleum Storage Tank Restricted Account created under Section 19-6-405.5.

Section ~~{45}~~46. Section **19-6-804** is amended to read:

19-6-804. Restrictions on disposal and transfer of tires -- Penalties.

(1) (a) An individual, including a waste tire transporter, may not transfer for temporary storage more than 12 whole tires at one time to a landfill or other location in the state authorized by the director to receive waste tires, except for purposes authorized by board rule.

(b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter greater than 24.5 inches.

(c) A person, including a waste tire transporter, may not dispose of waste tires or store waste tires in any manner not allowed under this part or rules made under this part.

(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 disposed waste tires or material derived from waste tires.

(3) An individual, including a waste tire transporter, may dispose of shredded waste tires in a landfill in accordance with Section 19-6-812, and may also, without reimbursement, dispose in a landfill materials derived from waste tires that do not qualify for reimbursement under Section 19-6-812, but the landfill shall dispose of the material in accordance with Section 19-6-812.

(4) A tire retailer may only transfer ownership of a waste tire described in Subsection 19-6-803(28)(b) to:

(a) a person who purchases it for the person's own use and not for resale; or

(b) a waste tire transporter that:

(i) is registered in accordance with Section 19-6-806; and

(ii) agrees to transport the tire to:

(A) a tire retailer that sells the tire wholesale or retail; or

(B) a recycler.

(5) (a) (i) An individual, including a waste tire transporter, violating this section is subject to enforcement proceedings and a civil penalty of not more than $100 per waste tire or per passenger tire equivalent disposed of in violation of this section.

(ii) A warning notice may be issued before taking further enforcement action under this Subsection (5).

[~~(b) A civil proceeding to enforce this section and collect penalties under this section may be brought in the district court where the violation occurred by the director, the local health department, or the county attorney having jurisdiction over the location where the tires were disposed in violation of this section.~~]

(b) The director, the local health department, or the county attorney with jurisdiction over the location where the tires were disposed in violation of this section, may bring an action to enforce this section and collect penalties in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director, local health department, or county attorney shall bring an action described in Subsection (5)(b) in the county where the violation occurred if the action is brought in the district court.

[~~(c)~~] (d) Penalties collected under this section shall be deposited [~~in~~] into the fund.

Section ~~{46}~~47. Section **19-8-119** is amended to read:

19-8-119. Apportionment or contribution.

(1) Any party who incurs costs under a voluntary agreement entered into under this part in excess of the party's liability may seek contribution in an action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, from any other party who is or may be liable under Subsection 19-6-302(21) or 19-6-402(27) for the excess costs after providing written notice to any other party that the party bringing the action has entered into a voluntary agreement and will incur costs.

(2) In resolving claims made under Subsection (1), the court shall allocate costs using the standards in Subsection 19-6-310(2).

Section ~~{47}~~48. Section **23A-13-201** is amended to read:

23A-13-201. Creation of a migratory bird production area.

(1) (a) On or before July 1, 2022, an owner or owners of at least 500 contiguous acres of land in an unincorporated area may dedicate the land as a migratory bird production area by filing a notice of dedication with the county recorder of the county in which the land is located.

(b) The notice of dedication shall contain:

(i) the legal description of the land included within the migratory bird production area;

(ii) the name of the owner or owners of the land included within the migratory bird production area; and

(iii) an affidavit signed by each landowner that all of the land, except as provided by Subsection (2), within the migratory bird production area is:

(A) actively managed for migratory bird:

(I) production;

(II) habitat; or

(III) hunting; and

(B) used for a purpose compatible with the purposes described in Subsection (1)(b)(iii)(A).

(c) A person who files a notice of dedication under this section shall give a copy of the notice of dedication within 10 days of its filing to the legislative body of the county in which the migratory bird production area is located.

(2) (a) The notice of dedication may designate land, the amount of which is less than 1% of the total acreage within a migratory bird production area, upon which the landowner may build a structure described in Subsection 23A-13-302(1)(c).

(b) (i) An owner may build or maintain a road, dike, or water control structure within the migratory bird production area.

(ii) A road, dike, or water control structure is not considered a structure for purposes of Subsection (2)(a).

(3) (a) Within 30 days of the day on which the county legislative body receives a copy of the notice of dedication under Subsection (1)(c), the county legislative body may bring an action in [~~district court~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to cancel or revise a migratory bird production area on the basis that an affidavit filed as part of the notice of dedication under Subsection (1)(b)(iii) is inaccurate.

(b) In bringing the action, the county legislative body shall specify the portion of the migratory bird production area and the affidavit subject to the action.

(c) In an action brought under this Subsection (3), the person who files an affidavit described in Subsection (3)(a) has the burden to prove by a preponderance of the evidence that the affidavit is accurate.

(d) If the court cancels or revises a migratory bird production area, the person who filed the original notice of dedication shall file a revision notice with the county recorder reflecting the court's order.

(4) In accordance with Section 23A-13-202, a person may at any time add land to a migratory bird production area created under this section.

Section ~~{48}~~49. Section **26B-3-1110** is amended to read:

26B-3-1110. Revocation of license of assisted living facility -- Appointment of receiver.

(1) (a) If the license of an assisted living facility is revoked for violation of this part, the county attorney may [~~file a petition with the district court for the county in which the facility is located~~] bring a petition in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for the appointment of a receiver.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall bring the petition in the county in which the facility is located if the person brings the petition

in the district court.

(2) The [~~district~~] court shall issue an order to show cause why a receiver should not be appointed returnable within five days after the filing of the petition.

(3) (a) If the court finds that the facts warrant the granting of the petition, the court shall appoint a receiver to take charge of the facility.

(b) The court may determine fair compensation for the receiver.

(4) A receiver appointed pursuant to this section shall have the powers and duties prescribed by the court.

Section ~~{49}~~50. Section **26B-3-1114** is amended to read:

26B-3-1114. Investigations -- Civil investigative demands.

(1) The attorney general may take investigative action under Subsection (2) if the attorney general has reason to believe that:

(a) a person has information or custody or control of documentary material relevant to the subject matter of an investigation of an alleged violation of this part;

(b) a person is committing, has committed, or is about to commit a violation of this part; or

(c) it is in the public interest to conduct an investigation to ascertain whether or not a person is committing, has committed, or is about to commit a violation of this part.

(2) In taking investigative action, the attorney general may:

(a) require the person to file on a prescribed form a statement in writing, under oath or affirmation describing:

(i) the facts and circumstances concerning the alleged violation of this part; and

(ii) other information considered necessary by the attorney general;

(b) examine under oath a person in connection with the alleged violation of this part; and

(c) in accordance with Subsections (7) through (18), execute in writing, and serve on the person, a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying of the material.

(3) The attorney general may not release or disclose information that is obtained under Subsection (2)(a) or (b), or any documentary material or other record derived from the information obtained under Subsection (2)(a) or (b), except:

(a) by court order for good cause shown;

(b) with the consent of the person who provided the information;

(c) to an employee of the attorney general or the department;

(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;

(f) to a political subdivision of this state; or

(g) to a person authorized by the attorney general to receive the information.

(4) The attorney general may use documentary material derived from information obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general determines necessary in the enforcement of this part, including presentation before a court.

(5) (a) If a person fails to file a statement as required by Subsection (2)(a) or fails to submit to an examination as required by Subsection (2)(b), the attorney general may [~~file in district court~~] bring in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, a complaint for an order to compel the person to within a period stated by court order:

(i) file the statement required by Subsection (2)(a); or

(ii) submit to the examination required by Subsection (2)(b).

(b) Failure to comply with an order entered under Subsection (5)(a) is punishable as contempt.

(6) A civil investigative demand shall:

(a) state the rule or statute under which the alleged violation of this part is being investigated;

(b) describe the:

(i) general subject matter of the investigation; and

(ii) class or classes of documentary material to be produced with reasonable specificity to fairly indicate the documentary material demanded;

(c) designate a date within which the documentary material is to be produced; and

(d) identify an authorized employee of the attorney general to whom the documentary material is to be made available for inspection and copying.

(7) A civil investigative demand may require disclosure of any documentary material that is discoverable under the Utah Rules of Civil Procedure.

(8) Service of a civil investigative demand may be made by:

(a) delivering an executed copy of the demand to the person to be served or to a partner, an officer, or an agent authorized by appointment or by law to receive service of process on behalf of that person;

(b) delivering an executed copy of the demand to the principal place of business in this state of the person to be served; or

(c) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served:

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

(ii) if the person has no place of business in this state, to the person's principal office or place of business.

(9) Documentary material demanded in a civil investigative demand shall be produced for inspection and copying during normal business hours at the office of the attorney general or as agreed by the person served and the attorney general.

(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 demand except:

(a) by court order for good cause shown;

(b) with the consent of the person who produced the information;

(c) to an employee of the attorney general or the department;

(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;

(f) to a political subdivision of this state; or

(g) to a person authorized by the attorney general to receive the information.

(11) (a) With respect to documentary material obtained pursuant to a civil investigative demand, the attorney general shall prescribe reasonable terms and conditions allowing such documentary material to be available for inspection and copying by the person who produced 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 attorney general determines necessary in the enforcement of this part, including presentation before a court.

(12) (a) A person may file a complaint, stating good cause, to extend the return date for the demand or to modify or set aside the demand.

(b) A complaint under this Subsection (12) shall be filed in [~~district~~] court before the earlier of:

(i) the return date specified in the demand; or

(ii) the 20th day after the date the demand is served.

(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.

(14) (a) A person who has committed a violation of this part in relation to the Medicaid program in this state or to any other medical benefit program administered by the state has submitted to the jurisdiction of this state.

(b) Personal service of a civil investigative demand under this section may be made on the person described in Subsection (14)(a) outside of this state.

(15) This section does not limit the authority of the attorney general to conduct investigations or to access a person's documentary materials or other information under another state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

(16) The attorney general may [~~file a complaint in district court~~] bring a complaint in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order to enforce the civil investigative demand if:

(a) a person fails to comply with a civil investigative demand; or

(b) copying and reproduction of the documentary material demanded:

(i) cannot be satisfactorily accomplished; and

(ii) the person refuses to surrender the documentary material.

(17) If a complaint is filed under Subsection (16), the court may determine the matter presented and may enter an order to enforce the civil investigative demand.

(18) Failure to comply with a final order entered under Subsection (17) is punishable by contempt.

Section ~~{50}~~51. Section **26B-3-1115** is amended to read:

26B-3-1115. Limitation of actions -- Civil acts antedating this section -- Civil burden of proof -- Estoppel -- Joint civil liability -- Venue.

(1) An action under this part may not be brought after the later of:

(a) six years after the date on which the violation was committed; or

(b) three years after the date an official of the state charged with responsibility to act in the circumstances discovers the violation, but in no event more than 10 years after the date on which the violation was committed.

(2) A civil action brought under this part may be brought for acts occurring prior to the effective date of this section if the limitations period set forth in Subsection (1) has not lapsed.

(3) In any civil action brought under this part the state shall be required to prove by a preponderance of evidence, all essential elements of the cause of action including damages.

(4) Notwithstanding any other provision of law, a final judgment rendered in favor of the state in any criminal proceeding under this part, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any civil action under this part which involves the same transaction.

(5) Civil liability under this part shall be joint and several for a violation committed by two or more persons.

(6) A person shall bring an action under this part:

(a) in Salt Lake County; or

(b) in accordance with Title 78A, Chapter 3a, Venue for Civil Actions.

[~~(6) Any action brought by the state under this part shall be brought in district court in Salt Lake County or in any county where the defendant resides or does business.~~]

Section ~~{51}~~52. Section **31A-22-305** is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(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 caused by 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 of the 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 extent that 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;

(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 the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(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.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured 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:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of

uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to 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.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (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:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(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 liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(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 reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing 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 covered person.

(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;

(v) may not be collected for bodily injury or death sustained by a person:

(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 operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(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 under Section 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 under Subsection (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 covered person is occupying.

(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 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage

bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(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:

(i) by submitting the claim to binding arbitration; or

(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.

(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.

(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 additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

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

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

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

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist

policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means; and

(ii) [~~either party,~~] within 20 days after service of the arbitration award, a party:

(A) files a complaint requesting a trial de novo in [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation [~~pursuant to~~] in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence [~~in the district court~~].

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, [~~either~~] a party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)

shall include:

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

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a [~~district~~] court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the [~~district~~] court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which

uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured 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 care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

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

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

(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 uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

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

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

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

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured 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 (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.

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

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

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

(C) if 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, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the 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 uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist 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 uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

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

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits 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 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured 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 uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

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

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

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

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

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

(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 (10)(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 uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(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).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) (A) The written demand requirement in Subsection (10)(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.

(B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(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 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to

binding arbitration or through litigation on or after May 13, 2014.

(11) (a) A person shall commence an action on a written policy or contract for uninsured motorist coverage within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section ~~{52}~~53. Section **31A-22-305.3** is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be 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, 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;

(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.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for 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.

(ii) The adding of an additional motor vehicle to an existing personal lines or 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:

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

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to 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.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

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

(l) (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:

(A) the purpose of underinsured motorist coverage in the same manner as described in 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.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured 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.

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

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

(iii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(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.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iv) A covered person's recovery under any available policies may not exceed the full 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.

(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.

(ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(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);

(ii) may not be subrogated by a 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 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 is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(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 operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is 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.

(5) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for underinsured motorist coverage shall be commenced within four years after the inception of loss.

(b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the settlement check representing the last liability

policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(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 (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(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 (8).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means; or

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

(A) files a complaint requesting a trial de novo in the [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation [~~pursuant to~~] in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence [~~in the district court~~].

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

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

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a [~~district~~] court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the [~~district~~] court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the 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 care providers who have rendered health care services to the covered person, 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 has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to 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;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person 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;

(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:

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

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

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

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

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

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

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

(C) if 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, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the 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.

(d) A covered person who receives a written response from an underinsured motorist 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 underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election 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).

(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 motorist benefits 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

(ii) any of the following applicable costs:

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

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

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

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

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

(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 arise against the underinsured motorist carrier from the same dispute.

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

(l) (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)(l) 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.

Section ~~{53}~~54. Section **31A-22-321** is amended to read:

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

(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:

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

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

(ii) filed a notice to submit the claim to arbitration within 14 days after the complaint has been answered; and

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

(2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the party submitting the claim or the party's representative is limited to an arbitration award that does not exceed $50,000 in addition to any available personal injury protection benefits and any claim for property damage.

(b) A claim for reimbursement of personal injury protection benefits is to be resolved between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).

(c) A claim for property damage may not be made in an arbitration proceeding under Subsection (1) unless agreed upon by the parties in writing.

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

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

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

(e) (i) This section does not prevent a party from pursuing an underinsured motorist claim as set out in Section 31A-22-305.3.

(ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to the $50,000 limit described in Subsection (2)(a).

(iii) There shall be no right of subrogation on the part of the underinsured motorist

carrier for a claim submitted to arbitration under this section.

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

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

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

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

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

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

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

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

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

(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.

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

(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.

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

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

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

(i) each side shall select one arbitrator; and

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

(7) Unless otherwise agreed to in writing:

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

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

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

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

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

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

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

(c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the [~~district~~] court in which the matter is filed.

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

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

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

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

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

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

(b) the arbitration award has been satisfied.

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

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

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

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

(b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).

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

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

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

(ii) the costs of expert witnesses and depositions.

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

(14) (a) If a defendant, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs.

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

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

(ii) the costs of expert witnesses and depositions.

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

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

(a) was not fully disclosed in writing prior to the arbitration proceeding; or

(b) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

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

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

(18) (a) If a defendant requests a trial de novo under Subsection (11), in no event can the total verdict at trial exceed $15,000 above any available limits of insurance coverage and in no event can the total verdict exceed $65,000.

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

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

(20) If a party requests a trial de novo under Subsection (11), the party shall file a copy of the notice requesting a trial de novo with the commissioner notifying the commissioner of the party's request for a trial de novo under Subsection (11).

Section ~~{54}~~55. Section **32B-4-205** is amended to read:

32B-4-205. Prosecutions.

(1) (a) A prosecution for a violation of this title shall be in the name of the state.

(b) A criminal action for violation of a county or municipal ordinance enacted in furtherance of this title shall be in the name of the governmental entity involved.

(2) (a) A prosecution for violation of this title shall be brought by the county attorney of the county or district attorney of the prosecution district where the violation occurs. If a county attorney or district attorney fails to initiate or diligently pursue a prosecution authorized and warranted under this title, the attorney general shall exercise supervisory authority over the 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.

(c) A city or town prosecutor has the responsibility of initiating and diligently pursuing prosecutions for a violation of a local ordinance enacted in furtherance of this title or commission rules.

(3) [~~(a) A prosecution for a violation of this title shall be commenced~~] Notwithstanding Section 76-1-201, a prosecuting attorney shall commence a prosecution by the return of an indictment or the filing of an information [~~with the district court of the~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the county in which the offense occurs or where the premises are located upon which an alcoholic product is seized, if the offense involves an alcoholic product.

[~~(b) An offense prescribed by this title that is not described in Subsection (3)(a) shall be filed before a court having jurisdiction of the offense committed.~~]

(4) (a) Unless otherwise provided by law, an information may not be filed charging the commission of a felony or class A misdemeanor under this title unless authorized by a prosecuting attorney.

(b) This Subsection (4) does not apply if the magistrate has reasonable cause to believe that the person to be charged may avoid apprehension or escape before approval can be obtained.

(5) (a) In describing an offense respecting the sale, keeping for sale, or other disposal of an alcoholic product, or the possessing, keeping, purchasing, consumption, or giving of an alcoholic product in an information, indictment, summons, judgment, warrant, or proceeding under this title, it is sufficient to state the possessing, purchasing, keeping, sale, keeping for sale, giving, consumption, or disposal of the alcoholic product without stating:

(i) the name or kind of alcoholic product;

(ii) the price of the alcoholic product;

(iii) any person to whom the alcoholic product is sold or disposed of;

(iv) by whom the alcoholic product is taken or consumed; or

(v) from whom the alcoholic product is purchased or received.

(b) It is not necessary to state the quantity of alcoholic product possessed, purchased, kept, kept for sale, sold, given, consumed, or disposed of, except in the case of an offense when the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less

than the quantity.

(6) If an offense is committed under a local ordinance enacted to carry out this title, it is sufficient if the charging document refers to the chapter and section of the ordinance under which the offense is committed.

Section ~~{55}~~56. Section **34-20-10** is amended to read:

34-20-10. Unfair labor practices -- Powers of board to prevent -- Procedure.

(1) (a) The board may prevent any person from engaging in any unfair labor practice, as listed in Section 34-20-8, affecting intrastate commerce or the orderly operation of industry.

(b) This authority is exclusive and is not affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

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

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

(b) The order may require the person to make periodic reports showing the extent to 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 78A, Judiciary and Judicial Administration, to enforce the order and for appropriate temporary relief or for a restraining order.

(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

(iii) the findings and order of the board.

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

(d) Upon filing of the petition, the court has jurisdiction of the proceeding and of the 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.

(f) The court may not consider any objection that was not presented before the board, its member, agent, or agency, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances.

(g) The board's findings of fact, if supported by evidence, are conclusive.

(h) (i) If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the board, its member, agent, or agency, the court may order additional evidence to be taken before the board, its member, agent, or agency, and to be made part of the transcript.

(ii) The board may modify its findings as to the facts, or make new findings, because of the additional evidence taken and filed.

(iii) The board shall file the modified or new findings, which, if supported by evidence, are conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order.

Section ~~{56}~~57. Section **34-20-11** is amended to read:

34-20-11. Hearings and investigations -- Power of board -- Witnesses -- Procedure.

For the purpose of all hearings and investigations, which, in the opinion of the board, are necessary and proper for the exercise of the powers vested in it by Sections 34-20-9 and 34-20-10:

(1) The board, or its duly authorized agents or agencies, shall at all reasonable times have access to, for the purpose of examination, and the right to copy, any evidence of any person being investigated or proceeded against that relates to any matter under investigation or

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 matter under investigation or in question, before the board, its member, agent, or agency conducting the hearing or investigation. Any member of the board, or any agent or agency designated by the board, for these purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Attendance of witnesses and the production of evidence may be required from any place in the state at any duly designated place of hearing.

(2) (a) In case of contumacy or refusal to obey a subpoena issued to any person, [~~any 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 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may issue an order requiring the person to:

(i) appear before the board, [~~its~~] or the board's member, agent, or agency, to produce evidence if so ordered[~~, or to~~]; or

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

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

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

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

Section ~~{57}~~58. Section **34-28-9.5** is amended to read:

34-28-9.5. Private cause of action.

(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.

(2) An employee may file an action for a wage claim in [~~district~~] a court without exhausting the administrative remedies described in Section 34-28-9 and rules made by the commission under Section 34-28-9 if:

(a) the employee's wage claim is over $10,000;

(b) (i) the employee's wage claim is less than or equal to $10,000;

(ii) the employee asserts one or more additional claims against the same employer; and

(iii) the aggregate amount of damages resulting from the claims described in this Subsection (2)(b) is greater than $10,000; or

(c) (i) in the same civil action, more than one employee files a wage claim against an employer; and

(ii) the aggregate amount of the employees' combined wage claim is greater than $10,000.

(3) In an action under this section, the court may award an employee:

(a) actual damages;

(b) an amount equal to 2.5% of the unpaid wages owed to the employee, assessed daily for the lesser of:

(i) the period beginning the day on which the court issues a final order and ending the day on which the employer pays the unpaid wages owed to the employee; or

(ii) 20 days after the day on which the court issues a final order; and

(c) a penalty described in Subsection 34-28-5(1)(c), if applicable.

Section ~~{58}~~59. Section **34A-1-407** is amended to read:

34A-1-407. Investigation of places of employment -- Violations of rules or orders

-- Temporary injunction.

(1) (a) Upon complaint by any person that any employment or place of employment, regardless of the number of persons employed, is not safe for any employee or is in violation of state law, the commission shall refer the complaint for investigation and administrative action under:

(i) Chapter 2, Workers' Compensation Act;

(ii) Chapter 3, Utah Occupational Disease Act;

(iii) Chapter 5, Utah Antidiscrimination Act;

(iv) Chapter 6, Utah Occupational Safety and Health Act;

(v) Chapter 7, Safety; or

(vi) any combination of Subsections (1)(a)(i) through (v).

(b) Notwithstanding Subsection (1)(a) and Title 40, Chapter 2, Coal Mine Safety Act, for any Utah mine subject to the Federal Mine Safety and Health Act, the sole duty of the commission is to notify the appropriate federal agency of the complaint.

(2) Notwithstanding any other penalty provided in this title, if any employer, after receiving notice, fails or refuses to obey the rules or order of the commission relative to the protection of the life, health, or safety of any employee, [~~the district court of Utah~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, is empowered, upon petition of the commission to issue, ex parte and without bond, a temporary injunction restraining the further operation of the employer's business.

Section ~~{59}~~60. Section **34A-5-102** is amended to read:

34A-5-102. Definitions -- Unincorporated entities -- Joint employers -- Franchisors.

(1) As used in this chapter:

(a) "Affiliate" means the same as that term is defined in Section 16-6a-102.

(b) "Apprenticeship" means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.

(c) "Bona fide occupational qualification" means a characteristic applying to an employee that:

(i) is necessary to the operation; or

(ii) is the essence of the employee's employer's business.

[~~(d) "Court" means:~~]

[~~(i) the district court in the judicial district of the state in which the asserted unfair employment practice occurs; or~~]

[~~(ii) if the district court is not in session at that time, a judge of the court described in Subsection (1)(d)(i).~~]

(d) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(e) "Director" means the director of the division.

(f) "Disability" means a physical or mental disability as defined and covered by the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

(g) "Division" means the Division of Antidiscrimination and Labor.

(h) "Employee" means a person applying with or employed by an employer.

(i) (i) "Employer" means:

(A) the state;

(B) a political subdivision;

(C) a board, commission, department, institution, school district, trust, or agent of the state or a political subdivision of the state; or

(D) a person employing 15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year.

(ii) "Employer" does not include:

(A) a religious organization, a religious corporation sole, a religious association, a religious society, a religious educational institution, or a religious leader, when that individual is acting in the capacity of a religious leader;

(B) any corporation or association constituting an affiliate, a wholly owned subsidiary, or an agency of any religious organization, religious corporation sole, religious association, or religious society; or

(C) the Boy Scouts of America or its councils, chapters, or subsidiaries.

(j) "Employment agency" means a person:

(i) undertaking to procure employees or opportunities to work for any other person; or

(ii) holding the person out to be equipped to take an action described in Subsection (1)(j)(i).

(k) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(l) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(m) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(n) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(o) "Gender identity" has the meaning provided in the Diagnostic and Statistical Manual (DSM-5). A person's gender identity can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person's core identity, and not being asserted for an improper purpose.

(p) "Joint apprenticeship committee" means an association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

(q) "Labor organization" means an organization that exists for the purpose in whole or in part of:

(i) collective bargaining;

(ii) dealing with employers concerning grievances, terms or conditions of employment; or

(iii) other mutual aid or protection in connection with employment.

(r) "National origin" means the place of birth, domicile, or residence of an individual or of an individual's ancestors.

(s) "On-the-job-training" means a program designed to instruct a person who, while learning the particular job for which the person is receiving instruction:

(i) is also employed at that job; or

(ii) may be employed by the employer conducting the program during the course of the program, or when the program is completed.

(t) "Person" means:

(i) one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, or receivers;

(ii) the state; and

(iii) a political subdivision of the state.

(u) "Pregnancy, childbirth, or pregnancy-related conditions" includes breastfeeding or medical conditions related to breastfeeding.

(v) "Presiding officer" means the same as that term is defined in Section 63G-4-103.

(w) "Prohibited employment practice" means a practice specified as discriminatory, and therefore unlawful, in Section 34A-5-106.

(x) "Religious leader" means an individual who is associated with, and is an authorized 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 advisor.

(y) "Retaliate" means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training program, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member:

(i) opposes an employment practice prohibited under this chapter; or

(ii) files charges, testifies, assists, or participates in any way in a proceeding, investigation, or hearing under this chapter.

(z) "Sexual orientation" means an individual's actual or perceived orientation as heterosexual, homosexual, or bisexual.

(aa) "Undue hardship" means an action that requires significant difficulty or expense when considered in relation to factors such as the size of the entity, the entity's financial resources, and the nature and structure of the entity's operation.

(bb) "Unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

(cc) "Vocational school" means a school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

(2) (a) For purposes of this chapter, an unincorporated entity that is required to be

licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least an 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

(3) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(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 that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

(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

employment practice occurs if the action is brought in the district court.

Section ~~{60}~~61. Section **34A-6-202** is amended to read:

34A-6-202. Standards -- Procedure for issuance, modification, or revocation by division -- Emergency temporary standard -- Variances from standards -- Statement of reasons for administrator's actions -- Judicial review -- Priority for establishing standards.

(1) (a) The division, as soon as practicable, shall issue as standards any national consensus standard, any adopted federal standard, or any adopted Utah standard, unless it determines that issuance of the standard would not result in improved safety or health.

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

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

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

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

(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 feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if the employee has regular exposure to the hazard during an employee's working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and other information deemed appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience under this and other health and safety laws. Whenever practicable, the standard shall be expressed in terms of objective criteria and of the performance desired.

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

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

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

(C) establishes that the employer is taking all available steps to safeguard the employer's employees against hazards; and

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

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

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

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

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

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

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

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

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

and

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

(I) giving a copy to their authorized representative;

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

(III) by other appropriate means.

(v) The certification required under Subsection (2)(c)(iv) shall contain a description of how employees have been informed.

(vi) The information to employees required under Subsection (2)(c)(v) shall inform the employees of their right to petition the division for a hearing.

(vii) The administrator is authorized to grant a variance from any standard or some part of the standard when the administrator determines that it is necessary to permit an employer to participate in a research and development project approved by the administrator to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

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

(e) Whenever a rule issued by the administrator differs substantially from an existing national consensus standard, the division shall publish a statement of the reasons why the rule as adopted will better effectuate the purposes of this chapter than the national consensus standard.

(f) Whenever a rule, standard, or national consensus standard is modified by the secretary so as to make less restrictive the federal Williams-Steiger Occupational Safety and Health Act of 1970, the less restrictive modification shall be immediately applicable to this chapter and shall be immediately implemented by the division.

(3) (a) The administrator shall provide an emergency temporary standard to take immediate effect upon publication if the administrator determines that:

(i) employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards; and

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

(b) An emergency standard shall be effective until superseded by a standard issued in accordance with the procedures prescribed in this Subsection (3)(c).

(c) Upon publication of an emergency standard the division shall commence a proceeding in accordance with Subsection (2) and the standard as published shall serve as a proposed rule for the proceedings. The division shall issue a standard under Subsection (3) no later than 120 days after publication of the emergency standard.

(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 each application and may participate in a hearing. The administrator shall issue a rule or order if the administrator determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and a workplace to the employer's employees that are as safe and healthful as those which would 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.

(c) A rule or order issued under Subsection (4)(a) may be modified or revoked upon application by an employer, employees, or by the administrator on its own motion, in the manner prescribed for its issuance under this Subsection (4) at any time after six months from its issuance.

(5) The administrator shall include a statement of reasons for the administrator's actions when the administrator:

(a) issues any code, standard, rule, or order;

(b) grants any exemption or extension of time; or

(c) compromises, mitigates, or settles any penalty assessed under this chapter.

(6) Any person adversely affected by a standard issued under this section, at any time prior to 60 days after a standard is issued, may file a petition challenging [~~its~~] the standard's validity with [~~the district court having jurisdiction for judicial review~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration. A copy of the petition shall be served upon the division by the petitioner. The filing of a petition may not, unless otherwise ordered by the court, operate as a stay of the standard. The determinations of the division shall be conclusive if supported by substantial evidence on the record as a whole.

(7) In determining the priority for establishing standards under this section, the division shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The administrator shall also give due regard to the recommendations of the Department of Health and Human Services about the need for mandatory standards in determining the priority for establishing the standards.

Section ~~{61}~~62. Section **38-1a-308** is amended to read:

38-1a-308. Intentional submission of excessive lien notice -- Criminal and civil liability.

(1) As used in this section, "residential project" means a project on real property:

(a) for which a preconstruction service or construction work is provided; and

(b) that consists of:

(i) one single-family residence; or

(ii) one multi-family residence that contains no more than four units.

(2) A person is guilty of a class B misdemeanor if:

(a) the person intentionally submits for recording a notice of preconstruction lien or notice of construction lien against any property containing a greater demand than the sum due; and

(b) by submitting the notice, the person intends:

(i) to cloud the title;

(ii) to exact from the owner or person liable by means of the excessive notice of preconstruction or construction lien more than is due; or

(iii) to procure any unjustified advantage or benefit.

(3) (a) As used in this Subsection (3), "third party" means an owner, original contractor, or subcontractor.

(b) In addition to any criminal penalty under Subsection (2), a person who submits a notice of preconstruction lien or notice of construction lien as described in Subsection (2) is liable to a third party who is affected by the notice of preconstruction lien or the notice of construction lien for twice the amount by which the lien notice exceeds the amount actually due or the actual damages incurred by the owner, original contractor, or subcontractor, whichever is greater.

(4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the claim shall arbitrate in accordance with Subsections (5) through (15) if the notice of preconstruction lien, or the notice of construction lien, that is the subject of the claim is:

(a) for a residential project; and

(b) for $50,000 or less.

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

(b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within 60 days after the day on which an answer is filed.

(c) If the parties are unable to agree on a single arbitrator as required under Subsection (5)(b), the parties shall select a panel of three arbitrators.

(d) If the parties select a panel of three arbitrators under Subsection (5)(c):

(i) each side shall select one arbitrator; and

(ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional arbitrator to be included in the panel.

(6) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (5)(b); or

(b) if an arbitration panel is selected under Subsection (5)(d):

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

(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (5)(d)(ii).

(7) Except as otherwise provided in this section or otherwise agreed to by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(8) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the Utah Rules of Evidence shall apply to an arbitration proceeding under this section.

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

(c) Subject to the provisions of this section, [~~discovery shall be conducted in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the district court in which the claim is filed~~] the parties shall conduct discovery in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.

(d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an arbitration proceeding under this section shall be limited to the discovery available in a tier 1 case under Rule 26 of the Utah Rules of Civil Procedure.

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

(10) An arbitration award issued under this section:

(a) shall be the final resolution of all excessive notice claims described in Subsection (3)(b) that are:

(i) between the parties;

(ii) for a residential project; and

(iii) for $50,000 or less; and

(b) may be reduced to judgment by the court upon motion and notice, unless:

(i) any party, within 20 days after the day on which the arbitration award is served, files a notice requesting a trial de novo in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; or

(ii) the arbitration award has been satisfied.

(11) (a) Upon filing a notice requesting a trial de novo under Subsection [~~(10)~~] (10)(b)(i):

(i) unless otherwise stipulated to by the parties or ordered by the court, the parties are allowed an additional 60 days for discovery; and

(ii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the Utah Rules of Civil Procedure and the Utah Rules of Evidence [~~in the district court~~].

(b) The additional discovery time described in Subsection (11)(a)(i) shall run from the day on which the notice requesting a trial de novo is filed.

(12) If the plaintiff, as the moving party in a trial de novo requested under Subsection [~~(10)~~] (10)(b)(i), does not obtain a verdict that is at least 10% greater than the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs, including expert witness fees.

(13) If a defendant, as the moving party in a trial de novo requested under Subsection [~~(10)~~] (10)(b)(i), does not obtain a verdict that is at least 10% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs, including expert witness fees.

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

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

Section ~~{62}~~63. Section **38-1a-804** is amended to read:

38-1a-804. Notice of release of lien and substitution of alternate security.

(1) The owner of any interest in a project property that is subject to a recorded preconstruction or construction lien, or any original contractor or subcontractor affected by the

lien, who disputes the correctness or validity of the lien may submit for recording a notice of release of lien and substitution of alternate security:

(a) that meets the requirements of Subsection (2);

(b) in the office of each applicable county recorder where the lien was recorded; and

(c) at any time before the date that is 180 days after the first summons is served in an action to foreclose the preconstruction or construction lien for which the notice under this section is submitted for recording.

(2) A notice of release of lien and substitution of alternate security recorded under Subsection (1) shall:

(a) meet the requirements for the recording of documents in Title 57, Chapter 3, Recording of Documents;

(b) reference the preconstruction or construction lien sought to be released, including the applicable entry number, book number, and page number; and

(c) have as an attachment a surety bond or evidence of a cash deposit that:

(i) (A) if a surety bond, is executed by a surety company that is treasury listed, A-rated by AM Best Company, and authorized to issue surety bonds in this state; or

(B) if evidence of a cash deposit, meets the requirements established by rule by the Department of Commerce in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) is in an amount equal to:

(A) 150% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for $25,000 or more;

(B) 175% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for at least $15,000 but less than $25,000; or

(C) 200% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for less than $15,000;

(iii) is made payable to the claimant;

(iv) is conditioned for the payment of:

(A) the judgment that would have been rendered, or has been rendered against the project property in the action to enforce the lien; and

(B) any costs and attorney fees awarded by the court; and

(v) has as principal:

(A) the owner of the interest in the project property; or

(B) the original contractor or subcontractor affected by the lien.

(3) (a) Upon the recording of the notice of release of lien and substitution of alternate security under Subsection (1), the real property described in the notice shall be released from the preconstruction lien or construction lien to which the notice applies.

(b) A recorded notice of release of lien and substitution of alternate security is effective as to any amendment to the preconstruction or construction lien being released if the bond amount remains enough to satisfy the requirements of Subsection (2)(c)(ii).

(4) (a) Upon the recording of a notice of release of lien and substitution of alternate security under Subsection (1), the person recording the notice shall serve a copy of the notice, together with any attachments, within 30 days upon the claimant.

(b) If a suit is pending to foreclose the preconstruction or construction lien at the time the notice is served upon the claimant under Subsection (4)(a), the claimant shall, within 90 days after the receipt of the notice, institute proceedings to add the alternate security as a party to the lien foreclosure suit.

(5) The alternate security attached to a notice of release of lien shall be discharged and released upon:

(a) the failure of the claimant to commence a suit against the alternate security within the same time as an action to enforce the lien under Section 38-1a-701;

(b) the failure of the lien claimant to institute proceedings to add the alternate security as a party to a lien foreclosure suit within the time required by Subsection (4)(b);

(c) the dismissal with prejudice of the lien foreclosure suit or suit against the alternate security as to the claimant; or

(d) the entry of judgment against the claimant in:

(i) a lien foreclosure suit; or

(ii) suit against the alternate security.

(6) If a copy of the notice of release of lien and substitution of alternate security is not

served upon the claimant as provided in Subsection (4)(a), the claimant has six months after the discovery of the notice to commence an action against the alternate security, except that no action may be commenced against the alternate security after two years from the date the notice was recorded.

(7) (a) (i) The owner of any interest in a project property that is subject to a recorded preconstruction or construction lien, or an original contractor or subcontractor affected by the lien, who disputes the amount claimed under a preconstruction or construction lien may petition [~~the district court in the county in which the notice of lien is recorded~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a summary determination of the correct amount owing under the lien for the sole purpose of providing alternate security.

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring a petition described in Subsection (7)(a)(i) in the county in which the notice of lien is recorded if the person brings the petition in the district court.

(b) A petition under this Subsection (7) shall:

(i) state with specificity the factual and legal bases for disputing the amount claimed under the preconstruction or construction lien; and

(ii) be supported by a sworn affidavit and any other evidence supporting the petition.

(c) A petitioner under Subsection (7)(a) shall, as provided in Utah Rules of Civil Procedure, Rule 4, serve on the claimant:

(i) a copy of the petition; and

(ii) a notice of hearing if a hearing is scheduled.

(d) If a court finds a petition under Subsection (7)(a) insufficient, the court may dismiss the petition without a hearing.

(e) If a court finds a petition under Subsection (7)(a) sufficient, the court shall schedule a hearing within 10 days to determine the correct amount claimed under the preconstruction or construction lien for the sole purpose of providing alternate security.

(f) A claimant may:

(i) attend a hearing held under this Subsection (7); and

(ii) contest the petition.

(g) A determination under this section is limited to a determination of the amount

claimed under a preconstruction or construction lien for the sole purpose of providing alternate security and does not conclusively establish:

(i) the amount to which the claimant is entitled;

(ii) the validity of the claim; or

(iii) any person's right to any other legal remedy.

(h) If a court, in a proceeding under this Subsection (7), determines that the amount claimed under a preconstruction or construction lien is excessive, the court shall set the amount for the sole purpose of providing alternate security.

(i) In an order under Subsection (7)(h), the court shall include a legal description of the project property.

(j) A petitioner under this Subsection (7) may record a certified copy of any order issued under this Subsection (7) in the county in which the lien is recorded.

(k) A court may not award attorney fees for a proceeding under this Subsection (7), but shall consider those attorney fees in any award of attorney fees under any other provision of this chapter.

Section ~~{63}~~64. Section **38-1a-805** is amended to read:

38-1a-805. Failure to file notice -- Petition to nullify preconstruction or construction lien -- Expedited proceeding.

(1) (a) An owner of an interest in a project property that is subject to a recorded preconstruction lien or a recorded construction lien may petition [~~the district court in the county in which the project property is located~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for summary relief to nullify the preconstruction lien or the construction lien if:

[~~(a)~~] (i) the owner claims that the preconstruction lien or the construction lien is invalid because:

[~~(i)~~] (A) the lien claimant did not timely file a notice of preconstruction service under Section 38-1a-401; or

[~~(ii)~~] (B) the lien claimant did not timely file a preliminary notice under Section 38-1a-501;

[~~(b)~~] (ii) the owner sent the lien claimant a written request to withdraw in accordance with Subsection (2); and

[~~(c)~~] (iii) the lien claimant did not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the owner sent the written request to withdraw.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring a petition described in Subsection (1)(a) in the county in which the project property is located if the person brings the petition in the district court.

(2) A written request to withdraw described in Subsection (1) shall:

(a) be delivered by certified mail to the lien claimant at the lien claimant's address provided in the recorded preconstruction lien or the recorded construction lien;

(b) state the owner's name, address, and telephone number;

(c) contain:

(i) (A) the name of the county in which the property that is subject to the preconstruction lien or the construction lien is located; and

(B) the tax parcel identification number of each parcel that is subject to the preconstruction lien or the construction lien; or

(ii) a legal description of the property that is subject to the preconstruction lien or the construction lien;

(d) state that the lien claimant has failed to timely file:

(i) a notice of preconstruction service under Section 38-1a-401; or

(ii) a preliminary notice under Section 38-1a-501;

(e) request that the lien claimant withdraw the lien claimant's preconstruction lien or construction lien within 10 business days after the day on which the written request to withdraw is sent; and

(f) state that if the lien claimant does not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the written request to withdraw is sent, the owner may petition a court to nullify the lien in an expedited proceeding under this section.

(3) A petition under Subsection (1) shall:

(a) state with specificity that:

(i) the lien claimant's preconstruction lien or the lien claimant's construction lien is invalid because the lien claimant did not file a notice of preconstruction service or a

preliminary notice, as applicable;

(ii) the petitioner sent the lien claimant a written request to withdraw in accordance with Subsection (2); and

(iii) the lien claimant did not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the owner sent the written request to withdraw;

(b) be supported by a sworn affidavit of the petitioner; and

(c) be served on the lien claimant, in accordance with the Rules of Civil Procedure, within three business days after the day on which the petitioner files the petition in the [~~district~~] court.

(4) (a) If the court finds that a petition does not meet the requirements described in Subsection (3), the court may dismiss the petition without a hearing.

(b) If the court finds that a petition meets the requirements described in Subsection (3), the court shall schedule an expedited hearing to determine whether the preconstruction lien or the construction lien is invalid because the lien claimant failed to file a notice of preconstruction service or a preliminary notice, as applicable.

(5) (a) If the court grants a hearing, within three business days after the day on which the court schedules the hearing and at least seven business days before the day on which the hearing is scheduled, the petitioner shall serve on the lien claimant, in accordance with the Rules of Civil Procedure, a copy of the petition, notice of the hearing, and a copy of the court's order granting the expedited hearing.

(b) The lien claimant may attend the hearing and contest the petition.

(6) An expedited proceeding under this section may only determine:

(a) whether the lien claimant filed a notice of preconstruction service or a preliminary notice; and

(b) if the lien claimant failed to file a notice of preconstruction service or a preliminary notice, whether the lien claimant's preconstruction lien or construction lien is valid.

(7) (a) If, following a hearing, the court determines that the preconstruction lien or the construction lien is invalid, the court shall issue an order that:

(i) contains a legal description of the property;

(ii) declares the preconstruction lien or the construction lien void ab initio;

(iii) releases the property from the lien; and

(iv) awards costs and reasonable attorney fees to the petitioner.

(b) The petitioner may submit a copy of an order issued under Subsection (7)(a) to the county recorder for recording.

(8) (a) If, following a hearing, the court determines that the preconstruction lien or the construction lien is valid, the court shall:

(i) dismiss the petition; and

(ii) award costs and reasonable attorney fees to the lien claimant.

(b) The dismissal order shall contain a legal description of the property.

(c) The lien claimant may submit a copy of the dismissal order to the county recorder for recording.

(9) If a petition under this section contains a claim for damages, the proceedings related to the claim for damages may not be expedited under this section.

Section ~~{64)~~65. Section **38-2-4** is amended to read:

38-2-4. Disposal of property by lienholder -- Procedure.

(1) Any party holding a lien upon personal property as provided in this chapter may dispose of the property in the manner provided in Subsection (2).

(2) (a) The lienor shall give notice to the owner of the property, to the customer as indicated on the work order, and to all other persons claiming an interest in or lien on it, as 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 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 scheduled date of any sale and shall contain:

(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 work order, and any person claiming an interest in or lien on the property;

(iii) the name, address, and telephone number of the lienor;

(iv) notice that the lienor claims a lien on the property for labor and services performed 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;

(v) notice that the lien claimed by the lienor is subject to enforcement under this

section and that the property may be sold to satisfy the lien;

(vi) the date, time, and location of any proposed or scheduled sale of the property and whether the sale is private or public, except that no property may be sold earlier than 45 days after completion of the repair work; and

(vii) notice that the owner of the property has a right to recover possession of the property without instituting judicial proceedings by posting bond.

(3) If the owner of the property is unknown or his whereabouts cannot be determined, or if the owner or any person notified under Subsection (2) fails to acknowledge receipt of the notice, the lienor, at least 20 days before the proposed or scheduled date of sale of the property, shall publish the notice required by this section once in a newspaper circulated in the county where the vehicle is held.

(4) A lienee may have his property released from any lien claimed on it under this chapter by filing with the clerk of a [~~justice court or district~~] court a cash or surety bond, payable to the person claiming the lien, and conditioned for the payment of any judgment that may be recovered on the lien, with costs, interest, and storage fees.

(5) (a) The lienor has 60 days after receiving notice that the lienee has filed the bond provided in Subsection (4) to file suit to foreclose his lien.

(b) If the lienor fails to timely file an action, the clerk of the court shall release the bond.

(6) Property subject to lien enforcement under this section may be sold by the lienor at public or private sale; however, in the case of a private sale, every aspect of the sale, including the method, manner, time, place, and terms shall be commercially reasonable.

(7) This section may not be construed to affect an owner's right to redeem his property from the lien at any time prior to sale by paying the amount claimed by the lienor for work done, interest, and storage fees charged and any costs incurred by the repair shop for using enforcement procedures under this section.

Section ~~{65}~~66. Section **38-9-204** is amended to read:

38-9-204. Petition to file lien -- Notice to record interest holders -- Summary relief -- Contested petition.

(1) A lien claimant whose document is rejected pursuant to Section 38-9-202 may petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial

Administration, for an expedited determination that the lien may be recorded.

(2) A petition under Subsection (1) shall:

(a) be filed:

(i) [~~with the district court~~] notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, in the county of the county recorder who refused to record the document if the petition is filed in the district court; and

(ii) within 10 days after the day on which the person who files the petition receives the notice under Subsection 38-9-202(1)(b) of the county recorder's refusal to record the document;

(b) state with specificity the grounds why the document should lawfully be recorded; and

(c) be supported by a sworn affidavit of the lien claimant.

(3) If the court finds the petition is insufficient, it may dismiss the petition without a hearing.

(4) (a) If the court grants a hearing, the petitioner shall, by certified or registered mail, serve a copy of the petition, notice of hearing, and a copy of the court's order granting an expedited hearing on all record interest holders of the property sufficiently in advance of the hearing to enable any record interest holder to attend the hearing.

(b) Any record interest holder of the property has the right to attend and contest the petition.

(5) (a) If, following a hearing, the court finds that the document may lawfully be recorded, the court shall issue an order directing the county recorder to accept the document for recording.

(b) If the petition is contested, the court may award costs and reasonable attorney fees to the prevailing party.

(6) (a) A summary proceeding under this section:

(i) may only determine whether a contested document, on its face, shall be recorded by the county recorder; and

(ii) may not determine the truth of the content of the document or the property or legal rights of the parties beyond the necessary determination of whether the document shall be recorded.

(b) A court's grant or denial of a petition under this section may not restrict any other

legal remedies of any party, including any right to injunctive relief pursuant to Rules of Civil Procedure, Rule 65A, Injunctions.

(7) If a petition under this section contains a claim for damages, the proceedings related to the claim for damages may not be expedited under this section.

Section ~~{66}~~67. Section **38-9-205** is amended to read:

38-9-205. Petition to nullify lien -- Notice to lien claimant -- Summary relief -- Finding of wrongful lien -- Wrongful lien is void.

(1) (a) A record interest holder of real property against which a wrongful lien is recorded may petition [~~the district court in the county in which the document is recorded~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for summary relief to nullify the wrongful lien.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a record interest holder shall bring a petition described in Subsection (1)(a) in the county in which the document is recorded if the person brings the petition in the district court.

(2) The petition described in Subsection (1) shall state with specificity the claim that the lien is a wrongful lien and shall be supported by a sworn affidavit of the record interest holder.

(3) (a) If the court finds the petition insufficient, the court may dismiss the petition without a hearing.

(b) If the court finds the petition is sufficient, the court shall schedule a hearing within 10 days to determine whether the document is a wrongful lien.

(c) The record interest holder shall serve a copy of the petition on the lien claimant and a copy of a notice of the hearing pursuant to Rules of Civil Procedure, Rule 4, Process.

(d) The lien claimant is entitled to attend and contest the petition.

(4) A summary proceeding under this section:

(a) may only determine whether a document is a wrongful lien; and

(b) may not determine any other property or legal rights of the parties or restrict other legal remedies of any party.

(5) (a) If, following a hearing, the court determines that the recorded document is a wrongful lien, the court shall issue an order declaring the wrongful lien void ab initio, releasing the property from the lien, and awarding costs and reasonable attorney fees to the petitioner.

(b) (i) The record interest holder may submit a certified copy of the order to the county recorder for recording.

(ii) The order shall contain a legal description of the real property.

(c) If the court determines that the claim of lien is valid, the court shall dismiss the petition and may award costs and reasonable attorney's fees to the lien claimant. The dismissal order shall contain a legal description of the real property. The prevailing lien claimant may record a certified copy of the dismissal order.

(6) If the court determines that the recorded document is a wrongful lien, the wrongful lien is void ab initio and provides no notice of claim or interest.

(7) If a petition under this section contains a claim for damages, the proceedings related to the claim for damages may not be expedited under this section.

Section ~~{67}~~68. Section **38-9-303** is amended to read:

38-9-303. Enforcement proceeding required.

(1) (a) For a nonconsensual common law document recorded on or after May 13, 2014, within 10 business days after the day on which a document sponsor submits a nonconsensual common law document to the county recorder for recording, the document sponsor shall [~~file a complaint in district court in the county of the county recorder where the nonconsensual common law document was recorded for a proceeding~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to obtain an order that the nonconsensual common law document is valid and enforceable.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the document sponsor shall bring an action described in Subsection (1)(a) in the county of the county recorder where the nonconsensual common law document was recorded if the person brings the petition in the district court.

(2) A complaint to initiate [~~a judicial proceeding~~] an action described in Subsection (1) shall:

(a) state with specificity the grounds that make the nonconsensual common law document valid and enforceable;

(b) be supported by the document sponsor's sworn affidavit; and

(c) name each affected person as an opposing party.

(3) If the court finds that a complaint [~~filed under Subsection (1)~~] does not meet the

requirements described in Subsection (2), the court may dismiss the complaint without a hearing.

(4) If a complaint [~~filed under Subsection (1)~~] meets the requirements described in Subsection (2), the court:

(a) shall hold a hearing;

(b) following the hearing, shall issue an order that:

(i) states whether the nonconsensual common law document is valid and enforceable; and

(ii) includes a legal description of the real property that is the subject of the complaint; and

(c) may award costs and reasonable attorney fees to the prevailing party.

(5) Within three business days after the day on which the court issues a final order in a proceeding under this section, the prevailing party shall submit a copy of the court's final order to the county recorder for recording.

(6) A nonconsensual common law document is presumed invalid and unenforceable.

(7) A person's lack of belief in the jurisdiction or authority of the state or of the government of the United States is not a defense to liability under this section.

(8) A court's order in [~~a proceeding~~] an action under this section does not restrict any other legal remedies available to any party, including any right to injunctive relief under Utah Rules of Civil Procedure, Rule 65A, Injunctions.

Section ~~{68}~~69. Section **38-9a-201** is amended to read:

38-9a-201. Wrongful lien injunction -- Forms.

(1) (a) Any person who believes that [~~he or she~~] the person is the victim of a wrongful lien may file a verified written petition for a civil wrongful lien injunction against the person 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 occurred~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) A minor accompanied by [~~his or her~~] the minor's parent or guardian may file a petition on [~~his or her~~] the minor's own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

(2) (a) (i) The Administrative Office of the Courts shall develop and adopt forms for

petitions, ex parte civil wrongful lien injunctions, civil wrongful lien injunctions, service, and any other necessary forms in accordance with the provisions of this chapter on or before May 2, 2005.

(ii) The office shall provide the forms adopted under Subsection (2)(a)(i) to the clerk of each district court.

(b) The court clerks shall provide the forms to persons seeking to proceed under this chapter.

(c) The [~~district~~] courts shall issue all petitions, injunctions, ex parte injunctions, and any other necessary forms in the form prescribed by the Administrative Office of the Courts.

Section ~~{69)~~70. Section **38-9a-202** is amended to read:

38-9a-202. Petition for wrongful lien injunction -- Ex parte injunction.

(1) The petition for a civil wrongful lien injunction shall include:

(a) the name of the petitioner, except that at the petitioner's request his or her address shall be disclosed to the court for purposes of service, but may not be listed on the petition, and shall be maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown;

(b) the name and address, if known, of the respondent;

(c) specific actions and dates of the actions constituting the alleged wrongful lien;

(d) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and

(e) corroborating evidence of a wrongful lien, which may be in the form of a police report, affidavit, record, statement, item, letter, copy of the lien, or any other evidence which tends to prove the allegation of wrongful lien.

(2) If the court determines there is reason to believe that a wrongful lien has been made, uttered, recorded, or filed, the court may issue an ex parte civil wrongful lien injunction that includes any of the following:

(a) enjoining the respondent from making, uttering, recording, or filing any further liens without specific permission of the court;

(b) ordering that the lien be nullified; and

(c) any other relief necessary or convenient for the protection of the petitioner and other specifically designated persons under the circumstances.

(3) An ex parte civil wrongful lien injunction issued under this section shall state on its face:

(a) that the respondent is entitled to a hearing, upon written request filed with the court within 10 days of the service of the injunction;

(b) the name and address of the [~~district~~] court where the request may be filed;

(c) that if the respondent fails to request a hearing within 10 days of service, the ex parte civil wrongful lien injunction is automatically modified to a civil wrongful lien injunction without further notice to the respondent and that the civil wrongful lien injunction expires three years after service on the respondent;

(d) the following statement: "Attention. This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of making a wrongful lien and any other crime you may have committed in disobeying this order."; and

(e) that if the respondent requests, in writing, a hearing after the ten-day period specified in Subsection (3)(a) the court shall set a hearing within a reasonable time from the date the hearing is requested.

(4) The ex parte civil wrongful lien injunction shall be served on the respondent within 90 days after the date it is signed, and is effective upon service.

Section ~~{70}~~71. Section **38-9a-205** is amended to read:

38-9a-205. Remedies -- Actions arising from injunctions -- Attorney fees.

(1) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

[~~(2) The district court shall hear and decide all matters arising pursuant to this chapter.~~]

[~~(3)~~] (2) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney's fees.

Section ~~{71}~~72. Section **38-11-110** is amended to read:

38-11-110. Issuance of certificates of compliance.

(1) (a) The director may issue a certificate of compliance only after determining through an informal proceeding, as set forth in Title 63G, Chapter 4, Administrative Procedures Act:

(i) that the owner is in compliance with Subsections 38-11-204(4)(a) and (b); or

(ii) subject to Subsection (2), that the owner is entitled to protection under Subsection 38-11-107(1)(b).

(b) If the director determines through an informal proceeding under Subsection (1)(a) that an owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(i) is not in compliance as provided in Subsection (1)(a)(i), the director may not issue a certificate of compliance.

(2) (a) An owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(ii) shall submit an affidavit, as defined by the division by rule, affirming that the owner is entitled to protection under Subsection 38-11-107(1)(b).

(b) If an owner's affidavit under Subsection (2)(a) is disputed, the owner may file a complaint in [~~small claims court or district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to resolve the dispute.

(c) The director may issue a certificate of compliance to an owner seeking issuance of a certificate under Subsection (1)(a)(ii) if:

(i) the owner's affidavit under Subsection (2)(a) is undisputed; or

(ii) [~~a small claims court or district court~~] a court resolves any dispute over the owner's affidavit in favor of the owner.

Section ~~{72}~~73. Section **40-8-9** is amended to read:

40-8-9. Evasion of chapter or orders -- Penalties -- Limitations of actions -- Violation of chapter or permit conditions -- Inspection -- Cessation order, abatement notice, or show cause order -- Suspension or revocation of permit -- Review -- Division enforcement authority -- Appeal provisions.

(1) (a) A person, owner, or operator who willfully or knowingly evades this chapter, or who for the purpose of evading this chapter or any order issued under this chapter, willfully or knowingly makes or causes to be made any false entry in any report, record, account, or memorandum required by this chapter, or by the order, or who willfully or knowingly omits or causes to be omitted from a report, record, account, or memorandum, full, true, and correct entries as required by this chapter, or by the order, or who willfully or knowingly removes from this state or destroys, mutilates, alters, or falsifies any record, account, or memorandum, is guilty of a class B misdemeanor and, upon conviction, is subject to a fine of not more than $10,000 for each violation.

(b) Each day of willful failure to comply with an emergency order is a separate violation.

(2) No suit, action, or other proceeding based upon a violation of this chapter, or any rule or order issued under this chapter, may be commenced or maintained unless the suit, action, or proceeding is commenced within five years from the date of the alleged violation.

(3) (a) If, on the basis of information available, the division has reason to believe that a person is in violation of a requirement of this chapter or a permit condition required by this chapter, the division shall immediately order inspection of the mining operation at which the alleged violation is occurring, unless the information available to the division is a result of a 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.

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

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

(iv) In the order of cessation issued by the division under this Subsection (3), the division shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order.

(d) (i) Notices and orders issued under this section shall set forth with reasonable specificity:

(A) the nature of the violation and the remedial action required;

(B) the period of time established for abatement; and

(C) a reasonable description of the portion of the mining and reclamation operation to which the notice or order applies.

(ii) Each notice or order issued under this section shall be given promptly to the permittee or his agent by the division, and the notices and orders shall be in writing and shall be signed by the director, or his authorized representative who issues notices or orders.

(iii) A notice or order issued under this section may be modified, vacated, or terminated by the division, but any notice or order issued under this section which requires cessation of mining by the operator shall expire within 30 days of the actual notice to the operator, unless a conference is held with the division.

(4) (a) The division may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in [~~the district court for the district in which the mining and reclamation operation is located, or in which the permittee of the operation has his principal office,~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if the permittee or [~~his~~] the permittee's agent:

(i) violates or fails or refuses to comply with an order or decision issued by the division

under this chapter;

(ii) interferes with, hinders, or delays the division, or its authorized representatives, in carrying out the provisions of this chapter;

(iii) refuses to admit the authorized representatives to the mine;

(iv) refuses to permit inspection of the mine by the authorized representative; or

(v) refuses to furnish any information or report requested by the division in furtherance of the provisions of this chapter.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings the action described in Subsection (4)(a) in the district court, the attorney general shall bring the action in the county in which:

(i) the mining and reclamation operation is located; or

(ii) the permittee of the operation has the permittee's principal office.

[~~(b)~~] (c) (i) The court shall have jurisdiction to provide the appropriate relief.

(ii) Relief granted by the court to enforce an order under Subsection (4)(a)(i) shall continue in effect until the completion or final termination of all proceedings for review of that order under this chapter, unless, prior to this completion or termination, the [~~district~~] court granting the relief sets it aside or modifies the order.

(5) (a) (i) A permittee issued a notice or order by the division, pursuant to the provisions of Subsections (3)(b) and (3)(c), or a person having an interest which may be adversely affected by the notice or order, may apply to the board for review of the notice or order within 30 days of receipt of the notice or order, or within 30 days of a modification, vacation, or termination of the notice or order.

(ii) Upon receipt of this application, the board shall pursue an investigation as it considers appropriate.

(iii) The investigation shall provide an opportunity for a public 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 issuance and continuance of the notice or order of the modification, vacation, or termination of the notice or order.

(iv) The filing of an application for review under this Subsection (5)(a) shall not operate as a stay of an order or notice.

(b) (i) The permittee and other interested persons shall be given written notice of the

time and place of the hearing at least five days prior to the hearing.

(ii) This hearing shall be of record and shall be subject to judicial review.

(c) (i) Pending completion of the investigation and hearing required by this section, the applicant may file with the board a written request that the board grant temporary relief from any notice or order issued under this section, with a detailed statement giving the reasons for granting this relief.

(ii) The board shall issue an order or decision granting or denying this relief expeditiously.

(d) (i) 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 written notice of the time, place, and date of the hearing.

(ii) The hearing shall be of record and shall be subject to judicial review.

(iii) Within 60 days following the public hearing, the board shall issue and furnish to the permittee and all other parties to the hearing, a written decision, and the reasons for the decision, regarding suspension or revocation of the permit.

(iv) If the board revokes the permit, the permittee shall immediately cease mining operations on the permit area and shall complete reclamation within a period specified by the board, or the board shall declare the performance bonds forfeited for the operation.

(e) An action taken by the board under this section, or any other provision of the state program, is subject to judicial review by a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

[~~(e) Action by the board taken under this section or any other provision of the state program shall be subject to judicial review by the appropriate district court within the state.~~]

(6) A criminal proceeding for a violation of this chapter, or a regulation or order issued under this chapter, shall be commenced within five years from the date of the alleged violation.

Section ~~{73}~~74. Section **40-8-9.1** is amended to read:

40-8-9.1. Civil penalty for violation of chapter -- Informal conference -- Public hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties -- Civil penalty for failure to correct violation -- Civil penalties.

(1) (a) (i) A permittee who violates a permit condition or other provision of this chapter, may be assessed a civil penalty by the division.

(ii) If the violation leads to the issuance of a cessation order under [~~Section~~] Subsection 40-8-9(3), the civil penalty shall be assessed.

(b) (i) The penalty may not exceed $5,000 for each violation.

(ii) Each day of a continuing violation may be considered to be a separate violation for purposes of the penalty assessments.

(c) In determining the amount of the penalty, consideration shall be given to:

(i) the permittee's history of previous violations at the particular mining operation;

(ii) the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public;

(iii) whether the permittee was negligent; and

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

(2) (a) Within 30 days after the issuance of a notice or order charging that a violation of 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 proposed assessment in full, or request an informal conference with the division.

(c) The informal conference held by the division may address either the amount of the 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 permittee 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.

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

(c) When appropriate, the board shall consolidate the hearings with other proceedings under Section 40-8-9.

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

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

(i) has determined:

(A) that a violation did occur; and

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

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

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

(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 penalty owed under this chapter.

(5) Any person who willfully and knowingly violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with an order issued under Section 40-8-9, or any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision under Subsection (3), 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.

(6) Whenever a corporate permittee violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order incorporated in a final decision issued

by the board under this chapter, except an order incorporated in a decision issued under Subsection (3), a director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections (1) and (5).

(7) Any person who knowingly makes a false statement, representation, or certification, or knowingly fails to make a statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or an 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) An operator who fails to correct a violation for which a notice or cessation order has been issued under Subsection 40-8-9(3)(b) within the period permitted for a correction of the violation shall be assessed a civil penalty of not less than $750 for each day during which the failure or violation continues.

(b) The period permitted for correction of a violation for which a notice of cessation 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

(ii) the entry of an order of the court, a review proceeding initiated by the operator, in 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.

Section ~~{74}~~75. Section **40-10-14** is amended to read:

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

(1) If a conference has been held under Subsection 40-10-13(2), the division shall issue and furnish the applicant for a permit and persons who are parties to the proceedings with the written finding of the division granting or denying the permit in whole or in part and stating the reasons, within the 60 days after the conference.

(2) If there has been no conference held under Subsection 40-10-13(2), the division 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.

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

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

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

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

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

(5) For the purpose of the hearing, the board may administer oaths, subpoena witnesses or written or printed materials, compel attendance of the witnesses or production of the materials, and take evidence, including, but not limited to, site inspections of the land to be

affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each public hearing required by this chapter shall be made, and a transcript made available on the motion of any party or by order of the board.

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

(b) If the board fails to act within the time limits specified in this chapter, the applicant or any person with an interest which is or may be adversely affected[~~, who~~] and has requested a hearing in accordance with Subsection (3), may bring an action in [~~the district court for the county in which the proposed operation is located~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the applicant or person shall bring an action described in Subsection (6)(b) in the county in which the proposed operation is located if the petition is brought in the district court.

[~~(c)~~] (d) Any party to the action in [~~district~~] court may appeal from the final judgment, order, or decree of the [~~district~~] court.

[~~(d)~~] (e) Time frames for appeals under Subsections (6)(a) through [~~(c)~~] (d) shall be consistent with applicable provisions in Section 63G-4-401.

Section ~~{75}~~76. Section **40-10-20** is amended to read:

40-10-20. Civil penalty for violation of chapter -- Informal conference -- Public hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties -- Civil penalty for failure to correct violation.

(1) (a) Any permittee who violates any permit condition or other provision of this chapter may be assessed a civil penalty by the division. If the violation leads to the issuance of a cessation order under Section 40-10-22, the civil penalty shall be assessed.

(b) (i) The penalty may not exceed $5,000 for each violation.

(ii) Each day of a continuing violation may be deemed a separate violation for purposes of the penalty assessments.

(c) In determining the amount of the penalty, consideration shall be given to:

(i) the permittee's history of previous violations at the particular surface coal mining

operation;

(ii) the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public;

(iii) whether the permittee was negligent; and

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

(2) (a) Within 30 days after the issuance of a notice or order charging that a violation of 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 proposed assessment in full, or request an informal conference before the division.

(c) The informal conference held by the division may address either the amount of the 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.

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

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

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

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

(i) has determined:

(A) that a violation did occur; and

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

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

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

(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 penalty owed under this chapter.

(5) Any person who willfully and knowingly violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order issued under Section 40-10-22 or any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision under Subsection (3), 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.

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

(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 failure or violation continues.

(b) The period permitted for correction of a violation for which a notice of cessation order has been issued under Subsection 40-10-22(1) may not end until:

(i) the entry of a final order by the board, in the case of any review proceedings 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

(ii) the entry of an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation.

Section ~~{76}~~77. Section **40-10-21** is amended to read:

40-10-21. Civil action to compel compliance with chapter -- Venue -- Division and board as parties -- Court costs -- Security when temporary restraining order or injunction sought -- Other rights not affected -- Action for damages.

(1) [~~(a)~~] Except as provided in Subsection (2), any person having an interest [~~which~~] that is or may be adversely affected may [~~commence a civil action~~] bring an action on the person's own behalf to compel compliance with this chapter against:

[~~(i)~~] (a) the state or any other governmental instrumentality or agency to the extent permitted by the 11th Amendment to the United States Constitution or Title 63G, Chapter 7, Governmental Immunity Act of Utah, which is alleged to be in violation of the provisions of this chapter or of any rule, order, or permit issued pursuant to it;

[~~(ii)~~] (b) any person who is alleged to be in violation of any rule, order, or permit

issued pursuant to this chapter; or

[~~(iii)~~] (c) the division or board where there is alleged a failure of the division or board to perform any act or duty under this chapter which is not discretionary with the division or with the board.

[~~(b) The district courts shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties.~~]

(2) [~~No action may be commenced~~] A person may not bring an action:

(a) under Subsection [~~(1)(a)(i) or (ii)~~] (1)(a) or (b):

(i) prior to 60 days after the [~~plaintiff~~] person has given notice in writing of the violation to the division and to any alleged violator; or

(ii) if the attorney general has commenced and is diligently prosecuting a civil action in a court of the state to require compliance with the provisions of this chapter, or any rule, order, or permit issued pursuant to this chapter; or

(b) under Subsection [~~(1)(a)(iii)~~] (1)(c) prior to 60 days after the [~~plaintiff~~] person has given notice in writing of the action to the board, in the manner as the board prescribes by rule, except that the [~~action may be brought immediately~~] person may bring the action immediately after the notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the [~~plaintiff~~] person or would immediately affect a legal interest of the [~~plaintiff~~] person.

[~~(3) (a) Any action concerning a violation of this chapter or the rules promulgated under it may be brought only in the judicial district in which the surface coal mining operation complained of is located.~~]

(3) (a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall bring an action under this section in the county in which the surface coal mining operation is located.

(b) In the action, the division and board, if not a party, may intervene as a matter of right.

(4) (a) The court, in issuing any final order in any action brought pursuant to Subsection (1), may award costs of litigation, including attorney and expert witness fees, to any party whenever the court determines that award is appropriate.

(b) The court may, if a temporary restraining order or preliminary injunction is sought,

require the filing of a bond or equivalent security in accordance with the Utah Rules of Civil Procedure.

(5) Nothing in this section may restrict any right which any person, or class of persons, has under any statute or common law to seek enforcement of any of the provisions of this chapter and the rules promulgated under it, or to seek any other relief, including relief against the division and board.

(6) (a) Any person who is injured in his person or property through the violation by an operator of any rule, order, or permit issued pursuant to this chapter may bring an action for damages, including reasonable attorney and expert witness fees, only in the judicial district in which the surface coal mining operation complained of is located.

(b) Nothing in this Subsection (6) shall affect the rights established by or limits imposed under Utah workmen's compensation laws.

Section ~~{77}~~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.

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

(b) When, on the basis of any inspection, the division determines that any condition or 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 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 surface coal mining and reclamation

operations or the portion thereof relevant to the condition, practice, or violation. The cessation order shall remain in effect until the division determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the division pursuant to Subsection (1)(e). Where the division finds that the ordered cessation of surface coal mining and reclamation operations, or any portion of same, will not completely abate the imminent danger to 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 deems necessary to abate the imminent danger or the significant environmental harm.

(c) When, on the basis of an inspection, the division determines that any permittee is in violation of any requirement of this chapter or any 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 fixing a 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 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 surface coal mining and reclamation operations or the portion of same relevant to the violation. The cessation order shall remain in effect until the division determines that the violation has been abated or until modified, vacated, or terminated by the 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 most expeditious manner possible and shall include the necessary measures in the order.

(d) When on the basis of an inspection the division determines that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the division also finds that these violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or that these violations are willfully caused by the permittee, the division shall initiate agency action by requesting the board to issue an order to show cause to the permittee as to why the permit should not be suspended or revoked and shall provide

opportunity for a public hearing. If a hearing is requested, the board shall give notice in accordance with the rules of practice and procedure of the board. Upon the permittee's failure to show cause as to why the permit should not be suspended or revoked, the board shall 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, and the notices and orders shall be in writing and shall be signed by the director, or his authorized representative who issues such notice or order. Any notice or order issued under this section may be modified, vacated, or terminated by the division, but any notice or order issued under this section which requires cessation of mining by the operator shall expire within 30 days of actual notice to the operator unless a conference is held before the division.

(2) (a) The division may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order [~~in the district court for the district in which the surface coal mining and reclamation operation is located or in which the permittee of the operation has his principal office, whenever such permittee or his agent~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, whenever a permittee or the permittee's agent:

(i) violates or fails or refuses to comply with any order or decision issued under this chapter;

(ii) interferes with, hinders, or delays the division or its authorized representatives in carrying out the provisions of this chapter;

(iii) refuses to admit the authorized representatives to the mine;

(iv) refuses to permit inspection of the mine by the authorized representative;

(v) refuses to furnish any information or report requested by the division in furtherance of the provisions of this chapter; or

(vi) refuses to permit access to and copying of such records as the division determines necessary in carrying out the provisions of this chapter.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney

general brings the action described in Subsection (2)(a) in the district court, the attorney general shall bring the action in the county in which:

(i) the surface coal mining and reclamation operation is located; or

(ii) the permittee of the operation has the permittee's principal office.

[~~(b)~~] (c) (i) The [~~district~~] court shall have jurisdiction to provide such relief as may be appropriate.

(ii) Any relief granted by the [~~district~~] court to enforce an order under Subsection (2)(a)(i) shall continue in effect until the completion or final termination of all proceedings for review of that order under this chapter, unless, prior to this completion or termination, the Utah Supreme Court on review grants a stay of enforcement or sets aside or modifies the board's order which is being appealed.

(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 by the notice or order, may initiate board action by requesting a hearing for review of the notice or order within 30 days of receipt of it or within 30 days of its modification, vacation, or termination. Upon receipt of this application, the board shall cause such investigation to be made as it deems appropriate. The investigation shall provide an opportunity for a public 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 issuance and continuance of the notice or order or the modification, vacation, or termination of it. The filing of an application for review under this subsection shall not operate as a stay of 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.

(c) Pending completion of the investigation and hearing required by this section, the applicant may file with the board a written request that the board grant temporary relief from any notice or order issued under this section, together with a detailed statement giving the reasons for granting this relief. The board shall issue an order or decision granting or denying this relief expeditiously; and where the applicant requests relief from an order for cessation of

coal mining and reclamation operations issued pursuant to Subsections (1)(b) or (1)(c), the order or decision on this request shall be issued within five days of its receipt. The board may grant the relief under such conditions as it may prescribe, if a hearing has been held in the locality of the permit area on the request for temporary relief and the conditions of Subsections 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 the hearing an order containing the basis for its decision on the suspension or revocation of the permit. If the board revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified 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.

Section ~~{78}~~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 Title 78A, Judiciary and Judicial Administration, to enjoin any further sale or offer of sale of the unapproved or substandard part.

(b) An injunction under Subsection (3)(a) shall be issued upon a prima facie showing that:

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

(ii) the part has not been approved; and

(iii) the part is being sold or offered for sale.

(4) (a) Any person enjoined under Subsection (3) may file a petition for a review of the court's order in the county in which the injunction was issued.

(b) A copy of the petition shall be served on the department and the department shall have 30 days after the service to file an answer, but the petition shall not act as a stay of the injunction.

(c) At the hearing on the petition, the judge shall sit without intervention of a jury and shall only receive evidence as to whether the parts in question:

(i) are of a type for which approval by the department is required;

(ii) have not been approved; and

(iii) are being sold or offered for sale in violation of Section 41-6a-1619.

(d) Following a hearing under Subsection (4)(c), the injunction shall be continued if the court finds that each condition under Subsection (4)(c) has been met.

(5) Either party may appeal the decision of the court [~~in the same manner as in other civil appeals from the district court~~].

Section ~~{79}~~80. Section **51-2a-401** is amended to read:

51-2a-401. Prohibiting access to and withholding funds from an entity that does not comply with the accounting report requirements.

(1) If a political subdivision, interlocal organization, or other local entity does not comply with the accounting report requirements of Section 51-2a-201, the state auditor may:

(a) withhold allocated state funds to pay the cost of the accounting report, in

accordance with Subsection (2); or

(b) prohibit financial access, in accordance with Subsection (3).

(2) (a) If the state auditor does not prohibit financial access in accordance with Subsection (3), the state auditor may withhold allocated state funds sufficient to pay the cost of the accounting report from any local entity described in Subsection (1).

(b) If no allocated state funds are available for withholding, the local entity shall reimburse the state auditor for any cost incurred in completing the accounting reports required under Section 51-2a-402.

(c) The state auditor shall release the withheld funds if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

(3) (a) If the state auditor does not withhold funds in accordance with Subsection (2), the state auditor may prohibit any local entity described in Subsection (1) from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) 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 entity access to the account.

(b) The state auditor shall remove the prohibition on accessing funds described in Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

Section ~~{80}~~81. Section **51-7-22.5** is amended to read:

51-7-22.5. Enforcement.

(1) Whenever it appears to the council that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or any rule issued under authority of this chapter:

(a) the council may bring an action in [~~the appropriate district court of this state or the appropriate court of~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, or a court with jurisdiction in another state, to enjoin the acts or practices and to enforce compliance with this chapter or any rule under this chapter; and

(b) upon a proper showing in an action brought under this section, the court may:

(i) issue a permanent or temporary, prohibitory, or mandatory injunction;

(ii) issue a restraining order or writ of mandamus or other extraordinary writ;

(iii) enter a declaratory judgment;

(iv) order disgorgement;

(v) order rescission;

(vi) impose a fine of not more than $50,000 for each violation of the chapter; or

(vii) provide any other relief that the court considers appropriate.

(2) An indictment or information may not be returned nor may a civil complaint be filed under this chapter more than five years after discovery of the alleged violation.

Section ~~{81}~~82. Section **53-2d-605 (Effective 07/01/24)** is amended to read:

53-2d-605 (Effective 07/01/24). Service interruption or cessation -- Receivership -- Default coverage -- Notice.

(1) (a) Acting in the public interest, the department may petition [~~the district court where an ambulance or paramedic provider operates or the district court with jurisdiction in Salt Lake County~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to appoint the bureau or an independent receiver to continue the operations of a provider upon any one of the following conditions:

[~~(a)~~] (i) the provider ceases or intends to cease operations;

[~~(b)~~] (ii) the provider becomes insolvent;

[~~(c)~~] (iii) the bureau has initiated proceedings to revoke the provider's license and has determined that the lives, health, safety, or welfare of the population served within the provider's exclusive geographic service area are endangered because of the provider's action or inaction pending a full hearing on the license revocation; or

[~~(d)~~] (iv) the bureau has revoked the provider's license and has been unable to adequately arrange for another provider to take over the provider's exclusive geographic service area.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the department brings a petition described in Subsection (1)(a) in the district court, the department shall bring the petition in:

(i) Salt Lake County; or

(ii) the county in which the ambulance or paramedic provider operates.

(2) If a licensed or designated provider ceases operations or is otherwise unable to provide services, the bureau may arrange for another licensed provider to provide services on a temporary basis until a license is issued.

(3) A licensed provider shall give the department 30 days' notice of its intent to cease operations.

Section ~~{82}~~83. Section **53-7-406** is amended to read:

53-7-406. Penalties.

(1) (a) Except as provided in Subsection (1)(b), a manufacturer, wholesale dealer, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 53-7-403:

(i) for a first offense shall be liable for a civil penalty not to exceed $10,000 per each sale of cigarettes; and

(ii) for a subsequent offense shall be liable for a civil penalty not to exceed $25,000 per each sale of such cigarettes.

(b) A penalty imposed under Subsection (1)(a) may not exceed $100,000 during any 30-day period against any one entity described in Subsection (1).

(2) (a) Except as provided in Subsection (2)(b), a retail dealer who knowingly sells cigarettes in violation of Section 53-7-403 shall:

(i) for a first offense for each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale:

(A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $500 for each sale or offer of sale; and

(B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $1,000 for each sale or offer of sale; and

(ii) for a subsequent offense, if the total number of cigarettes sold or offered for sale:

(A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $2,000 for each sale or offer of sale; and

(B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $5,000 for each sale or offer of sale.

(b) A penalty imposed under Subsection (2)(a) against any retail dealer shall not

exceed $25,000 during a 30-day period.

(3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 53-7-404 shall, for each false certification:

(a) for a first offense, be liable for a civil penalty of at least $75,000; and

(b) for a subsequent offense, be liable for a civil penalty not to exceed $250,000.

(4) Any person violating any other provision in this part shall be liable for a civil penalty for each violation:

(a) for a first offense, not to exceed $1,000; and

(b) for a subsequent offense, not to exceed $5,000.

(5) (a) In addition to any other remedy provided by law, the state fire marshal or attorney general may [~~file an action in district court~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a violation of this part, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this part, including enforcement costs relating to the specific violation and attorney fees.

(b) Each violation of this part or of rules or regulations adopted under this part constitutes a separate civil violation for which the state fire marshal or attorney general may obtain relief.

Section ~~{83}~~84. Section **53B-28-506** is amended to read:

53B-28-506. Penalties.

(1) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(a) except as provided in Subsection [~~(1)(d)~~] (2), may not enter into a future contract with an institution; [~~and~~]

(b) may be required by the board to pay a civil penalty of up to $25,000[~~.~~]; and

(c) may be required to pay:

(i) an institution's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(ii) any expense incurred by the institution as result of the unauthorized sharing or use

of student data.

[~~(d)~~] (2) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

[~~(i)~~] (a) the education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

[~~(ii)~~] (b) the third-party contractor demonstrates:

[~~(A)~~] (i) if the third-party contractor is under contract with the education entity, current compliance with this part; or

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

[~~(c)~~]

(3) (a) [~~The~~] If necessary, the board may bring an action in [~~the district court of the county in which the office of the education entity is located, if necessary,~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce payment of the civil penalty described in Subsection (1)(b).

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the board shall bring an action described in Subsection (3)(a) in the county in which the office of the education entity is located if the action is brought in the district court.

[~~(f)~~] (4) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

[~~(2)~~] (5) (a) A student or a minor student's parent may bring an action against a third-party contractor in a court [~~of competent jurisdiction~~] with jurisdiction under Title 78A, Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation of Section 53B-28-505 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section 53B-28-505, the court may award to the parent or student:

(i) damages; and

(ii) costs.

Section ~~{84}~~85. Section **53E-9-310** is amended to read:

53E-9-310. Penalties.

(1) (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;

(ii) may be required by the state board to pay a civil penalty of up to $25,000; and

(iii) may be required to pay:

(A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.

(b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the state board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with an education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

(c) The state board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) (i) The state board may bring an action [~~in the district court of the county in which the office of the state board is located~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state board shall bring an action described in Subsection (1)(d)(i) in the county in which the office of the state board is located if the action is brought in the district court.

(e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2) (a) A parent or adult student may bring an action in a court [~~of competent jurisdiction~~] with jurisdiction under Title 78A, Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section 53E-9-309, the court may award to the parent or student:

(i) damages; and

(ii) costs.

Section ~~{85}~~86. Section **53G-5-501** is amended to read:

53G-5-501. Noncompliance -- Rulemaking.

(1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4):

(a) the charter school governing board; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2) (a) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

(i) subject to the requirements of Subsection (4), take one or more of the following actions:

(A) remove a charter school director or finance officer;

(B) remove a charter school governing board member;

(C) appoint an interim director, mentor, or finance officer to work with the charter school; or

(D) appoint a governing board member;

(ii) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement; or

(iii) transfer operation and control of the charter school to a high performing charter school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to effectuate the transfer.

(b) The authorizer may prohibit the charter school governing board from removing an appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the appointment.

(3) The costs of an interim director, mentor, or finance officer appointed under Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director, mentor, or finance officer is working.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter agreement.

(6) (a) (i) An authorizer may petition [~~the district court where a charter school is located or incorporated to appoint a receiver, and the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to appoint a receiver.

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the authorizer shall bring a petition described in Subsection (6)(a)(i) in the county in which a charter school is located or incorporated if the action is brought in the district court.

(b) The court may appoint a receiver if the authorizer establishes that the charter school:

(i) is subject to closure under Section 53G-5-503; and

(ii) (A) has disposed, or there is a demonstrated risk that the charter school will dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or

(B) cannot, or there is a demonstrated risk that the charter school will not, make repayment of amounts owed to the federal government or the state.

[~~(b)~~] (c) The court shall describe the powers and duties of the receiver in the court's appointing order, and may amend the order from time to time.

[~~(c)~~] (d) Among other duties ordered by the court, the receiver shall:

(i) ensure the protection of the charter school's assets;

(ii) preserve money owed to creditors; and

(iii) if requested by the authorizer, carry out charter school closure procedures described in Section 53G-5-504, and state board rules, as directed by the authorizer.

[~~(d)~~] (e) If the authorizer does not request, or the court does not appoint, a receiver:

(i) the authorizer may reconstitute the governing board of a charter school; or

(ii) if a new governing board cannot be reconstituted, the authorizer shall complete the closure procedures described in Section 53G-5-504, including liquidation and assignment of assets, and payment of liabilities and obligations in accordance with Subsection 53G-5-504(7) and state board rule.

[~~(e)~~] (f) For a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of the Utah Charter School Finance Authority before the authorizer takes the following actions:

(i) petitions [~~a district court~~] a court to appoint a receiver, as described in Subsection (6)(a);

(ii) reconstitutes the governing board, as described in Subsection [~~(6)(d)(i)~~] (6)(e)(i); or

(iii) carries out closure procedures, as described in Subsection [~~(6)(d)(ii)~~] (6)(e)(ii).

Section ~~{86}~~87. Section **54-4-27** is amended to read:

54-4-27. Payment of dividends -- Notice -- Restraint.

(1) No gas or electric corporation doing business in this state shall pay any dividend upon its common stock prior to 30 days after the date of the declaration of such dividend by the board of directors of such utility corporation.

(2) Within five days after the declaration of such dividend the management of such corporation shall:

(a) notify the utilities commission in writing of the declaration of said dividend, the amount thereof, the date fixed for payment of the same; and

(b) publish a notice, including the information described in Subsection (2)(a):

(i) in a newspaper having general circulation in the city or town where its principal place of business is located; and

(ii) as required in Section 45-1-101.

(3) If the commission, after investigation, shall find that the capital of any such corporation is being impaired or that its service to the public is likely to become impaired or is in danger of impairment, it may issue an order directing such utility corporation to refrain from the payment of said dividend until such impairment is made good or danger of impairment is

avoided.

(4) [~~The district court of any county in which said utility is doing business in this state is authorized upon a suit by the commission to~~] A court may enforce the order of the commission[~~, and empowered to~~] and issue a restraining order pending final determination of the action.

Section ~~{87}~~88. Section **54-5-3** is amended to read:

54-5-3. Default in payment of fee -- Procedure to collect -- Penalties.

(1) (a) If the public utility fee is due and the payment is in default, [~~a lien in the amount of the fee may be filed against the property of the utility and may be foreclosed in an action brought by the executive director of the Department of Commerce in the district court of any county in which property of the delinquent utility is located.~~] the executive director of the Department of Commerce may:

(i) file a lien in the amount of the property of the utility; and

(ii) bring an action to foreclose the property in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the executive director shall bring an action described in Subsection (1)(a)(ii) in the county in which the property of the delinquent utility is located if the action is brought in the district court.

(2) (a) If the fee computed and imposed under this chapter is not paid within 60 days after it becomes due, the rights and privileges of the delinquent utility shall be suspended.

(b) The executive director of the Department of Commerce shall transmit the name of the utility to the Public Service Commission, which may immediately enter an order suspending the operating rights of the utility.

Section ~~{88}~~89. Section **54-8a-12** is amended to read:

54-8a-12. Enforcement -- Attorney general.

(1) (a) (i) The attorney general may bring an action [~~in the district court located~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this chapter.

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the attorney general shall bring the action described in Subsection (1)(a)(i) in the county in which the excavation is located [~~to enforce this chapter~~] if the attorney general brings the action in the

district court.

(b) The right of any person to bring a civil action for damage arising from an excavator's or operator's actions or conduct relating to underground facilities is not affected by:

(i) a proceeding commenced by the attorney general under this chapter; or

(ii) the imposition of a civil penalty under this chapter.

(c) If the attorney general does not bring an action under Subsection (1)(a), the operator or excavator may pursue any remedy, including a civil penalty.

(2) Any civil penalty imposed and collected under this chapter shall be deposited into the General Fund.

Section ~~{89}~~90. Section **54-8b-13** is amended to read:

54-8b-13. Rules governing operator assisted services.

(1) The commission shall make rules to implement the following requirements pertaining to the provision of operator assisted services:

(a) Rates, surcharges, terms, or conditions for operator assisted services shall be provided to customers upon request without charge.

(b) A customer shall be made aware, prior to incurring any charges, of the identity of the operator service provider handling the operator assisted call by a form of signage placed on or near the telephone or by verbal identification by the operator service provider.

(c) Any contract between an operator service provider and an aggregator shall contain language which assures that any person making a telephone call on any telephone owned or controlled by the aggregator or operator service provider can access:

(i) where technically feasible, any other operator service provider operating in the relevant geographic area; and

(ii) the public safety emergency telephone numbers for the jurisdiction where the aggregator's telephone service is geographically located.

(d) No operator service provider shall transfer a call to another operator service provider unless that transfer is accomplished at, and billed from, the call's place of origin. If such a transfer is not technically possible, the operator service provider shall inform the caller that the call cannot be transferred as requested and that the caller should hang up and attempt to reach another operator service provider through the means provided by that other operator service provider.

(2) (a) The Division of Public Utilities shall be responsible for enforcing any rule adopted by the commission under this section.

(b) If the Division of Public Utilities determines that any person, or any officer or employee of any person, is violating any rule adopted under this section, the division shall serve written notice upon the alleged violator which:

(i) specifies the violation;

(ii) alleges the facts constituting the violation; and

(iii) specifies the corrective action to be taken.

(c) After serving notice as required in Subsection (2)(b), the division may request the commission to issue an order to show cause.

(d) After a hearing, the commission may impose penalties and, if necessary, may request the attorney general to enforce the order in [~~district~~] a court.

(3) (a) Any person who violates any rule made under this section or fails to comply with any order issued pursuant to this section is subject to a penalty not to exceed $2,000 per violation.

(b) In the case of a continuing violation, each day that the violation continues constitutes a separate and distinct offense.

(4) A penalty assessment under this section does not relieve the person assessed from civil liability for claims arising out of any act which was a violation of any rule under this section.

Section ~~{90}~~91. Section **54-13-7** is amended to read:

54-13-7. Minimum distances for placement of structures and facilities near main and transmission lines.

(1) As used in this section:

(a) "Main" has the meaning set forth in 49 C.F.R. Section 192.3.

(b) "Minimum distance" means:

(i) the width of a recorded easement when the width is described;

(ii) 15 feet when the width of a recorded easement is undefined; or

(iii) for any underground facility, it means an area measured one foot vertically and three feet horizontally from the outer surface of a main or transmission line.

(c) "Transmission line" has the meaning set forth in 49 C.F.R. Section 192.3.

(d) "Underground facility" has the meaning set forth in Section 54-8a-2.

(2) (a) After April 30, 1995, a building or structure requiring slab support or footings, or an underground facility may not be placed within the minimum distance of a main or transmission line.

(b) Subsection (2)(a) does not apply if:

(i) the building or structure is used for public or railroad transportation, natural gas pipeline purposes, or by a public utility subject to the jurisdiction or regulation of the Public Service Commission;

(ii) in order to receive natural gas service, the building or structure must be located within the minimum distance of the pipeline;

(iii) the owner or operator of the main or transmission line has been notified prior to construction or placement pursuant to Section 54-8a-4 and has given written permission; or

(iv) the commission by rule exempts such action from the provisions of Subsection (2)(a).

(3) (a) An owner or operator of a main or transmission line may obtain a mandatory injunction from [~~the district court of the judicial district~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against any person who violates Subsection (2).

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the owner or operator shall bring an action described in Subsection (3)(a) in the county in which the main or transmission line is located [~~against any person who violates Subsection (2)~~] if the action is brought in the district court.

(4) The penalties specified in [~~Title 54, Chapter 7, Hearings, Practice, and Procedure~~] Chapter 7, Hearings, Practice, and Procedure, do not apply to a violation of this section.

Section ~~{91}~~92. Section **54-13-8** is amended to read:

54-13-8. Violation of chapter -- Penalty.

(1) Any person engaged in intrastate pipeline transportation who is determined by the commission, after notice and an opportunity for a hearing, to have violated any provision of this chapter or any rule or order issued under this chapter, is liable for a civil penalty of not more than $100,000 for each violation for each day the violation persists.

(2) The maximum civil penalty assessed under this section may not exceed $1,000,000 for any related series of violations.

(3) The amount of the penalty shall be assessed by the commission by written notice.

(4) In determining the amount of the penalty, the commission shall consider:

(a) the nature, circumstances, and gravity of the violation; and

(b) with respect to the person found to have committed the violation:

(i) the degree of culpability;

(ii) any history of prior violations;

(iii) the effect on the person's ability to continue to do business;

(iv) any good faith in attempting to achieve compliance;

(v) the person's ability to pay the penalty; and

(vi) any other matter, as justice may require.

(5) (a) A civil penalty assessed under this section may be recovered in an action brought by the attorney general on behalf of the state in [~~the appropriate district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, or before referral to the attorney general, it may be compromised by the commission.

(b) The amount of the penalty, when finally determined, or agreed upon in compromise, may be deducted from any sum owed by the state to the person charged.

(6) Any penalty collected under this section shall be deposited in the General Fund.

Section ~~{92}~~93. Section **54-14-308** is amended to read:

54-14-308. Judicial review in formal adjudicative proceedings.

The Court of Appeals has jurisdiction to review any decision of the board in a formal adjudicative proceeding as described in Sections 63G-4-403 and 78A-4-103.

Section ~~{93}~~94. Section **54-22-205** is amended to read:

54-22-205. Disputes.

A dispute under this chapter involving an electric entity shall be resolved as follows:

(1) if the electric entity is a public utility, in accordance with Section 54-7-9; and

(2) if the electric entity is not a public utility, by [~~filing an action with the district court~~] bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

Section ~~{94}~~95. Section **57-11-11** is amended to read:

57-11-11. Rules of division -- Notice and hearing requirements -- Filing advertising material -- Injunctions -- Intervention by division in suits -- General powers

of division.

(1) (a) The division shall prescribe reasonable rules which shall be adopted, amended, or repealed only after a public hearing.

(b) The division shall:

(i) publish notice of the public hearing described in Subsection (1)(a) for the state, as a class A notice under Section 63G-30-102, for at least 20 days before the day of the hearing; and

(ii) send a notice to a nonprofit organization which files a written request for notice with the division at least 20 days before the day of the hearing.

(2) The rules shall include but need not be limited to:

(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.

(3) These provisions, however, shall not be required if the city or county in which the subdivision is located requires similar means of assurance of a nature and in an amount no less adequate than is required under said rules:

(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

(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.

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

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

(6) The division shall be allowed to intervene in a suit involving subdivided lands, either as a party or as an amicus curiae, where it appears that the interpretation or constitutionality of any provision of law will be called into question. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division, constitute grounds for the division withholding any approval required by this chapter.

(7) The division may:

(a) accept registrations filed in other states or with the federal government;

(b) contract with public agencies or qualified private persons in this state or other jurisdictions to perform investigative functions; and

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

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

Section ~~{95}~~96. Section **57-11-13** is amended to read:

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

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

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

(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,

Administrative Procedures Act, if the person served requests a hearing.

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

(b) If no hearing is requested and the person served does not obey the director's order, 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 Division of Real Estate to enjoin the person from violating this chapter. [~~The action shall be filed in the district court in the county in which the conduct occurred or where the person resides or carries on business.~~]

(3) The remedies and action provided in this section may not interfere with or prevent the prosecution of any other remedies or actions including criminal prosecutions.

Section ~~{96}~~97. Section **57-11-18** is amended to read:

57-11-18. Dispositions subject to chapter -- Jurisdiction of courts.

(1) Dispositions of subdivided lands are subject to this [~~act, and the district courts of this state have jurisdiction in claims or causes of action arising under this act,~~] chapter.

(2) A court of this state has jurisdiction in a claim or action arising under this chapter if:

[~~(1)~~] (a) [~~The~~] the subdivided lands offered for disposition are located in this state;

[~~(2)~~] (b) [~~The~~] the subdivider's principal office is located in this state; or

[~~(3)~~] (c) [~~Any~~] any offer or disposition of subdivided lands is made in this state, whether or not the offeror or offeree is then present in this state, if the offer originates within this state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

Section ~~{97}~~98. Section **58-37-11** is amended to read:

58-37-11. Court action to enjoin violations -- Jury trial.

(1) [~~The district courts of this state shall have jurisdiction in proceedings in accordance with the rules of those courts to~~] A court may enjoin violations of this act.

(2) If an alleged violation of an injunction or restraining order issued under this section occurs, the accused may demand a jury trial in accordance with [~~the rules of the district courts~~] the Utah Rules of Civil Procedure.

Section ~~{98}~~99. Section **63A-3-507** is amended to read:

63A-3-507. Administrative garnishment order.

(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;

(b) identify the defendant, including the defendant's name and last known address;

(c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;

(c) the state in which the defendant's driver license was issued;

(d) one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;

(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:

(A) the nature, location, and estimated value of the property; and

(B) the name, address, and telephone number of the person who has possession or control of the property;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which any previously served writs of continuing garnishment were served; and

(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

(6) (a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.

(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

(i) (A) the value of the judgment; or

(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7) (a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.

(b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(9) (a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.

(10) A garnishee may deduct from the property any liquidated claim against the defendant.

(11) (a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is

refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii) (A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(12) (a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to the defendant from the date of service upon the garnishee until the earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by [~~the district~~] a court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in

accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14) (a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the [~~Utah~~] Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15) (a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a

garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16) (a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.

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

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

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

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

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

(17) Section 78A-2-216 does not apply to an administrative garnishment order issued 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.

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

Section ~~{99}~~100. Section **63G-4-403** is amended to read:

63G-4-403. Judicial review -- Formal adjudicative proceedings.

(1) As provided by statute, the Supreme Court or the Court of Appeals has jurisdiction to review all final agency action resulting from formal adjudicative proceedings as described in Sections 78A-3-102 and 78A-4-103.

(2) (a) To seek judicial review of final agency action resulting from formal adjudicative proceedings, the petitioner shall file a petition for review of agency action with the appropriate appellate court in the form required by the appellate rules of the appropriate appellate court.

(b) The appellate rules of the appropriate appellate court shall govern all additional filings and proceedings in the appellate court.

(3) The contents, transmittal, and filing of the agency's record for judicial review of formal adjudicative proceedings are governed by the Utah Rules of Appellate Procedure, except that:

(a) all parties to the review proceedings may stipulate to shorten, summarize, or organize the record; and

(b) the appellate court may tax the cost of preparing transcripts and copies for the record:

(i) against a party who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or

(ii) according to any other provision of law.

(4) The appellate court shall grant relief only if, on the basis of the agency's record, it determines that a person seeking judicial review has been substantially prejudiced by any of the

following:

(a) the agency action, or the statute or rule on which the agency action is based, is unconstitutional on its face or as applied;

(b) the agency has acted beyond the jurisdiction conferred by any statute;

(c) the agency has not decided all of the issues requiring resolution;

(d) the agency has erroneously interpreted or applied the law;

(e) the agency has engaged in an unlawful procedure or decision-making process, or has failed to follow prescribed procedure;

(f) the persons taking the agency action were illegally constituted as a decision-making body or were subject to disqualification;

(g) the agency action is based upon a determination of fact, made or implied by the agency, that is not supported by substantial evidence when viewed in light of the whole record before the court; or

(h) the agency action is:

(i) an abuse of the discretion delegated to the agency by statute;

(ii) contrary to a rule of the agency;

(iii) contrary to the agency's prior practice, unless the agency justifies the inconsistency by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency; or

(iv) otherwise arbitrary or capricious.

Section ~~{100}~~101. Section **63G-7-501** is amended to read:

63G-7-501. Actions brought under this chapter.

[~~(1) The district courts have exclusive, original jurisdiction over any action brought under this chapter. (2)~~] An action brought under this chapter may not be tried as a small claims action.

Section ~~{101}~~102. Section **63G-7-502** is amended to read:

63G-7-502. Venue of actions.

(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:

(a) Salt Lake County; or

(b) the county in which the claim arose.

(2) [~~(a) Actions against a county may be brought in the county in which the claim arose, or in the defendant county.~~]

(a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action against a county in:

(i) the county in which the claim arose; or

(ii) the defendant county.

(b) (i) A district court judge of the defendant county may transfer venue to any county contiguous to the defendant county.

(ii) A motion to transfer may be filed ex parte.

(3) [~~Actions against all other political subdivisions, including cities and towns, shall be brought in the county in which the political subdivision is located or in the county in which the claim arose.~~] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action against any other political subdivision, including a city or a town, in the county in which:

(a) the political subdivision is located; or

(b) the claim arose.

Section ~~{102}~~103. Section **63G-20-204** is amended to read:

63G-20-204. Remedies -- Attorney fees and costs.

(1) (a) A person aggrieved by a violation of this part may:

(i) seek injunctive or other civil relief to require a state or local government or a state or local government official to comply with the requirements of this part; or

(ii) seek removal of the local government official for malfeasance in office according to the procedures and requirements of Title 77, Chapter 6, Removal by Judicial Proceedings.

(b) The court may award reasonable attorney fees and costs to the prevailing party.

(2) (a) A person aggrieved by a violation of this part may bring a civil action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) If the plaintiff establishes one or more violations of this part by a preponderance of the evidence, the court:

(i) shall grant the plaintiff appropriate legal or equitable relief; and

(ii) may award reasonable attorney fees and costs to the prevailing party.

Section ~~{103}~~104. Section **63G-20-302** is amended to read:

63G-20-302. Remedies -- Civil action -- Attorney fees and costs.

(1) A person aggrieved by a violation of this part may bring a civil action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) If the plaintiff establishes one or more violations of this part by a preponderance of the evidence, the court:

(a) shall grant the plaintiff appropriate legal or equitable relief; and

(b) may award reasonable attorney fees and costs to the prevailing party.

Section ~~{104}~~105. Section **63G-23-102** is amended to read:

63G-23-102. Definitions.

As used in this chapter:

(1) "Public official" means, except as provided in Subsection (3), the same as that term is defined in Section 36-11-102.

(2) "Public official" includes a judge or justice of:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals; [~~or~~]

(c) a district court[~~.~~];

(d) a juvenile court; or

(e) the Business and Chancery Court.

(3) "Public official" does not include a local official or an education official as defined in Section 36-11-102.

Section ~~{105}~~106. Section **63H-1-601** is amended to read:

63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics of bonds.

(1) The authority may not issue bonds under this part unless the authority board first:

(a) adopts a parameters resolution that sets forth:

(i) the maximum:

(A) amount of the bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State

Finance Review Commission created in Section 63C-25-201.

(2) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) in a newspaper having general circulation in the authority's boundaries; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in [~~the district court of the county in which the person resides~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section ~~{106}~~107. Section **63L-5-301** is amended to read:

63L-5-301. Remedies.

(1) (a) A person whose free exercise of religion has been substantially burdened by a government entity in violation of Section 63L-5-201 may bring an action in [~~the district court of~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall bring an action described in Subsection (1)(a) in the county where the largest portion of the property subject to the land use regulation is located if the action is brought in the district court.

(2) Any person who asserts a claim or defense against a government entity under this chapter may request:

(a) declaratory relief;

(b) temporary or permanent injunctive relief to prevent the threatened or continued violation; or

(c) a combination of declaratory and injunctive relief.

(3) A person may not bring an action under this chapter against an individual, other than an action against an individual acting in the individual's official capacity as an officer of a government entity.

Section ~~{107}~~108. Section **63L-8-304** is amended to read:

63L-8-304. Enforcement authority.

(1) The director shall issue rules as necessary to implement the provisions of this chapter with respect to the management, use, and protection of the public land and property located on the public land.

(2) At the request of the director, the attorney general may [~~institute a civil action in a district court~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an injunction or other appropriate remedy to prevent any person from utilizing public land in violation of this chapter or rules issued by the director under this chapter.

(3) The use, occupancy, or development of any portion of the public land contrary to any rule issued by the DLM in accordance with this chapter, and without proper authorization, is unlawful and prohibited.

(4) (a) The locally elected county sheriff is the primary law enforcement authority with jurisdiction on public land to enforce:

(i) all the laws of this state; and

(ii) this chapter and rules issued by the director pursuant to Subsection (1).

(b) The governor may utilize the Department of Public Safety for the purposes of assisting the county sheriff in enforcing:

(i) all the laws of this state and this chapter; and

(ii) rules issued by the director pursuant to Subsection (1).

(c) Conservation officers employed by the Division of Wildlife Resources have authority to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the sake of any protected wildlife.

(d) A conservation officer shall work cooperatively with the locally elected county sheriff to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the sake of protected wildlife.

(e) Nothing herein shall be construed as enlarging or diminishing the responsibility or authority of a state certified peace officer in performing the officer's duties on public land.

Section ~~{108}~~109. Section **65A-8a-104** is amended to read:

65A-8a-104. Notification of intent to conduct forest practices.

(1) No later than 30 days before an operator commences forest practices, the operator shall notify the division of the operator's intent to conduct forest practices.

(2) The notification shall include:

(a) the name and address of the operator;

(b) the name, address, and other current contact information of the landowner;

(c) a legal description of the area in which the forest practices are to be conducted;

(d) a description of the proposed forest practices to be conducted, including the number of acres with timber to be harvested; and

(e) an agreement granting the state forestry personnel permission to enter the area in which the forest practices are to be conducted to conduct an inspection, when the state forestry personnel reasonably consider an inspection necessary to ensure compliance with this chapter.

(3) Upon the receipt of notification, the division shall, within 10 days, mail to the landowner and the operator:

(a) an acknowledgment of notification;

(b) information on Forest Water Quality Guidelines; and

(c) any other information the division believes would assist the landowner and operator in conducting forest practices.

(4) (a) Failure to notify the division in accordance with this section is a class B misdemeanor.

(b) (i) The division may [~~file an action in the district court of any county in which the area in which the forest practices are to be conducted is located~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin an operator engaged in conduct violating this chapter from operating until the operator complies with this chapter.

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the division shall bring an action described in Subsection (4)(b)(i) in the county in which the forest practices are to be conducted is located if the division brings the action in the district court.

(c) In an action by the division in accordance with Subsection (4)(b), the operator shall pay reasonable attorney fees and all court costs incurred by the division because of the action.

Section ~~{109}~~110. Section **67-3-1** is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

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

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation 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;

(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, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended

objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling

board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of 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 the budgeting, 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 the state; 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.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) 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 taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) 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 entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17,

Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in 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.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(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:

(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;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through

other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State

Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Special Needs Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23) (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

Section ~~{110}~~111. Section **67-3-3** is amended to read:

67-3-3. Disbursements of public funds -- Suspension of disbursements -- Procedure upon suspension.

(1) The state auditor may suspend any disbursement of public funds whenever, in the state auditor's opinion, the disbursement is contrary to law.

(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 to the attorney general for appropriate action.

(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 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 immediately meet the demand and pay into the state treasury by certified check or legal tender any amount or amounts disbursed and involved in the suspension.

(3) (a) The state auditor shall ensure that each suspension is in writing.

(b) The state auditor shall:

(i) prepare a form to be known as the notice of suspension;

(ii) ensure that the form contains complete information as to:

(A) the payment suspended;

(B) the reason for the suspension;

(C) the amount of money involved; and

(D) any other information that will clearly establish identification of the payment;

(iii) retain the original of the suspension notice;

(iv) serve one copy of the suspension notice upon:

(A) the disbursing or certifying officer;

(B) any member of the finance commission; and

(C) the surety of the disbursing or certifying officer, except that mailing the copy to the surety company constitutes legal service;

(v) attach one copy of the suspension notice to the document under suspension; and

(vi) take receipts entered upon the original suspension notice held by the state auditor from the disbursing or certifying officer, the finance commission, and the surety.

(4) (a) Immediately upon any suspension becoming final, the finance commission shall:

(i) cause an entry to be made debiting the disbursing or certifying officer with the amount of money involved in any suspension notice; and

(ii) credit the account originally charged by the payment.

(b) Upon release of final suspension by the state auditor, the finance commission shall make a reversing entry, crediting the disbursing or certifying officer, and like credit shall be given in all recoveries from the surety.

(5) (a) In accordance with this Subsection (5), the state auditor may prohibit the access of a state or local taxing or fee-assessing unit to money held by the state or in an account of a financial institution, if the state auditor determines that the local taxing or fee-assessing unit is not in compliance with state law regarding budgeting, expenditures, financial reporting of public funds, and transparency.

(b) The state auditor may not withhold funds under Subsection (5)(a) until the state auditor:

(i) sends formal notice of noncompliance to the state or local taxing or fee-assessing unit; and

(ii) allows the state or local taxing or fee-assessing unit 60 calendar days to:

(A) make the specified corrections; or

(B) demonstrate to the state auditor that the specified corrections are not legally

required.

(c) If, after receiving notice under Subsection (5)(b), the state or local fee-assessing unit does not make the specified corrections and the state auditor does not agree with any demonstration under Subsection (5)(b)(ii)(B), the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) shall provide a recommended timeline for corrective actions;

(iii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iv) may prohibit the taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) 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 taxing or fee-assessing unit access to an account.

(d) The state auditor shall remove the prohibition on accessing funds described in Subsections (5)(c)(iii) and (iv) if:

(i) the state or local taxing or fee-assessing unit makes the specified corrections described in Subsection (5)(b); or

(ii) the state auditor agrees with a demonstration under Subsection (5)(b)(ii)(B).

Section ~~{111}~~112. Section **70A-2-807** is amended to read:

70A-2-807. Consumer may not waive rights under chapter -- Enforcement -- Remedies not exclusive.

(1) Any waiver by a consumer of rights under this chapter is void.

(2) (a) A consumer may bring an action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the consumer's rights under this chapter.

(b) The court shall award a consumer who prevails in an action under this chapter twice the amount of any pecuniary loss, together with costs, disbursements, reasonable attorney's fees, and any equitable relief that the court determines is appropriate.

(3) (a) The attorney general may file an action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this chapter on behalf of any consumer or in its own behalf.

(b) In addition to the other remedies provided in this chapter, the attorney general is also entitled to an award for reasonable attorney's fees, court costs, and investigative expenses.

(4) This chapter shall not be construed as imposing any liability on an authorized dealer or lessor or as creating a cause of action by a consumer against a dealer or lessor, except regarding any express warranties made by the dealer or lessor apart from the manufacturer's warranties.

(5) Nothing in this chapter shall limit or impair the rights or remedies which are otherwise available to a consumer under any other provision of law.

Section ~~{112}~~113. Section **70C-8-105** is amended to read:

70C-8-105. Judicial review.

(1) (a) Any party aggrieved by any rule, order, temporary order, decision, ruling, or other act or failure to act by the department under this title is entitled to judicial review.

(b) Within 30 days after receiving notice of a rule, order, temporary order, decision, or other ruling, or within 120 days after the department has failed to act upon a request or application, the aggrieved party may file an application for judicial review with [~~a court of competent jurisdiction~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the aggrieved party shall file an application in the county in which the applicant is located or in the Third District Court if the application is brought in the district court.

(d) The court may void any rule, order, temporary order, decision, ruling, or other act of the department it finds to be arbitrary, capricious, an abuse of discretion, in excess of the department's authority, or otherwise contrary to law.

(2) (a) Any party upon showing that it may be subject to potential irreparable injury by any proposed rule or order of the department may, without exhausting its administrative remedies, apply for a declaratory judgment as to any question of law arising out of the rule or order.

(b) The applications shall be filed in the Third District Court.

(3) Any action for judicial review of acts or failures to act of the department shall be heard by the court and shall be based on the record made before the department unless the court finds good cause to admit additional and otherwise proper evidence.

(4) (a) Filing an application for judicial review does not stay the adoption or enforcement of any rule, order, temporary order, decision, or ruling of the department.

(b) The court may expressly stay any rule, order, decision, or ruling of the department during the pendency of judicial proceedings challenging them upon terms and conditions it deems appropriate after finding that the possible harm to all interested parties is, on balance, likely to be less if the stay is imposed, or if the applicant and the department stipulate to the imposition of a stay.

Section ~~{113}~~114. Section **70D-2-504** is amended to read:

70D-2-504. Orders.

(1) If the commissioner determines that a person engaging in business as a lender, broker, or servicer is violating, has violated, or the commissioner has reasonable cause to believe is about to violate this chapter or a rule of the commissioner made under this chapter, the commissioner may:

(a) order the person to cease and desist from committing a further violation; and

(b) in the most serious instances may prohibit the person from continuing to engage in business as a lender, broker, or servicer.

(2) (a) If the commissioner determines that a practice that the commissioner alleges is unlawful should be enjoined during the pendency of a proceeding incident to an allegation, the commissioner may issue a temporary order in accordance with Section 63G-4-502:

(i) at the commencement of the proceedings; or

(ii) at any time after the proceeding commences.

(b) For purposes of Section 63G-4-502, an immediate and significant danger to the public health, safety, or welfare exists if the commissioner finds from specific facts supported by sworn statement or the records of a person subject to the order that loan applicants or mortgagors are otherwise likely to suffer immediate and irreparable injury, loss, or damage before a proceeding incident to a final order can be completed.

(3) The commissioner may not award damages or penalties under this chapter against a lender, broker, or servicer.

(4) (a) An order issued by the commissioner under this chapter shall:

(i) be in writing;

(ii) be delivered to or served upon the person affected; and

(iii) specify the order's effective date, which may be immediate or at a later date.

(b) An order remains in effect until:

(i) withdrawn by the commissioner; or

(ii) terminated by a court order.

(c) [~~An order of the commissioner, upon~~] Upon an application made on or after the order's effective date [~~to the Third District Court, or in any other district court, may be enforced~~] to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, the court may enforce an order of the commissioner ex parte and without notice by an order to comply entered by the court.

Section ~~{114}~~115. Section **72-10-106** is amended to read:

72-10-106. Enforcement of chapter -- Fees for services by department.

(1) (a) The department and every county and municipal officer required to enforce state laws shall enforce and assist in the enforcement of this chapter.

(b) The department may enforce this chapter by [~~injunction in the district courts of this state~~] seeking an injunction in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(c) Other departments and political subdivisions of this state may cooperate with the department in the development of aeronautics within this state.

(2) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department.

(b) Each fee shall be reasonable and fair, and shall reflect the cost of the service provided.

(c) Each fee established in this manner shall be submitted to and approved by the Legislature as part of the department's annual appropriations request.

(d) The department may not charge or collect any fee proposed in this manner without approval by the Legislature.

Section ~~{115}~~116. Section **72-16-401** is amended to read:

72-16-401. Penalty for violation.

(1) If an owner-operator or operator violates a provision of this chapter with respect to an amusement ride, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may:

(a) deny, suspend, or revoke, in whole or in part, the owner-operator's annual amusement ride permit or multi-ride permit for the amusement ride; or

(b) impose fines or administrative penalties in accordance with rules made by the committee.

(2) Upon a violation of a provision of this chapter, the director may [~~file an action in district court~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin the operation of an amusement ride.

Section ~~{116}~~117. Section **75-2-105** is amended to read:

75-2-105. No taker -- Minerals and mineral proceeds.

(1) As used in this section:

(a) "Mineral" means the same as that term is defined in Section 67-4a-102.

(b) "Mineral proceeds" means the same as that term is defined in Section 67-4a-102.

(c) "Operator" means the same as that term is defined in Section 40-6-2, 40-8-4, or 40-10-3, and includes any other person holding mineral proceeds of an owner.

(d) "Owner" means the same as that term is defined in Section 38-10-101, 40-6-2, or 40-8-4.

(e) "Payor" means the same as that term is defined in Section 40-6-2, and includes a person who undertakes or has a legal obligation to distribute any mineral proceeds.

(2) If there is no taker under this chapter, the intestate estate passes upon the decedent's death to the state for the benefit of the permanent state school fund.

(3) When minerals or mineral proceeds pass to the state pursuant to Subsection (2), the Utah School and Institutional Trust Lands Administration shall administer the interests in the minerals or mineral proceeds for the support of the common schools pursuant to Sections 53C-1-102 and 53C-1-302, but may exercise its discretion to abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration.

(4) (a) If a probate or other proceeding has not adjudicated the state's rights under Subsection (2), the state, and the Utah School and Institutional Trust Lands Administration with respect to any minerals or mineral proceeds referenced in Subsection (3), may bring an

action [~~in district court in any district in which part of the property related to the minerals or mineral proceeds is located~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to quiet title the minerals, mineral proceeds, or property.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state or the Utah School and Institutional Trust Lands Administration, shall bring an action described in Subsection (4)(a) in the county in which the property related to the minerals or mineral process is located if the action is brought in the district court.

(5) In an action brought under Subsection (4), the [~~district~~] court shall quiet title to the minerals, mineral proceeds, or property in the state if:

(a) no interested person appears in the action and demonstrates entitlement to the minerals, mineral proceeds, or property after notice has been given pursuant to Section 78B-6-1303 and in the manner described in Section 75-1-401; and

(b) the requirements of Section 78B-6-1315 are met.

(6) (a) If an operator, owner, or payor determines that minerals or mineral proceeds form part of a decedent's intestate estate, and has not located an heir of the decedent, the operator, owner, or payor shall submit to the Utah School and Institutional Trust Lands Administration the information in the operator's, owner's, or payor's possession concerning the identity of the decedent, the results of a good faith search for heirs specified in Section 75-2-103, the property interest from which the minerals or mineral proceeds derive, and any potential heir.

(b) The operator, owner, or payor shall submit the information described in Subsection (6)(a) within 180 days of acquiring the information.

Section ~~{117}~~118. Section **75-2-801** is amended to read:

75-2-801. Disclaimer of property interests -- Time -- Form -- Effect -- Waiver and bar -- Remedy not exclusive -- Application.

(1) A person, or the representative of a person, to whom an interest in or with respect to property or an interest therein devolves by whatever means may disclaim it in whole or in part by delivering or filing a written disclaimer under this section. The right to disclaim exists notwithstanding:

(a) any limitation on the interest of the disclaimant in the nature of a spendthrift provision 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.

(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.

(ii) The disclaimer shall be filed in [~~the district court of the county~~] a court with 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.

(iv) A copy of the disclaimer shall be delivered in person or mailed by registered or certified mail, return receipt requested, to any personal representative or other fiduciary of the decedent or donee of the power.

(b) If a property or interest has devolved to the disclaimant under a nontestamentary instrument or contract, the disclaimer shall be delivered or filed, if of a present interest, not later than nine months after the effective date of the nontestamentary instrument or contract 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. If the person entitled to disclaim does not know of the existence of the interest, the disclaimer shall be delivered or filed not later than nine months after the person learns of the existence of the interest. The effective date of a revocable instrument or contract is the date on which the maker no longer has power to revoke it or to transfer to the maker or another the entire legal and equitable ownership of the interest. The disclaimer or a copy thereof shall be delivered in

person or mailed by registered or certified mail, return receipt requested, to the person who has 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 under it.

(d) If real property or an interest therein is disclaimed, a copy of the disclaimer may be recorded in the office of the county recorder of the county in which the property or interest disclaimed is located.

(3) The disclaimer shall:

(a) describe the property or interest disclaimed;

(b) declare the disclaimer and extent thereof; and

(c) be signed by the disclaimant.

(4) The effects of a disclaimer are:

(a) If property or an interest therein devolves to a disclaimant under a testamentary instrument, under a power of appointment exercised by a testamentary instrument, or under the laws of intestacy, and the decedent has not provided for another disposition of that interest, should it be disclaimed, or of disclaimed, or failed interests in general, the disclaimed interest devolves as if the disclaimant had predeceased the decedent, but if by law or under the testamentary instrument the descendants of the disclaimant would share in the disclaimed interest per capita at each generation or otherwise were the disclaimant to predecease the decedent, then the disclaimed interest passes per capita at each generation, or passes as directed by the governing instrument, to the descendants of the disclaimant who survive the decedent. A future interest that takes effect in possession or enjoyment after the termination of the estate 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.

(b) If property or an interest therein devolves to a disclaimant under a nontestamentary

instrument or contract and the instrument or contract does not provide for another disposition of that interest, should it be disclaimed, or of disclaimed or failed interests in general, the disclaimed interest devolves as if the disclaimant has predeceased the effective date of the instrument or contract, but if by law or under the nontestamentary instrument or contract the descendants of the disclaimant would share in the disclaimed interest per capita at each generation or otherwise were the disclaimant to predecease the effective date of the instrument, then the disclaimed interest passes per capita at each generation, or passes as directed by the governing instrument, to the descendants of the disclaimant who survive the effective date of the instrument. A disclaimer relates back for all purposes to that date. A future interest that takes effect in possession or enjoyment at or after the termination of the disclaimed interest takes effect as if the disclaimant had died before the effective date of the instrument or contract that transferred the disclaimed interest.

(c) The disclaimer or the written waiver of the right to disclaim is binding upon the disclaimant or person waiving and all persons claiming through or under either of them.

(5) The right to disclaim property or an interest therein is barred by:

(a) an assignment, conveyance, encumbrance, pledge, or transfer of the property or interest, or a contract therefor;

(b) a written waiver of the right to disclaim;

(c) an acceptance of the property or interest or a benefit under it; or

(d) a sale of the property or interest under judicial sale made before the disclaimer is made.

(6) This section does not abridge the right of a person to waive, release, disclaim, or renounce property or an interest therein under any other statute.

(7) An interest in property that exists on July 1, 1998, as to which, if a present interest, the time for filing a disclaimer under this section has not expired or, if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within nine months after July 1, 1998.

Section ~~{118}~~119. Section **75-2a-120** is amended to read:

75-2a-120. Judicial relief.

A [~~district~~] court may enjoin or direct a health care decision, or order other equitable relief based on a petition filed by:

(1) a patient;

(2) an agent of a patient;

(3) a guardian of a patient;

(4) a default surrogate of a patient;

(5) a health care provider of a patient;

(6) a health care facility providing care for a patient; or

(7) an individual who meets the requirements of Section 75-2a-108.

Section ~~{119}~~120. Section **75-5a-102** is amended to read:

75-5a-102. Definitions.

As used in this part:

(1) "Adult" means an individual who is 21 years [~~of age~~] old or older.

(2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(3) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the accounts of others.

(4) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

[~~(5) "Court" means the probate division of the district court for the county in which the custodian resides.~~]

(5) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(6) "Custodial property" means:

(a) any interest in property transferred to a custodian under this part; and

(b) the income from and proceeds of that interest in property.

(7) "Custodian" means a person so designated under Section 75-5a-110 or a successor or substitute custodian designated under Section 75-5a-119.

(8) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(9) "Legal representative" means an individual's personal representative or conservator.

(10) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(11) "Minor" means an individual who is [~~not yet 21 years of age~~] under 21 years old.

(12) "Person" means an individual, corporation, organization, or other legal entity.

(13) "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

(14) "State" includes any state of the United States, the district of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(15) "Transfer" means a transaction that creates custodial property under Section 75-5a-110.

(16) "Transferor" means a person who makes a transfer under this part.

(17) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

Section ~~{120}~~121. Section **75-7-105** is amended to read:

75-7-105. Default and mandatory rules.

(1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(2) Except as specifically provided in this chapter, the terms of a trust prevail over any provision of this chapter except:

(a) the requirements for creating a trust;

(b) subject to Sections 75-12-109, 75-12-111, and 75-12-112, the duty of a trustee to act in good faith and in accordance with the purposes of the trust;

(c) the requirement that a trust and the terms of the trust be for the benefit of the trust's beneficiaries;

(d) the power of the court to modify or terminate a trust under Sections 75-7-410 through 75-7-416;

(e) the effect of a spendthrift provision, Section 25-6-502, and the rights of certain creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift and Discretionary Trusts;

(f) the power of the court under Section 75-7-702 to require, dispense with, or modify

or terminate a bond;

(g) the effect of an exculpatory term under Section 75-7-1008;

(h) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a trustee or beneficiary;

(i) periods of limitation for commencing a judicial proceeding; and

(j) the [~~subject-matter jurisdiction of the court and venue for commencing a proceeding as provided~~] jurisdiction and venue requirements for an action involving the trust as described in Sections 75-7-203 and 75-7-205.

Section ~~{121}~~122. Section **75-7-203** is amended to read:

75-7-203. Jurisdiction over an action involving a trust.

[~~(1) The district court has exclusive jurisdiction of proceedings in this state brought by a trustee or beneficiary concerning the administration of a trust.~~]

[~~(2) The district court has concurrent jurisdiction with other courts of this state of other proceedings involving a trust.~~]

(1) A court of this state has jurisdiction as described in Title 78A, Judiciary and Judicial Administration, over an action involving a trust.

[~~(3)~~] (2) This section does not preclude judicial or nonjudicial alternative dispute resolution.

Section ~~{122}~~123. Section **75-7-205** is amended to read:

75-7-205. Venue.

[~~(1) Except as otherwise provided in Subsection (2), venue for a judicial proceeding involving a trust is in the county in which the trust's principal place of administration is or will be located and, if the trust is created by will and the estate is not yet closed, in the county in which the decedent's estate is being administered.~~]

[~~(2) If a trust has no trustee, venue for a judicial proceeding for the appointment of a trustee is in any county of this state in which a beneficiary resides, in any county in which any trust property is located, and if the trust is created by will, in the county in which the decedent's estate was or is being administered.~~]

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and except as provided in Subsection (2), a person shall bring an action involving a trust, if the action is brought in the district court, in:

(a) the county in which the trust's principal place of administration is or will be located; or

(b) if the trust is created by a will and the estate is not yet closed, the county in which the decedent's estate is being administered.

(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and if a trust has no trustee, a person shall bring an action for the appointment of a trustee, if the action is brought in the district court, in:

(a) a county of this state in which a beneficiary resides;

(b) a county in which any trust property is located; or

(c) if the trust is created by a will, the county in which the decedent's estate was or is being administered.

Section ~~{123}~~124. Section **75-11-102** is amended to read:

75-11-102. Definitions.

As used in this chapter:

(1) "Account" means an arrangement under a terms of service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

(2) "Agent" means an attorney in fact granted authority under a durable or nondurable power of attorney.

(3) "Carries" means engages in the transmission of an electronic communication.

(4) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5) (a) "Conservator" means a person appointed by a court to manage the estate of a living individual.

(b) "Conservator" includes a limited conservator.

(6) "Content of an electronic communication" means information concerning the substance or meaning of the communication that:

(a) has been sent or received by a user;

(b) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing

service to the public; and

(c) is not readily accessible to the public.

(7) "Court" means [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(8) "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

(9) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

(10) (a) "Digital asset" means an electronic record in which an individual has a right or interest.

(b) "Digital asset" does not include an underlying asset or liability unless the asset or liability 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 the ability to send or receive an electronic communication.

(14) "Fiduciary" means an original, additional, or successor personal representative, conservator, guardian, agent, or trustee.

(15) (a) "Guardian" means a person appointed by a court to manage the affairs of a living individual.

(b) "Guardian" includes a limited guardian.

(16) "Information" means data, text, images, videos, sounds, codes, computer 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 the place of a principal.

(21) "Principal" means an individual who grants authority to an agent in a power of attorney.

(22) (a) "Protected person" means an individual for whom a conservator or guardian has been appointed.

(b) "Protected person" includes an individual for whom an application for the appointment of a conservator or guardian is pending.

(23) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(24) "Remote computing service" means a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Sec. 2510(14).

(25) "Terms of service agreement" means an agreement that controls the relationship between a user and a custodian.

(26) (a) "Trustee" means a fiduciary with legal title to property pursuant to an agreement or declaration that creates a beneficial interest in another.

(b) "Trustee" includes a successor trustee.

(27) "User" means a person that has an account with a custodian.

(28) "Will" includes a codicil, a testamentary instrument that only appoints an executor, and an instrument that revokes or revises a testamentary instrument.

Section ~~{124}~~125. Section **76-10-1605** is amended to read:

76-10-1605. Remedies of person injured by a pattern of unlawful activity -- 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

(b) the conduct has been adjudged criminal by any court of the state or of the United States.

(2) A party who prevails on a cause of action brought under this section recovers the cost of the suit, including reasonable attorney fees.

(3) All actions arising under this section which are grounded in fraud are subject to arbitration 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 convincing evidence.

(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 shall be 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:

(i) issue restraining orders and injunctions;

(ii) require satisfactory performance bonds or any other bond it considers appropriate and necessary in connection with any property or any requirement imposed upon a party by the court; and

(iii) enter any other order the court considers necessary and proper.

(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:

(i) order any person to divest himself of any interest in or any control, direct or indirect, of any enterprise;

(ii) impose reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or

(iii) order the dissolution or reorganization of any enterprise.

(d) However, if an action is brought to obtain any relief provided by this section, and if the conduct prohibited by Section 76-10-1603 has for its pattern of unlawful activity acts or conduct illegal under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court may not enter any order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States, or Article I, Sec. 15 of the Utah Constitution. The court shall, upon the request of any affected party, and upon the notice to all parties, prior to the issuance of any order provided for in this subsection, and at any later time, hold hearings as necessary to determine whether any materials at issue are

obscene or pornographic and to determine if there is probable cause to believe that any act or conduct alleged violates Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222. In making its findings the court shall be guided by the same considerations required of a court making similar findings in criminal cases brought under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, including, but not limited to, the definitions in Sections 76-10-1201, 76-10-1203, and 76-10-1216, and the exemptions in Section 76-10-1226.

Section ~~{125}~~126. Section **78A-1-103.5 (Effective 07/01/24)** is amended to read:

78A-1-103.5 (Effective 07/01/24). Number of Business and Chancery Court judges -- Disqualification or recusal of a Business and Chancery Court judge.

(1) The Business and Chancery Court shall consist of one judge.

(2) If there are fewer than three judges for the Business and Chancery Court under Subsection (1), the presiding officer of the Judicial Council shall designate a pool of two district court judges to preside over actions in the Business and Chancery Court.

(3) A district court judge designated under Subsection (2) may preside over an action when each Business and Chancery Court judge is unable to preside over an action due to recusal or disqualification.

Section ~~{126}~~127. Section **78A-5-102** is amended to read:

78A-5-102. Jurisdiction of the district court -- Appeals.

(1) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

(2) A district court judge may:

(a) issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees[.]; and

(b) preside over an action for which the Business and Chancery Court has jurisdiction if:

(i) the district court judge is designated by the presiding officer of the Judicial Council to preside over an action in the Business and Chancery Court as described in Section 78A-1-103.5; and

(ii) a Business and Chancery Court judge is unable to preside over the action due to recusal or disqualification.

(3) The district court has jurisdiction:

(a) over matters of lawyer discipline consistent with the rules of the Supreme Court[~~.~~];

[~~(4)~~] (b) [~~The district court has jurisdiction~~] over all matters properly filed in the circuit court prior to July 1, 1996[~~.~~];

(c) to enforce foreign protective orders as described in Subsection 78B-7-303(8);

(d) to enjoin a violation of Title 58, Chapter 37, Utah Controlled Substances Act;

(e) over a petition seeking to terminate parental rights as described in Section 78B-6-112;

(f) except as provided in Subsection 78A-6-103(2)(a)(xiv), an adoption proceeding; and

(g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments;

[~~(5)~~] (4) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

[~~(6) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court is described in Sections 78A-3-102 and 78A-4-103.~~]

[~~(7)~~] (5) The district court has jurisdiction to review:

[~~(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in the district court's review of agency adjudicative proceedings; and~~]

[~~(b) municipal administrative proceedings in accordance with Section 10-3-703.7.~~]

(a) a municipal administrative proceeding as described in Section 10-3-703.7;

(b) a decision resulting from a formal adjudicative proceeding by the State Tax Commission as described in Section 59-1-601;

(c) except as provided in Section 63G-4-402, a final agency action resulting from an informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative Procedures Act; and

(d) by trial de novo, a final order of the Department of Transportation resulting from formal and informal adjudicative proceedings under Title 72, Chapter 7, Part 2, Junkyard Control Act.

(6) The district court has original and exclusive jurisdiction over an action brought

under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

[~~(8)~~] (7) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(a) there is no justice court with territorial jurisdiction;

(b) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has [~~not formed and then~~] formed and dissolved, a justice court; or

(c) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older [~~.~~].

[~~(9)~~] (8) If a district court has jurisdiction in accordance with Subsection [~~(5), (8)(a), or (8)(b)~~] (4), (7)(a), or (7)(b), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

[~~(10)~~] (9) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

[~~(11)~~] (10) (a) The district court has subject matter jurisdiction over a criminal action that the justice court transfers to the district court.

(b) Notwithstanding Subsection 78A-7-106(1), the district court has original jurisdiction over any refiled case of a criminal action transferred to the district court if the district court dismissed the transferred case without prejudice.

(11) The Supreme Court and Court of Appeals have jurisdiction over an appeal from a final order, judgment, and decree of the district court as described in Sections 78A-3-102 and 78A-4-103.

Section ~~{127}~~128. Section **78A-5a-101 (Effective 07/01/24)** is amended to read:

78A-5a-101 (Effective 07/01/24). Definitions.

(1) "Action" means a lawsuit or case commenced in a court.

(2) (a) "Asset" means property of all kinds, real or personal and tangible or intangible.

(b) "Asset" includes:

(i) cash, except for any reasonable compensation or salary for services rendered;

(ii) stock or other investments;

(iii) goodwill;

(iv) an ownership interest;

(v) a license;

(vi) a cause of action; and

(vii) any similar property.

(3) "Beneficial shareholder" means the same as that term is defined in Section 16-10a-1301.

(4) "Blockchain" means [~~a cryptographically secured, chronological, and decentralized consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other interaction~~] the same as that term is defined in Section 63A-16-108.

(5) "Blockchain technology" means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

(6) "Board" means the board of directors or trustees of a corporation.

(7) "Business" means any enterprise carried on for the purpose of gain or economic profit.

(8) (a) "Business organization" means an organization in any form that is primarily engaged in business.

(b) "Business organization" includes:

(i) an association;

(ii) a corporation;

(iii) a joint stock company;

(iv) a joint venture;

(v) a limited liability company;

(vi) a mutual fund trust;

(vii) a partnership; or

(viii) any other similar form of an organization described in Subsections (8)(b)(i) through (vii).

(c) "Business organization" does not include a governmental entity as defined in Section 63G-7-102.

(9) "Claim" means a written demand or assertion in an action.

(10) "Commercial tenant" means the same as that term is defined in Section 78B-6-801.

[~~(10)~~] (11) "Consumer contract" means a contract entered into by a consumer for the purchase of goods or services for personal, family, or household purposes.

[~~(11)~~] (12) "Court" means the Business and Chancery Court established in Section 78A-5a-102.

[~~(12)~~] (13) "Decentralized autonomous organization" means [~~an organization that is created by a smart contract deployed on a permissionless blockchain that implements specific decision-making or governance rules enabling individuals to coordinate themselves in a decentralized fashion~~] the same as that term is defined in Section 48-5-101.

[~~(13)~~] (14) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

[~~(14)~~] (15) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(16) "Governmental entity" means the same as that term is defined in Section 63G-7-102.

[~~(15)~~] (17) "Health care" means the same as that term is defined in Section 78B-3-403.

[~~(16)~~] (18) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(17)~~] (19) "Monetary damages" does not include:

(a) punitive or exemplary damages;

(b) prejudgment or postjudgment interest; or

(c) attorney fees or costs.

[~~(18)~~] (20) "Officer" means an individual designated by a board, or other governing body of a business organization, to act on behalf of the business organization.

[~~(19)~~] (21) "Owner" means a person who, directly or indirectly, owns or controls an ownership interest in a business organization regardless of whether the person owns or controls the ownership interest through another person, a power of attorney, or another business organization.

[~~(20)~~] (22) "Ownership interest" means an interest owned in a business organization,

including any shares, membership interest, partnership interest, or governance or transferable interest.

[~~(21) "Permissionless blockchain" means a public distributed ledger that allows an individual to transact and produce blocks in accordance with the blockchain protocol, whereby the validity of the block is not determined by the identity of the producer.~~]

[~~(22)~~] (23) "Personal injury" means a physical or mental injury, including wrongful death.

[~~(23)~~] (24) "Professional" means an individual whose profession requires a license, registration, or certification on the basis of experience, education, testing, or training.

(25) (a) "Provisional remedy" means a temporary order by a court while an action is pending.

(b) "Provisional remedy" includes a preliminary injunction, a temporary restraining order, a prejudgment writ, or an appointment of a receiver.

[~~(24)~~] (26) "Security" means the same as that term is defined in Section 61-1-13.

[~~(25)~~] (27) "Shareholder" means the record shareholder or the beneficial shareholder.

[~~(26) "Smart contract" means code deployed on a permissionless blockchain that consists of a set of predefined instructions executed in a distributed manner by the nodes of an underlying blockchain network that produces a change on the blockchain network.~~]

[~~(27)~~] (28) "Record shareholder" means the same as that term is defined in Section 16-10a-1301.

[~~(28)~~] (29) "Trustee" means a person that holds or administers an ownership interest on behalf of a third party.

Section ~~{128}~~129. Section **78A-5a-103 (Effective 10/01/24)** is amended to read:

78A-5a-103 (Effective 10/01/24). Concurrent jurisdiction of the Business and Chancery Court -- Exceptions.

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least $300,000 or seeking solely equitable relief; and

(b) (i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization; [~~or~~]

(iii) that is a shareholder derivative action[~~.~~]; or

(iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

[~~(2) The Business and Chancery Court may exercise supplemental jurisdiction over all claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1), except that the Business and Chancery Court may not exercise jurisdiction over:~~]

(2) Except as provided in Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of the Business and Chancery Court under Subsection (1) if the claim arises from the same set of facts or circumstances as the action.

(3) The Business and Chancery Court may not exercise supplemental jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including [~~any~~] a personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

[~~(iii) a wrongful termination of employment or a prohibited or discriminatory employment practice;~~]

[~~(iv)~~] (iii) a violation of Title 13, Chapter 7, Civil Rights;

(iv) Title 20A, Election Code;

(v) Title 30, Husband and Wife;

(vi) Title 63G, Chapter 4, Administrative Procedures Act;

(vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

(viii) Title 78B, Chapter 6, Part 5, Eminent Domain;

(ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is brought against a commercial tenant;

(x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(xi) Title 78B, Chapter 12, Utah Child Support Act;

(xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

(xiv) Title 78B, Chapter 15, Utah Uniform Parentage Act;

(xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or

(xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act; [~~or~~]

(b) any action in which a governmental entity is a party; or

[~~(b)~~] (c) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

(4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over a claim that is barred under Subsection (3):

(a) if the claim is a compulsory counterclaim;

(b) if there would be a material risk of inconsistent outcomes if the claim were tried in a separate action; or

(c) solely to resolve a request for a provisional remedy related to the claim before the Business and Chancery Court transfers the claim as described in Subsection (5).

(5) If an action contains a claim for which the Business and Chancery Court may not exercise supplemental jurisdiction under this section, the Business and Chancery Court shall bifurcate the action and transfer any claim for which the Business and Chancery Court does not have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(6) Before the Business and Chancery Court transfers a claim as described in Subsection (5), the Business and Chancery Court may resolve:

(a) all claims for which the Business and Chancery Court has jurisdiction; and

(b) any request for a provisional remedy related to a claim that is being transferred.

Section ~~{129}~~130. Section **78A-5a-104 (Effective 07/01/24)** is amended to read:

78A-5a-104 (Effective 07/01/24). Trier of fact and law -- Demand for jury trial.

(1) The Business and Chancery Court is the trier of fact and law in an action before the Business and Chancery Court.

(2) [~~The~~] Notwithstanding Section 78A-5a-103, the Business and Chancery Court shall transfer an action, or any claim in an action, to the district court if:

(a) a party to the action demands a trial by jury in accordance with the Utah Rules of [~~Civil Procedure~~] Business and Chancery Procedure; and

(b) the Business and Chancery Court finds the party that made the demand has the right to a trial by jury on a claim in the action.

(3) Before the Business and Chancery Court transfers an action or a claim under Subsection (2), the Business and Chancery Court may:

(a) bifurcate the action and resolve all claims in which the party does not have a right to a trial by jury; and

(b) administrate and adjudicate the action or claim being transferred prior to a trial by jury, including any pleading, provisional remedy, discovery, or motion.

Section ~~{130}~~131. Section **78A-5a-204 (Effective 07/01/24)** is amended to read:

78A-5a-204 (Effective 07/01/24). Location of the Business and Chancery Court -- Court facilities -- Costs.

[~~(1) The Business and Chancery Court is located in Salt Lake City.~~]

[~~(2)~~] (1) The Business and Chancery Court may perform any of the Business and Chancery Court's functions in any location within the state.

[~~(3)~~] (2) The Judicial Council shall provide, from appropriations made by the Legislature, court space suitable for the conduct of court business for the Business and Chancery Court.

[~~(4)~~] (3) The Judicial Council may, in order to carry out the Judicial Council's obligation to provide facilities for the Business and Chancery Court, lease space to be used by the Business and Chancery Court.

[~~(5)~~] (4) A lease or reimbursement for the Business and Chancery Court must comply with the standards of the Division of Facilities Construction and Management that are applicable to state agencies.

[~~(6)~~] (5) The cost of salaries, travel, and training required for the discharge of the duties of judges, secretaries of judges or court executives, court executives, and court reporters for the Business and Chancery Court are paid from appropriations made by the Legislature.

Section ~~{131}~~132. Section **78A-6-103** is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in [~~Subsection~~] Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; and

(c) the extension of a nonjudicial adjustment under Section 80-6-304.

(3) The juvenile court has original jurisdiction over a petition for special findings under Section 80-3-505.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

(9) The juvenile court has jurisdiction to enforce foreign protection orders as described

in Subsection 78B-7-303(8).

Section ~~{132}~~133. Section **78A-7-106** is amended to read:

78A-7-106. Jurisdiction.

(1) (a) Except for an offense for which the district court has original jurisdiction under Subsection [~~78A-5-102(8)~~] 78A-5-102(7) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) Title 23A, Wildlife Resources Act;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which the district court has exclusive jurisdiction under Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver

Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

(b) An offense is committed within the territorial jurisdiction of a justice court if:

(i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(D) the offense is committed on or near the boundary of the court's jurisdiction;

(vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

(6) (a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) If a justice court has jurisdiction over a criminal action involving a domestic 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 the justice court to the district court.

(c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.

Section 134. Section **78A-10a-501 (Effective 07/01/24)** is amended to read:

78A-10a-501 (Effective 07/01/24). Definitions.

As used in this part:

(1) "Commission" means the Business and Chancery Court Nominating Commission created in Section 78A-10a-502.

(2) "Commissioner" means an individual appointed by the governor to serve on the Business and Chancery Court Nominating Commission.

Section 135. Section **78A-10a-502 (Effective 07/01/24)** is amended to read:

78A-10a-502 (Effective 07/01/24). Creation.

(1) There is created the Business and Chancery Court Nominating Commission.

(2) The Business and Chancery Court Nominating Commission shall nominate individuals to fill judicial vacancies on the Business and Chancery Court.

Section 136. Section **78A-10a-503 (Effective 07/01/24)** is amended to read:

78A-10a-503 (Effective 07/01/24). Membership -- Appointment -- Vacancies -- Removal.

(1) The Business and Chancery Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(2) A commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

(a) a commissioner to serve successive terms; or

(b) a member of the Legislature to serve as a member of the commission.

(4) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission selects applicants without any regard to partisan political consideration.

(5) The governor shall appoint the chair of the commission from among the membership of the commission.

(6) The governor shall fill any vacancy in the commission caused by the expiration of a commissioner's term.

(7) (a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (7)(a) may not be reappointed upon expiration of the term of service.

(8) The governor may remove a commissioner from the commission at any time with

or without cause.

Section 137. Section **78A-10a-504 (Effective 07/01/24)** is amended to read:

78A-10a-504 (Effective 07/01/24). Procedure -- Staff -- Rules -- Recusal.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff to the commission.

(3) The governor shall:

(a) ensure that the commission follows the rules promulgated by the State Commission on Criminal and Juvenile Justice under Section 78A-10a-201; and

(b) resolve any questions regarding the rules described in Subsection (3)(a).

(4) A commissioner who is a licensed attorney may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve.

Section 138. Section **78A-10a-505 (Effective 07/01/24)** is amended to read:

78A-10a-505 (Effective 07/01/24). Expenses -- Per diem and travel.

A commissioner may not receive compensation or benefits for the commissioner's service but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

(2) Section 63A-3-107; and

(3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section ~~{133}~~139. Section **78B-6-105** is amended to read:

78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.

(1) [~~An adoption proceeding shall be commenced by filing a petition in~~] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an adoption proceeding in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration:

(a) [~~the district court in the district~~] in the county where the prospective adoptive parent resides;

(b) if the prospective adoptive parent is not a resident of this state, [~~the district court in the district~~] in the county where:

(i) the adoptee was born;

(ii) the adoptee resides on the day on which the petition is filed; or

(iii) a parent of the proposed adoptee resides on the day on which the petition is filed; or

(c) [~~the juvenile court as provided in Subsection 78A-6-103(2)(a)(xiv) and~~] if the adoption proceeding is brought in the juvenile court as described in Subsection 78A-6-103(2)(a)(xiv), in accordance with Section 78A-6-350.

(2) All orders, decrees, agreements, and notices in an adoption proceeding shall be filed with the clerk of the court where the adoption proceeding is commenced under Subsection (1).

(3) A petition for adoption:

(a) may be filed before the birth of a child;

(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and

(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:

(i) the time for filing has been extended by the court; or

(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.

(4) (a) If a person whose consent for the adoption is required under Section 78B-6-120 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person, provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) a prospective adoptive parent; or

(ii) an unmarried mother without her consent.

(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

(6) In the case of service outside the state, service completed not less than five days before the time set in the notice for appearance of the person served is sufficient to confer

jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section ~~{134}~~140. Section **78B-6-112** is amended to read:

78B-6-112. District court jurisdiction over termination of parental rights proceedings.

(1) A [~~district court has jurisdiction to terminate parental rights in a child if the party that filed the petition is~~] party may bring a petition seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (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.

(b) [~~This section does not grant jurisdiction to a district court to~~] A court may not 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 proceeding.

(5) The [~~district~~] court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days

after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(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.

(6) The court shall appoint an indigent defense service provider in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission in accordance with Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

Section ~~{135}~~141. Section **78B-6-401** is amended to read:

78B-6-401. Power to issue declaratory judgment -- Form -- Effect.

[~~(1) Each district court~~]

(1) (a) A court with jurisdiction under Title 78A, Judiciary and Judicial Administration, has the power to issue declaratory judgments determining rights, status, and other legal relations within its respective jurisdiction.

(b) An action or proceeding may not be open to objection on the ground that a declaratory judgment or decree is prayed for.

(2) The declaration may be either affirmative or negative in form and effect and shall have the force and effect of a final judgment or decree.

Section ~~{136}~~142. Section **78B-6-408** is amended to read:

78B-6-408. Rights, status, legal relations under instruments, or statutes may be determined.

A person with an interest in a deed, will, or written contract, or whose rights, status, or

other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may request the [~~district~~] court to determine any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations.

Section ~~{137}~~143. Section **78B-6-1238** is amended to read:

78B-6-1238. Clerk of court to be custodian.

(1) If the security of the proceeds of the sale is taken, or when an investment of any proceeds is made, it shall be done, except as otherwise provided, in the name of the clerk of the [~~district~~] court.

(2) The clerk of the court shall hold the security for the use and benefit of the parties interested, subject to an order of the court.

The following section is affected by a coordination clause at the end of this bill.

Section ~~{138}~~144. **Repealer.**

This bill repeals:

Section **17D-3-104, District court jurisdiction.**

~~*{The following section is affected by a coordination clause at the end of this bill.*~~

~~}~~ Section **78B-12-103, District court jurisdiction.**

Section ~~{139}~~145. **Effective date.**

(1) ~~{~~}Except as provided in ~~{Subsection}~~Subsections (2) and (3), this bill takes effect on July 1, 2024.

(2) (a) Except as provided in Subsection (2)(b), if 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 effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(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 effect on May 1, 2024.

(~~{2}~~3) The actions affecting Section 78A-5a-103 (Effective 10/01/24) take effect on October 1, 2024.

Section ~~{140}~~146. ~~{~~}**Coordinating H.B. 300 with H.B. 342**~~{ -- Technical~~

~~amendment}~~**.**

If H.B. 300, Court Amendments, and H.B. 342, Electronic Information Privacy Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the changes to Section 13-63-301 in H.B. 342 supersede the changes to Section 13-63-301 in H.B. 300.

Section ~~{141}~~147. ~~{}~~**Coordinating H.B. 300 with S.B. 95**~~{ -- Technical amendment.}~~

If H.B. 300, Court Amendments, and S.B. 95, Domestic Relations Recodification, both pass and become law, the Legislature intends that, on September 1, 2024, the amendments to Section 78B-12-103 in S.B. 95 supersede the amendments to Section 78B-12-103 in H.B. 300.