

1 **REVISOR'S STATUTE**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ralph Okerlund**

5 House Sponsor: _____

6
7 **LONG TITLE**

8 **General Description:**

9 This bill modifies parts of the Utah Code to make technical corrections, including
10 eliminating references to repealed provisions, making minor wording changes, updating
11 cross-references, and correcting numbering.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ modifies parts of the Utah Code to make technical corrections, including
15 eliminating references to repealed provisions, making minor wording changes,
16 updating cross-references, correcting numbering, and fixing errors that were created
17 from the previous year's session.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides effective dates.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **4-20-3**, as last amended by Laws of Utah 2012, Chapter 331

25 **4-32-11**, as last amended by Laws of Utah 2010, Chapter 242

26 **4-37-202**, as last amended by Laws of Utah 2010, Chapter 378

27 **4-37-302**, as last amended by Laws of Utah 2010, Chapter 378



- 28 [4-39-401](#), as enacted by Laws of Utah 1997, Chapter 302
- 29 [7-1-103](#), as last amended by Laws of Utah 2013, Chapter 73
- 30 [7-1-403](#), as last amended by Laws of Utah 1986, Fourth Special Session, Chapter 1
- 31 [7-1-616](#), as last amended by Laws of Utah 1996, Chapter 182
- 32 [7-1-703](#), as last amended by Laws of Utah 1995, Chapter 49
- 33 [7-1-710](#), as enacted by Laws of Utah 1983, Chapter 8
- 34 [7-1-802](#), as last amended by Laws of Utah 2000, Chapter 260
- 35 [7-2-1](#), as last amended by Laws of Utah 1994, Chapter 200
- 36 [7-2-2](#), as last amended by Laws of Utah 1994, Chapter 200
- 37 [7-2-12](#), as last amended by Laws of Utah 2010, Chapter 378
- 38 [7-3-1](#), as enacted by Laws of Utah 1981, Chapter 16
- 39 [7-5-2](#), as last amended by Laws of Utah 2010, Chapter 378
- 40 [7-5-6](#), as last amended by Laws of Utah 1982, Chapter 6
- 41 [7-5-7](#), as last amended by Laws of Utah 2010, Chapter 378
- 42 [7-5-8](#), as last amended by Laws of Utah 2010, Chapter 378
- 43 [7-5-11](#), as last amended by Laws of Utah 2010, Chapter 378
- 44 [7-5-15](#), as last amended by Laws of Utah 1994, Chapter 200
- 45 [7-9-25](#), as last amended by Laws of Utah 1983, Chapter 8
- 46 [7-9-39.5](#), as last amended by Laws of Utah 2003, Chapter 327
- 47 [7-9-42](#), as enacted by Laws of Utah 1981, Chapter 16
- 48 [7-9-45](#), as last amended by Laws of Utah 1999, Chapter 329
- 49 [7-9-55](#), as enacted by Laws of Utah 2003, Chapter 327
- 50 [7-9-58](#), as last amended by Laws of Utah 2008, Chapter 126
- 51 [7-14-1](#), as last amended by Laws of Utah 1995, Chapter 20
- 52 [7-19-1](#), as last amended by Laws of Utah 1995, Chapter 49
- 53 [9-1-801](#), as enacted by Laws of Utah 1994, Chapter 119
- 54 [9-6-205](#), as last amended by Laws of Utah 2012, Chapter 212
- 55 [9-7-501](#), as last amended by Laws of Utah 1993, Chapter 227
- 56 [9-8-301](#), as last amended by Laws of Utah 2005, Chapter 145
- 57 [9-8-307](#), as last amended by Laws of Utah 1995, Chapter 170
- 58 [9-8-405](#), as last amended by Laws of Utah 2008, Chapter 382

59 10-1-114, as last amended by Laws of Utah 1999, Chapter 21
60 10-1-119, as last amended by Laws of Utah 2013, Chapter 325
61 10-1-203, as last amended by Laws of Utah 2012, Chapter 289
62 10-2-125, as last amended by Laws of Utah 2012, Chapter 359
63 10-2-126, as enacted by Laws of Utah 2012, Chapter 359
64 10-8-62, as last amended by Laws of Utah 2001, Chapter 9
65 10-8-63, as last amended by Laws of Utah 2001, Chapter 9
66 10-18-104, as enacted by Laws of Utah 2001, Chapter 83
67 11-13-303, as last amended by Laws of Utah 2008, Chapter 382
68 11-13-315, as enacted by Laws of Utah 2013, Chapter 230
69 11-14-301, as last amended by Laws of Utah 2012, Chapter 204
70 11-17-14, as enacted by Laws of Utah 1967, Chapter 29
71 11-32-4, as last amended by Laws of Utah 1995, Chapter 181
72 11-42-604, as last amended by Laws of Utah 2009, Chapter 388
73 13-1a-5, as last amended by Laws of Utah 2008, Chapter 382
74 13-22-8, as last amended by Laws of Utah 2009, Chapter 183
75 13-23-5, as last amended by Laws of Utah 2013, Chapter 124
76 13-26-4, as last amended by Laws of Utah 1996, Chapter 170
77 13-32a-104, as last amended by Laws of Utah 2012, Chapter 284
78 13-32a-115, as enacted by Laws of Utah 2012, Chapter 284
79 13-32a-117, as last amended by Laws of Utah 2013, Chapter 124
80 13-47-102 (Contingently Repealed), as enacted by Laws of Utah 2010, Chapter 403
81 13-47-201 (Contingently Repealed), as enacted by Laws of Utah 2010, Chapter 403
82 15-8-4, as last amended by Laws of Utah 2007, Chapter 272
83 15-9-103, as last amended by Laws of Utah 2010, Chapter 74
84 15-10-201, as last amended by Laws of Utah 2011, Chapter 262
85 15A-1-204, as enacted by Laws of Utah 2011, Chapter 14
86 15A-2-102, as enacted by Laws of Utah 2011, Chapter 14
87 15A-2-104, as last amended by Laws of Utah 2013, Chapter 297
88 15A-3-201, as enacted by Laws of Utah 2011, Chapter 14
89 15A-3-306, as last amended by Laws of Utah 2013, Chapter 297

- 90 **15A-4-201**, as enacted by Laws of Utah 2011, Chapter 14
- 91 **15A-5-103**, as last amended by Laws of Utah 2013, Chapter 199
- 92 **16-6a-1011**, as enacted by Laws of Utah 2000, Chapter 300
- 93 **16-6a-1202**, as enacted by Laws of Utah 2000, Chapter 300
- 94 **16-6a-1701**, as enacted by Laws of Utah 2000, Chapter 300
- 95 **16-6a-1702**, as last amended by Laws of Utah 2008, Chapter 250
- 96 **16-10a-402**, as enacted by Laws of Utah 1992, Chapter 277
- 97 **16-10a-901**, as enacted by Laws of Utah 1992, Chapter 277
- 98 **16-10a-1106**, as enacted by Laws of Utah 1992, Chapter 277
- 99 **16-10a-1301**, as enacted by Laws of Utah 1992, Chapter 277
- 100 **16-10a-1405**, as enacted by Laws of Utah 1992, Chapter 277
- 101 **16-16-113**, as last amended by Laws of Utah 2010, Chapter 378
- 102 **17-18a-405**, as enacted by Laws of Utah 2013, Chapter 237
- 103 **17-23-17.5**, as last amended by Laws of Utah 2001, Chapter 241
- 104 **17-23-19**, as last amended by Laws of Utah 1993, Chapter 227
- 105 **17-27a-205**, as last amended by Laws of Utah 2013, Chapter 324
- 106 **17-27a-301**, as last amended by Laws of Utah 2011, Chapters 107 and 305
- 107 **17-27a-512**, as last amended by Laws of Utah 2009, Chapters 170 and 233
- 108 **17-36-3**, as last amended by Laws of Utah 2012, Chapter 17
- 109 **17-36-39**, as last amended by Laws of Utah 2004, Chapter 206
- 110 **17-53-301**, as last amended by Laws of Utah 2001, Chapter 241
- 111 **17B-1-121**, as enacted by Laws of Utah 2011, Chapter 205
- 112 **17B-1-512**, as last amended by Laws of Utah 2011, Chapter 297
- 113 **17B-2a-902**, as last amended by Laws of Utah 2012, Chapter 97
- 114 **17B-2a-905**, as last amended by Laws of Utah 2013, Chapter 70
- 115 **17C-4-202**, as last amended by Laws of Utah 2010, Chapters 90 and 279
- 116 **17D-3-105**, as enacted by Laws of Utah 2012, Chapter 103
- 117 **20A-1-306**, as enacted by Laws of Utah 2011, Chapter 17
- 118 **26-28-112**, as enacted by Laws of Utah 2007, Chapter 60
- 119 **36-23-109**, as enacted by Laws of Utah 2013, Chapter 323
- 120 **38-8-3.5**, as enacted by Laws of Utah 2013, Chapter 163

- 121 **39-6-36**, as enacted by Laws of Utah 1988, Chapter 210
- 122 **48-1d-1305**, as enacted by Laws of Utah 2013, Chapter 412
- 123 **53-5-707**, as last amended by Laws of Utah 2013, Chapter 280
- 124 **53-13-110**, as renumbered and amended by Laws of Utah 1998, Chapter 282
- 125 **53A-1a-521**, as last amended by Laws of Utah 2013, Chapter 239
- 126 **53A-3-701**, as last amended by Laws of Utah 2003, Chapter 221
- 127 **53A-16-107**, as last amended by Laws of Utah 2011, Chapters 153, 369, and 371
- 128 **53A-16-114**, as last amended by Laws of Utah 2011, Chapter 342 and renumbered and
- 129 amended by Laws of Utah 2011, Chapter 371
- 130 **53A-17a-133**, as last amended by Laws of Utah 2013, Chapters 178 and 313
- 131 **53A-25a-102**, as enacted by Laws of Utah 1994, Chapter 280
- 132 **54-3-31**, as enacted by Laws of Utah 2013, Chapter 242
- 133 **57-8-7.5 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 152,
- 134 419 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 152
- 135 **57-8-43**, as last amended by Laws of Utah 2013, Chapter 152
- 136 **57-8a-211 (Superseded 07/01/14)**, as last amended by Laws of Utah 2013, Chapter 419
- 137 **58-40-302**, as enacted by Laws of Utah 2012, Chapter 82
- 138 **58-60-506**, as last amended by Laws of Utah 2013, Chapter 123
- 139 **58-77-601**, as last amended by Laws of Utah 2008, Chapter 365
- 140 **59-14-302**, as last amended by Laws of Utah 2013, Chapter 148
- 141 **63C-13-107**, as enacted by Laws of Utah 2013, Chapter 228
- 142 **63G-12-306**, as enacted by Laws of Utah 2011, Chapter 18
- 143 **63I-1-253**, as last amended by Laws of Utah 2012, Chapter 369
- 144 **63I-1-263**, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and
- 145 413
- 146 **63I-2-217**, as last amended by Laws of Utah 2012, Chapter 17
- 147 **63I-2-236**, as last amended by Laws of Utah 2013, Chapter 283
- 148 **63I-2-253**, as last amended by Laws of Utah 2013, Chapters 173 and 434
- 149 **63I-2-277**, as last amended by Laws of Utah 2012, Chapter 17
- 150 **63I-4a-202**, as renumbered and amended by Laws of Utah 2013, Chapter 325
- 151 **63J-1-206**, as last amended by Laws of Utah 2013, Chapter 310

- 152 **63J-1-505**, as renumbered and amended by Laws of Utah 2009, Chapter 183
- 153 **63J-1-602.3**, as last amended by Laws of Utah 2013, Chapters 117, 295 and last
- 154 amended by Coordination Clause, Laws of Utah 2013, Chapter 117
- 155 **63J-1-602.4**, as last amended by Laws of Utah 2013, Chapter 28
- 156 **63M-1-3203**, as enacted by Laws of Utah 2013, Chapter 336
- 157 **70A-2a-533**, as enacted by Laws of Utah 1990, Chapter 197
- 158 **76-1-501**, as last amended by Laws of Utah 2013, Chapter 278
- 159 **76-5-102.4**, as last amended by Laws of Utah 2013, Chapter 156
- 160 **78A-2-301**, as last amended by Laws of Utah 2012, Chapter 247
- 161 **78A-7-301**, as last amended by Laws of Utah 2011, Chapter 143
- 162 **78B-3-421**, as renumbered and amended by Laws of Utah 2008, Chapter 3

163 RENUMBERS AND AMENDS:

164 **4-18-108**, (Renumbered from 4-18-6.5, as last amended by Laws of Utah 2008, Chapter
165 382)

166 REPEALS:

167 **63G-13-203**, as enacted by Laws of Utah 2011, Chapter 19

168

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

170 Section 1. Section **4-18-108**, which is renumbered from Section 4-18-6.5 is
171 renumbered and amended to read:

172 ~~[4-18-6.5]~~. **4-18-108. Grants to improve manure management or control runoff**
173 **at animal feeding operations.**

174 (1) (a) The commission may make grants to owners or operators of animal feeding
175 operations to pay for costs of plans or projects to improve manure management or control
176 surface water runoff, including costs of preparing or implementing comprehensive nutrient
177 management plans.

178 (b) The commission shall make the grants described in Subsection (1)(a) from funds
179 appropriated by the Legislature for that purpose.

180 (2) (a) In awarding grants, the commission shall consider the following criteria:

181 (i) the ability of the grantee to pay for costs of plans or projects to improve manure
182 management or control surface water runoff;

- 183 (ii) the availability of:
- 184 (A) matching funds provided by the grantee or another source; or
- 185 (B) material, labor, or other items of value provided in lieu of money by the grantee or
- 186 another source; and
- 187 (iii) the benefits that accrue to the general public by the awarding of a grant.
- 188 (b) The commission may establish by rule additional criteria for the awarding of grants.
- 189 (3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
- 190 Administrative Rulemaking Act, to implement this section.

191 Section 2. Section 4-20-3 is amended to read:

192 **4-20-3. Rangeland Improvement Account distribution.**

193 (1) The department shall distribute restricted account money as provided in this

194 section.

195 (a) The department shall:

196 (i) distribute pro rata to each school district the money received by the state under

197 Subsection 4-20-2(1)(b)(i) from the sale or lease of public lands based upon the amount of

198 revenue generated from the sale or lease of public lands within the district; and

199 (ii) ensure that all money generated from the sale or lease of public lands within a

200 school district is credited and deposited to the general school fund of that school district.

201 (b) (i) After the commissioner approves a request from a regional board, the

202 department shall distribute pro rata to each regional board money received by the state under

203 Subsection 4-20-2(1)(b)(i) from fees based upon the amount of revenue generated from the

204 imposition of fees within that grazing district.

205 (ii) The regional board shall expend money received in accordance with Subsection (2).

206 (c) (i) The department shall distribute or expend money received by the state under

207 Subsections 4-20-2(1)(b)(ii) [~~through (iv)~~] and (iii) for the purposes outlined in Subsection (2).

208 (ii) The department may require entities seeking funding from sources outlined in

209 Subsections 4-20-2(1)(b)(ii) [~~through (iv)~~] and (iii) to provide matching funds.

210 (2) The department shall ensure that restricted account distributions or expenditures

211 under Subsections (1)(b) and (c) are used for:

212 (a) range improvement and maintenance;

213 (b) the control of predatory and depredating animals;

214 (c) the control, management, or extermination of invading species, range damaging
215 organisms, and poisonous or noxious weeds;

216 (d) the purchase or lease of lands or a conservation easement for the benefit of a
217 grazing district;

218 (e) watershed protection, development, distribution, and improvement;

219 (f) the general welfare of livestock grazing within a grazing district; and

220 (g) subject to Subsection (3), costs to monitor rangeland improvement projects.

221 (3) Annual account distributions or expenditures for the monitoring costs described in
222 Subsection (2)(g) may not exceed 10% of the annual receipts of the fund.

223 Section 3. Section 4-32-11 is amended to read:

224 **4-32-11. Preparation and slaughter of livestock, poultry, or livestock and poultry**
225 **products -- Adulterated or misbranded products -- Violation of rule or order.**

226 (1) An animal or meat or poultry product that may be used for human consumption
227 shall not be:

228 (a) slaughtered or prepared unless it is done in compliance with this chapter's
229 requirements;

230 (b) sold, transported, offered for sale or transportation, or received for transportation, if
231 it is adulterated or misbranded, unless it has been inspected and approved; or

232 (c) subjected to any act while being transported or held for sale after transportation
233 resulting in one of the products becoming adulterated or being misbranded.

234 (2) A person may not violate any rule or order of the commissioner under Subsection
235 4-32-7(3) or (6), or Subsection 4-32-8(3), (5), or (7)~~[, or (14)]~~.

236 Section 4. Section 4-37-202 is amended to read:

237 **4-37-202. Acquisition of aquatic animals for use in aquaculture facilities.**

238 (1) Live aquatic animals intended for use in aquaculture facilities may be purchased or
239 acquired only from:

240 (a) aquaculture facilities within the state that have a certificate of registration and
241 health approval number;

242 (b) public aquaculture facilities within the state that have a health approval number; or

243 (c) sources outside the state that are health approved as provided in Part 5, Health
244 Approval.

245 (2) A person holding a certificate of registration for an aquaculture facility shall submit
246 annually to the department a record of each purchase of live aquatic animals and transfer of live
247 aquatic animals into the facility. This record shall include the following information:

- 248 (a) name, address, and health approval number of the source;
- 249 (b) date of transaction; and
- 250 (c) number and weight by species.

251 (3) The records required by Subsection (2) shall be submitted to the department before
252 a certificate of registration is renewed or a subsequent certificate of registration is issued.

253 Section 5. Section **4-37-302** is amended to read:

254 **4-37-302. Acquisition of aquatic animals for use in fee fishing facilities.**

255 (1) Live aquatic animals intended for use in fee fishing facilities may be purchased or
256 acquired only from:

- 257 (a) aquaculture facilities within the state that have a certificate of registration and
258 health approval number;
- 259 (b) public aquaculture facilities within the state that have a health approval number; or
- 260 (c) sources outside the state that are health approved pursuant to Part 5, Health

261 Approval.

262 (2) (a) A person holding a certificate of registration for a fee fishing facility shall
263 submit to the department an annual report of all live fish purchased or acquired.

- 264 (b) The report shall contain the following information:
 - 265 (i) name, address, and certificate of registration number of the seller or supplier;
 - 266 (ii) number and weight by species;
 - 267 (iii) date of purchase or transfer; and
 - 268 (iv) name, address, and certificate of registration number of the receiver.

269 (c) The report shall be submitted to the department before a certificate of registration is
270 renewed or subsequent certificate of registration is issued.

271 Section 6. Section **4-39-401** is amended to read:

272 **4-39-401. Escape of domesticated elk -- Liability.**

273 (1) It is the owner's responsibility to try to capture any domesticated elk that may have
274 escaped.

275 (2) The escape of a domesticated elk shall be reported immediately to the state

276 veterinarian or a brand inspector of the Department of Agriculture who shall notify the
277 Division of Wildlife Resources.

278 (3) If the domesticated elk is not recovered within 72 hours of the escape, the
279 Department of Agriculture, in conjunction with the Division of Wildlife Resources, shall take
280 whatever action is necessary to resolve the problem.

281 (4) The owner shall reimburse the state or a state agency for any reasonable recapture
282 costs that may be incurred in the recapture or destruction of the animal.

283 (5) Any escaped domesticated elk taken by a licensed hunter in a manner which
284 complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the
285 Wildlife Board shall be considered to be a legal taking and neither the licensed hunter, the
286 state, nor a state agency shall be liable to the owner for the killing.

287 (6) The owner shall be responsible to contain the domesticated elk to ensure that there
288 is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk
289 is protected.

290 Section 7. Section **7-1-103** is amended to read:

291 **7-1-103. Definitions.**

292 As used in this title:

293 (1) (a) "Bank" means a person authorized under the laws of this state, another state, or
294 the United States to accept deposits from the public.

295 (b) "Bank" does not include:

296 (i) a federal savings and loan association or federal savings bank;

297 (ii) an industrial bank subject to Chapter 8, Industrial Banks;

298 (iii) a federally chartered credit union; or

299 (iv) a credit union subject to Chapter 9, Utah Credit Union Act.

300 (2) "Banking business" means the offering of deposit accounts to the public and the
301 conduct of such other business activities as may be authorized by this title.

302 (3) (a) "Branch" means a place of business of a financial institution, other than its main
303 office, at which deposits are received and paid.

304 (b) "Branch" does not include:

305 (i) an automated teller machine, as defined in Section [7-16a-102](#);

306 (ii) a point-of-sale terminal, as defined in Section [7-16a-102](#); or

- 307 (iii) a loan production office under Section 7-1-715.
- 308 (4) "Commissioner" means the Commissioner of Financial Institutions.
- 309 (5) "Control" means the power, directly or indirectly, to:
- 310 (a) direct or exercise a controlling influence over:
- 311 (i) the management or policies of a financial institution; or
- 312 (ii) the election of a majority of the directors or trustees of an institution;
- 313 (b) vote 20% or more of any class of voting securities of a financial institution by an
- 314 individual; or
- 315 (c) vote more than 10% of any class of voting securities of a financial institution by a
- 316 person other than an individual.
- 317 (6) "Credit union" means a cooperative, nonprofit association incorporated under:
- 318 (a) Chapter 9, Utah Credit Union Act; or
- 319 (b) 12 U.S.C. Sec. 1751 et seq., Federal Credit Union Act, as amended.
- 320 (7) "Department" means the Department of Financial Institutions.
- 321 (8) "Depository institution" means a bank, savings and loan association, savings bank,
- 322 industrial bank, credit union, or other institution that:
- 323 (a) holds or receives deposits, savings, or share accounts;
- 324 (b) issues certificates of deposit; or
- 325 (c) provides to its customers other depository accounts that are subject to withdrawal
- 326 by checks, drafts, or other instruments or by electronic means to effect third party payments.
- 327 (9) (a) "Depository institution holding company" means:
- 328 (i) a person other than an individual that:
- 329 (A) has control over any depository institution; or
- 330 (B) becomes a holding company of a depository institution under Section 7-1-703; or
- 331 (ii) a person other than an individual that the commissioner finds, after considering the
- 332 specific circumstances, is exercising or is capable of exercising a controlling influence over a
- 333 depository institution by means other than those specifically described in this section.
- 334 (b) Except as provided in Section 7-1-703, a person is not a depository institution
- 335 holding company solely because it owns or controls shares acquired in securing or collecting a
- 336 debt previously contracted in good faith.
- 337 (10) "Financial institution" means any institution subject to the jurisdiction of the

338 department because of this title.

339 (11) (a) "Financial institution holding company" means a person, other than an
340 individual that has control over any financial institution or any person that becomes a financial
341 institution holding company under this chapter, including an out-of-state or foreign depository
342 institution holding company.

343 (b) Ownership of a service corporation or service organization by a depository
344 institution does not make that institution a financial institution holding company.

345 (c) A person holding 10% or less of the voting securities of a financial institution is
346 rebuttably presumed not to have control of the institution.

347 (d) A trust company is not a holding company solely because it owns or holds 20% or
348 more of the voting securities of a financial institution in a fiduciary capacity, unless the trust
349 company exercises a controlling influence over the management or policies of the financial
350 institution.

351 (12) "Foreign depository institution" means a depository institution chartered or
352 authorized to transact business by a foreign government.

353 (13) "Foreign depository institution holding company" means the holding company of a
354 foreign depository institution.

355 (14) "Home state" means:

356 (a) for a state chartered depository institution, the state that charters the institution;

357 (b) for a federally chartered depository institution, the state where the institution's main
358 office is located; and

359 (c) for a depository institution holding company, the state in which the total deposits of
360 all depository institution subsidiaries are the largest.

361 (15) "Host state" means:

362 (a) for a depository institution, a state, other than the institution's home state, where the
363 institution maintains or seeks to establish a branch; and

364 (b) for a depository institution holding company, a state, other than the depository
365 institution holding company's home state, where the depository institution holding company
366 controls or seeks to control a depository institution subsidiary.

367 (16) "Industrial bank" means a corporation or limited liability company conducting the
368 business of an industrial bank under Chapter 8, Industrial Banks.

369 (17) "Industrial loan company" is as defined in Section 7-8-21.

370 (18) "Insolvent" means the status of a financial institution that is unable to meet its
371 obligations as they mature.

372 (19) "Institution" means:

373 (a) a corporation;

374 (b) a limited liability company;

375 (c) a partnership;

376 (d) a trust;

377 (e) an association;

378 (f) a joint venture;

379 (g) a pool;

380 (h) a syndicate;

381 (i) an unincorporated organization; or

382 (j) any form of business entity.

383 (20) "Institution subject to the jurisdiction of the department" means an institution or
384 other person described in Section 7-1-501.

385 (21) "Liquidation" means the act or process of winding up the affairs of an institution
386 subject to the jurisdiction of the department by realizing upon assets, paying liabilities, and
387 appropriating profit or loss, as provided in [~~Chapters 2 and 19~~] Chapter 2, Possession of
388 Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository
389 Institutions or Holding Companies.

390 (22) "Liquidator" means a person, agency, or instrumentality of this state or the United
391 States appointed to conduct a liquidation.

392 (23) (a) "Money services business" includes:

393 (i) a check casher;

394 (ii) a deferred deposit lender;

395 (iii) an issuer or seller of traveler's checks or money orders; and

396 (iv) a money transmitter.

397 (b) "Money services business" does not include:

398 (i) a bank;

399 (ii) a person registered with, and functionally regulated or examined by the Securities

400 Exchange Commission or the Commodity Futures Trading Commission, or a foreign financial
401 agency that engages in financial activities that, if conducted in the United States, would require
402 the foreign financial agency to be registered with the Securities Exchange Commission or the
403 Commodity Futures Trading Commission; or

404 (iii) an individual who engages in an activity described in Subsection (23)(a) on an
405 infrequent basis and not for gain or profit.

406 (24) "Negotiable order of withdrawal" means a draft drawn on a NOW account.

407 (25) (a) "NOW account" means a savings account from which the owner may make
408 withdrawals by negotiable or transferable instruments for the purpose of making transfers to
409 third parties.

410 (b) A "NOW account" is not a demand deposit.

411 (c) Neither the owner of a NOW account nor any third party holder of an instrument
412 requesting withdrawal from the account has a legal right to make withdrawal on demand.

413 (26) "Out-of-state" means, in reference to a depository institution or depository
414 institution holding company, an institution or company whose home state is not Utah.

415 (27) "Person" means:

416 (a) an individual;

417 (b) a corporation;

418 (c) a limited liability company;

419 (d) a partnership;

420 (e) a trust;

421 (f) an association;

422 (g) a joint venture;

423 (h) a pool;

424 (i) a syndicate;

425 (j) a sole proprietorship;

426 (k) an unincorporated organization; or

427 (l) any form of business entity.

428 (28) "Receiver" means a person, agency, or instrumentality of this state or the United
429 States appointed to administer and manage an institution subject to the jurisdiction of the
430 department in receivership, as provided in [~~Chapters 2 and 19~~] Chapter 2, Possession of

431 Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository
432 Institutions or Holding Companies.

433 (29) "Receivership" means the administration and management of the affairs of an
434 institution subject to the jurisdiction of the department to conserve, preserve, and properly
435 dispose of the assets, liabilities, and revenues of an institution in possession, as provided in
436 [~~Chapters 2 and 19~~] Chapter 2, Possession of Depository Institution by Commissioner, and
437 Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

438 (30) "Savings account" means any deposit or other account at a depository institution
439 that is not a transaction account.

440 (31) "Savings and loan association" means:

441 (a) a federal savings and loan association; and

442 (b) an out-of-state savings and loan association.

443 (32) "Service corporation" or "service organization" means a corporation or other
444 business entity owned or controlled by one or more financial institutions that is engaged or
445 proposes to engage in business activities related to the business of financial institutions.

446 (33) "State" means, unless the context demands otherwise:

447 (a) a state;

448 (b) the District of Columbia; or

449 (c) the territories of the United States.

450 (34) "Subsidiary" means a business entity under the control of an institution.

451 (35) (a) "Transaction account" means a deposit, account, or other contractual
452 arrangement in which a depositor, account holder, or other customer is permitted, directly or
453 indirectly, to make withdrawals by:

454 (i) check or other negotiable or transferable instrument;

455 (ii) payment order of withdrawal;

456 (iii) telephone transfer;

457 (iv) other electronic means; or

458 (v) any other means or device for the purpose of making payments or transfers to third
459 persons.

460 (b) "Transaction account" includes:

461 (i) demand deposits;

- 462 (ii) NOW accounts;
463 (iii) savings deposits subject to automatic transfers; and
464 (iv) share draft accounts.

465 (36) "Trust company" means a person authorized to conduct a trust business, as
466 provided in Chapter 5, Trust Business.

467 (37) "Utah depository institution" means a depository institution whose home state is
468 Utah.

469 (38) "Utah depository institution holding company" means a depository institution
470 holding company whose home state is Utah.

471 Section 8. Section **7-1-403** is amended to read:

472 **7-1-403. Funds and balances paid to treasurer -- Separate account -- Use of**
473 **funds.**

474 Unexpended balances and all funds accruing to the department shall be deposited by the
475 commissioner with the state treasurer monthly and constitute a separate account within the
476 General Fund. No part of the account may revert to the General Fund except an amount as
477 required by law to be transferred for general government and administrative costs. With the
478 approval of the director of the Division of Finance, the commissioner may withdraw sums from
479 the account to pay costs and expenses of administration incurred in proceedings under Title 7,
480 [~~Chapters 1, 2, and 19~~] Chapter 1, General Provisions, Chapter 2, Possession of Depository
481 Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or
482 Holding Companies, or to use in connection with the rehabilitation, reorganization, or
483 liquidation of an institution under the jurisdiction of the department.

484 Section 9. Section **7-1-616** is amended to read:

485 **7-1-616. Authority to accept transaction accounts -- Payment of instruments.**

486 (1) A financial institution may accept or advertise that it accepts transaction accounts
487 only if authorized to do so under federal or state law. An institution may submit a written
488 request for this authority to the commissioner, except that an institution authorized to accept
489 transaction accounts as of June 1, 1994, does not, in the first instance, need to request or be
490 granted any additional authority. The commissioner shall grant the authority if the
491 commissioner finds that:

492 (a) the institution has adequate capital and reserves in relation to the character and

493 condition of its assets and its deposit and other liabilities;

494 (b) the deposits and other accounts held by the institution are insured or guaranteed by
495 an agency of the federal government; and

496 (c) the management of the institution is qualified to handle transaction accounts.

497 (2) The commissioner may revoke, limit, or condition an institution's authority to
498 accept and handle transaction accounts upon a finding that:

499 (a) the institution no longer meets the criteria set forth in Subsection (1); or

500 (b) it would be contrary to the public interest and the soundness of the financial system
501 of this state to allow the institution to continue to accept or handle transaction accounts without
502 limitation or condition.

503 (3) One or more depository institutions may, by written agreement, vary the terms of
504 Title 70A, [~~Chapters 3 and 4~~] Chapter 3, Uniform Commercial Code - Negotiable Instruments,
505 and Chapter 4, Uniform Commercial Code - Bank Deposits and Collections, for the purposes
506 of facilitating the transfer, exchange, and prompt payment of instruments drawn on transaction
507 accounts.

508 Section 10. Section **7-1-703** is amended to read:

509 **7-1-703. Restrictions on acquisition of institutions and holding companies --**
510 **Enforcement.**

511 (1) Unless the commissioner gives prior written approval under Section **7-1-705**, no
512 person may:

513 (a) acquire, directly or indirectly, control of a depository institution or depository
514 institution holding company subject to the jurisdiction of the department;

515 (b) vote the stock of any depository institution or depository institution holding
516 company subject to the jurisdiction of the department acquired in violation of Section **7-1-705**;

517 (c) acquire all or any portion of the assets of a depository institution or a depository
518 institution holding company subject to the jurisdiction of the department;

519 (d) assume all or any portion of the deposit liabilities of a depository institution subject
520 to the jurisdiction of the department;

521 (e) take any action that causes a depository institution to become a subsidiary of a
522 depository institution holding company subject to the jurisdiction of the department;

523 (f) take any action that causes a person other than an individual to become a depository

524 institution holding company subject to the jurisdiction of the department;

525 (g) acquire, directly or indirectly, the voting or nonvoting securities of a depository
526 institution or a depository institution holding company subject to the jurisdiction of the
527 department if the acquisition would result in the person obtaining more than 20% of the
528 authorized voting securities of the institution if the nonvoting securities were converted into
529 voting securities; or

530 (h) merge or consolidate with a depository institution or depository institution holding
531 company subject to the jurisdiction of the department.

532 (2) Any person who willfully violates any provision of this section or any rule or order
533 issued by the department under this section is subject to a civil penalty of not more than \$1,000
534 per day during which the violation continues. The commissioner may assess the civil penalty
535 after giving notice and opportunity for hearing. The commissioner shall collect the civil
536 penalty by bringing an action in the district court of the county in which the office of the
537 commissioner is located. Any applicant for approval of an acquisition is considered to have
538 consented to the jurisdiction and venue of the court by filing an application for approval.

539 (3) The commissioner may secure injunctive relief to prevent any change in control or
540 impending violation of this section.

541 (4) The commissioner may lengthen or shorten any time period specified in Section
542 7-1-705 if the commissioner finds it necessary to protect the public interest.

543 (5) The commissioner may exempt any class of financial institutions from this section
544 by rule if the commissioner finds the exception to be in the public interest.

545 (6) The prior approval of the commissioner under Section 7-1-705 is not required for
546 the acquisition by a person other than an individual of voting securities or assets of a depository
547 institution or a depository institution holding company that are acquired by foreclosure or
548 otherwise in the ordinary course of collecting a debt previously contracted in good faith if these
549 voting securities or assets are divested within two years of acquisition. The commissioner may,
550 upon application, extend the two-year period of divestiture for up to three additional one-year
551 periods if, in the commissioner's judgment, the extension would not be detrimental to the
552 public interest. The commissioner may adopt rules to implement the intent of this Subsection
553 (6).

554 (7) (a) An out-of-state depository institution without a branch in Utah, or an

555 out-of-state depository institution holding company without a depository institution in Utah,
556 may acquire:

557 (i) a Utah depository institution only if it has been in existence for at least five years; or

558 (ii) a Utah branch of a depository institution only if the branch has been in existence
559 for at least five years.

560 (b) For purposes of Subsection (7)(a), a depository institution chartered solely for the
561 purpose of acquiring another depository institution is considered to have been in existence for
562 the same period as the depository institution to be acquired, so long as it does not open for
563 business at any time before the acquisition.

564 (c) The commissioner may waive the restriction in Subsection (7)(a) in the case of a
565 depository institution that is subject to, or is in danger of becoming subject to, supervisory
566 action under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19,
567 Acquisitions of Failing Repository Institutions or Holding Companies, or, if applicable, the
568 equivalent provisions of federal law or the law of the institution's home state.

569 (d) The restriction in Subsection (7)(a) does not apply to an acquisition of, or merger
570 transaction between, affiliate depository institutions.

571 Section 11. Section 7-1-710 is amended to read:

572 **7-1-710. "Agency" defined -- Purposes and establishment of agency.**

573 (1) As used in this section, "agency" means a place, person, or facility, stationary or
574 mobile, other than the home office or a branch office[;];

575 (a) where functions of the financial institution not involving the receiving or paying of
576 deposits, making of loans or the handling of cash may be performed[;];

577 (b) established for individual transactions and for special temporary purposes[;];

578 (c) established for the purposes set forth in Sections 7-1-608 and 7-1-609[;]; or

579 (d) established to perform the functions of a financial institution service corporation.

580 (2) A financial institution may establish one or more agencies without the prior written
581 approval of the commissioner. Within 30 days of the establishment of an agency, the financial
582 institution shall inform the commissioner in writing of the address of the agency and the
583 specific functions for which it was established.

584 (3) No agency may be converted to a branch without compliance with Section 7-1-708.

585 Section 12. Section 7-1-802 is amended to read:

586 **7-1-802. Confidentiality of information received by department -- Availability of**
587 **information.**

588 (1) The commissioner shall receive and place on file in the department's office all
589 reports required by law and shall certify all reports required to be published.

590 (2) Except as provided in this section, the following are confidential, not public
591 records, and not open to public inspection:

592 (a) all reports received or prepared by the department;

593 (b) all information obtained from an institution or person under the jurisdiction of the
594 department; and

595 (c) all orders and related records of the department.

596 (3) The following records and information are public and are open to public inspection:

597 (a) reports of condition required by Section [7-1-318](#);

598 (b) information that is otherwise generally available to the public; and

599 (c) information contained in, and final decisions on, an application filed under Sections

600 [7-1-702](#), [7-1-703](#), [7-1-704](#), [7-1-705](#), [7-1-706](#), [7-1-708](#), [7-1-709](#), [7-1-712](#), [7-1-713](#), or Chapter

601 [19, Acquisitions of Failing Repository Institutions or Holding Companies](#), excluding:

602 (i) proprietary information, business plans, and personal financial information; and

603 (ii) information for which:

604 (A) the applicant requests confidentiality; and

605 (B) the commissioner grants the request for confidentiality.

606 (4) The department may disclose records and information that are not public to the
607 following:

608 (a) to an agency or authority:

609 (i) that regulates:

610 (A) the subject of the record; or

611 (B) an affiliate of the subject of the record, as defined by the commissioner by rule; and

612 (ii) is of:

613 (A) the federal government;

614 (B) the state; or

615 (C) another state;

616 (b) to a federal deposit insurance agency;

617 (c) to an official legally authorized to investigate criminal charges in connection with
618 the affairs of the subject of the record, and to any tribunal conducting legal proceedings
619 resulting from such an investigation;

620 (d) to a person preparing a proposal for merging or acquiring an institution under
621 [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter
622 19, Acquisition of Failing Repository Institutions or Holding Companies, but only after the
623 department provides notice of the disclosure to the institution;

624 (e) to any other person, if the commissioner determines, after notice to the institution
625 or person that is the subject of the record and opportunity for hearing, that the interests favoring
626 disclosure of the information outweigh the interests favoring confidentiality of the information;
627 and

628 (f) to any court in a proceeding under:

629 (i) Sections 7-1-304, 7-1-320, 7-1-322; or

630 (ii) a supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository
631 Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or
632 Holding Companies.

633 (5) The commissioner may limit the use and further disclosure of any information
634 disclosed under Subsection (4):

635 (a) to protect the business confidentiality interest of the subject of the record; and

636 (b) to protect the public interest, such as to avoid:

637 (i) a liquidity crisis in a depository institution; or

638 (ii) undue speculation in securities or currency markets.

639 (6) The department shall disclose information in the manner and to the extent directed
640 by a court order signed by a judge from a court of competent jurisdiction if:

641 (a) the disclosure does not violate applicable federal or state law;

642 (b) the information to be disclosed deals with a matter in controversy over which the
643 court has jurisdiction;

644 (c) the person requesting the order has provided reasonable prior written notice to the
645 commissioner;

646 (d) the court has considered the merits of the request for disclosure and has determined
647 that the interests favoring disclosure of the information outweigh the interests favoring

648 confidentiality of the information; and

649 (e) the court has appropriately limited the use and further disclosure of the information:

650 (i) to protect the business confidentiality interest of the subject of the record; and

651 (ii) to protect the public interest, such as to avoid:

652 (A) a liquidity crisis in a depository institution; or

653 (B) undue speculation in securities or currency markets.

654 Section 13. Section 7-2-1 is amended to read:

655 **7-2-1. Supervisory actions by commissioner -- Grounds -- Mergers or acquisitions**
656 **authorized by commissioner -- Possession of business and property taken by**
657 **commissioner.**

658 (1) An institution under the jurisdiction of the department is subject to supervisory
659 actions by the commissioner under this chapter or Chapter 19, Acquisition of Failing
660 Repository Institutions or Holding Companies, if the commissioner, with or without an
661 administrative hearing, finds that:

662 (a) the institution is not in a safe and sound condition to transact its business;

663 (b) an officer of the institution or other person has refused to be examined or has made
664 false statements under oath regarding its affairs;

665 (c) the institution or other person has violated its articles of incorporation or any law,
666 rule, or regulation governing the institution or other person;

667 (d) the institution or other person is conducting its business in an unauthorized or
668 unsafe manner, or is practicing deception upon its depositors, members, or the public, or is
669 engaging in conduct injurious to its depositors, members, or the public;

670 (e) the institution or other person has been notified by its primary account insurer of the
671 insurer's intention to initiate proceedings to terminate insurance;

672 (f) the institution or other person has failed to maintain a minimum amount of capital
673 as required by the department, any state, or the relevant federal regulatory agency;

674 (g) the institution or other person is a depository institution that has failed or refused to
675 pay its depositors in accordance with the terms under which the deposits were received, or has
676 or is about to become insolvent;

677 (h) the institution or other person or its officers or directors have failed or refused to
678 comply with the terms of a legally authorized order issued by the commissioner or by any

679 federal authority or authority of another state having jurisdiction over the institution or other
680 person;

681 (i) the institution or other person or its officers or directors have failed or refused, upon
682 proper demand, to submit its records, books, papers, and affairs for inspection to the
683 commissioner or to a supervisor or an examiner of the department;

684 (j) the institution or other person or its officers or directors, after 30 days written
685 notice, have failed to comply with or have continued to violate this title or any rule or
686 regulation of the department issued under it;

687 (k) any person who controls the institution or other person subject to the jurisdiction of
688 the department has used the control to cause the institution or other person to be or about to be
689 in an unsafe or unsound condition, to conduct its business in an unauthorized or unsafe manner,
690 or to violate this title or any rule or regulation of the department issued under it; or

691 (l) the remedies provided in Section 7-1-307, 7-1-308, or 7-1-313 are ineffective or
692 impracticable to protect the interest of depositors, creditors, or members of the institution or
693 other person, or to protect the interests of the public.

694 (2) The commissioner may take any action described in Subsection (3) if:

695 (a) he finds that:

696 (i) any of the conditions set forth in Subsection (1) exist with respect to an institution
697 under the jurisdiction of the department; and

698 (ii) an order issued pursuant to Section 7-1-307, 7-1-308, or 7-1-313 would not
699 adequately protect the interests of the institution's depositors, creditors, members, or other
700 interested persons from all dangers presented by the conditions found to exist; or

701 (b) two-thirds of the voting shares of an institution under the jurisdiction of the
702 department that are eligible to be voted at any regular or special meeting of the shareholders of
703 the institution are voted at the meeting in favor of a resolution consenting to the commissioner
704 taking or causing to be taken any of the actions described below.

705 (3) After making the requisite findings or receiving the consenting vote of shareholders
706 under Subsection (2), the commissioner may:

707 (a) without taking possession of the institution, authorize, or by order require or give
708 effect to the acquisition of control of, the merger with, the acquisition of all or a portion of the
709 assets of, or the assumption of all or a portion of the liabilities of the institution or other person

710 by any other institution or entity approved or designated by the commissioner in accordance
711 with Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies; or

712 (b) take possession of the institution or other person subject to the jurisdiction of the
713 department with or without a court order if an acquisition of control of, a merger with, an
714 acquisition of all or a portion of the assets of, or an assumption of all or a portion of the
715 liabilities of the institution or other person without taking possession does not appear to the
716 commissioner to be practicable.

717 (4) Upon taking possession of an institution or the person, the commissioner is vested
718 by operation of law with the title to and the right to possession of all assets, the business, and
719 property of the institution or other person subject to court order made under Section 7-2-3.

720 While in possession of an institution or other person, the commissioner or any receiver or
721 liquidator appointed by him may exercise any or all of the rights, powers, and authorities
722 granted to the commissioner under this chapter, or may give effect to the acquisition of control
723 of, the merger with, the acquisition of all or a portion of the assets of, or the assumption of all
724 or a portion of the liabilities of an institution or other person subject to the jurisdiction of the
725 department, under the provisions of Chapter 19, Acquisition of Failing Repository Institutions
726 or Holding Companies.

727 (5) An action of the commissioner under this section may only be enjoined or set aside
728 upon a finding, after notice and hearing, that the action is arbitrary, capricious, an abuse of
729 discretion, or otherwise contrary to law.

730 Section 14. Section 7-2-2 is amended to read:

731 **7-2-2. Jurisdiction of district court -- Supervision of actions of commissioner in**
732 **possession -- Authority of commissioner and court.**

733 (1) The district court for the county in which the principal office of the institution or
734 other person is situated has jurisdiction in the liquidation or reorganization of the institution or
735 other person of which the commissioner has taken possession under this chapter or Chapter 19,
736 Acquisition of Failing Repository Institutions or Holding Companies. As used in this chapter,
737 "court" means the court given jurisdiction by this provision.

738 (2) Before taking possession of an institution or other person under his jurisdiction, or
739 within a reasonable time after taking possession of an institution or other person without court
740 order, as provided in this chapter, the commissioner shall cause to be commenced in the

741 appropriate district court, an action to provide the court supervisory jurisdiction to review the
742 actions of the commissioner.

743 (3) The actions of the commissioner are subject to review of the court. The court has
744 jurisdiction to hear all objections to the actions of the commissioner and may rule upon all
745 motions and actions coming before it. Standing to seek review of any action of the
746 commissioner or any receiver or liquidator appointed by him is limited to persons whose rights,
747 claims, or interests in the institution would be adversely affected by the action.

748 (4) The authority of the commissioner under this chapter is of an administrative and
749 not judicial receivership. The court may not overrule a determination or decision of the
750 commissioner if it is not arbitrary, capricious, fraudulent, or contrary to law. If the court
751 overrules an action of the commissioner, the matter shall be remanded to the commissioner for
752 a new determination by him, and the new determination shall be subject to court review.

753 Section 15. Section **7-2-12** is amended to read:

754 **7-2-12. Powers of commissioner in possession -- Sale of assets -- Postpossession**
755 **financing -- New deposit instruments -- Executory contracts -- Transfer of property --**
756 **Avoidance of transfers -- Avoidable preferences -- Setoff.**

757 (1) Upon taking possession of the institution, the commissioner may do all things
758 necessary to preserve its assets and business, and shall rehabilitate, reorganize, or liquidate the
759 affairs of the institution in a manner he determines to be in the best interests of the institution's
760 depositors and creditors. Any such determination by the commissioner may not be overruled
761 by a reviewing court unless it is found to be arbitrary, capricious, fraudulent, or contrary to law.
762 In the event of a liquidation, he shall collect all debts due and claims belonging to it, and may
763 compromise all bad or doubtful debts. He may sell, upon terms he may determine, any or all of
764 the property of the institution for cash or other consideration. The commissioner shall give
765 such notice as the court may direct to the institution of the time and place of hearing upon an
766 application to the court for approval of the sale. The commissioner shall execute and deliver to
767 the purchaser of any property of the institution sold by him those deeds or instruments
768 necessary to evidence the passing of title.

769 (2) With approval of the court and upon terms and with priority determined by the
770 court, the commissioner may borrow money and issue evidence of indebtedness. To secure
771 repayment of the indebtedness, he may mortgage, pledge, transfer in trust, or hypothecate any

772 or all of the property of the institution superior to any charge on the property for expenses of
773 the proceeding as provided in Section 7-2-14. These loans may be obtained for the purpose of
774 facilitating liquidation, protecting or preserving the assets in the charge of the commissioner,
775 expediting the making of distributions to depositors and other claimants, aiding in the
776 reopening or reorganization of the institution or its merger or consolidation with another
777 institution, or the sale of all of its assets. Neither the commissioner nor any special deputy or
778 other person lawfully in charge of the affairs of the institution is under any personal obligation
779 to repay those loans. The commissioner may take any action necessary or proper to
780 consummate the loan and to provide for its repayment and to give bond when required for the
781 faithful performance of all undertakings in connection with it. The commissioner or special
782 deputy shall make application to the court for approval of any loan proposed under this section.
783 Notice of hearing upon the application shall be given as the court directs. At the hearing upon
784 the application any stockholder or shareholder of the institution or any depositor or other
785 creditor of the institution may appear and be heard on the application. Prior to the obtaining of
786 a court order, the commissioner or special deputy in charge of the affairs of the institution may
787 make application or negotiate for the loan or loans subject to the obtaining of the court order.

788 (3) With the approval of the court pursuant to a plan of reorganization or liquidation
789 under Section 7-2-18, the commissioner may provide for depositors to receive new deposit
790 instruments from a depository institution that purchases or receives some or all of the assets of
791 the institution in the possession of the commissioner. All new deposit instruments issued by
792 the acquiring depository institution may, in accordance with the terms of the plan of
793 reorganization or liquidation, be subject to different amounts, terms, and interest rates than the
794 original deposit instruments of the institution in the possession of the commissioner. All
795 deposit instruments issued by the acquiring institution shall be considered new deposit
796 obligations of the acquiring institution. The original deposit instruments issued by the
797 institution in the possession of the commissioner are not liabilities of the acquiring institution,
798 unless assumed by the acquiring institution. Unpaid claims of depositors against the institution
799 in the possession of the commissioner continue, and may be provided for in the plan of
800 reorganization or liquidation.

801 (4) The commissioner, after taking possession of any institution or other person subject
802 to the jurisdiction of the department, may terminate any executory contract, including standby

803 letters of credit, unexpired leases and unexpired employment contracts, to which the institution
804 or other person is a party. If the termination of an executory contract or unexpired lease
805 constitutes a breach of the contract or lease, the date of the breach is the date on which the
806 commissioner took possession of the institution. Claims for damages for breach of an
807 executory contract shall be filed within 30 days of receipt of notice of the termination, and if
808 allowed, shall be paid in the same manner as all other allowable claims of the same priority out
809 of the assets of the institution available to pay claims.

810 (5) With approval of the court and upon a showing by the commissioner that it is in the
811 best interests of the depositors and creditors, the commissioner may transfer property on
812 account of an indebtedness incurred by the institution prior to the date of the taking.

813 (6) (a) The commissioner may avoid any transfer of any interest of the institution in
814 property or any obligation incurred by the institution that is void or voidable by a creditor under
815 Title 25, Chapter 6, Uniform Fraudulent Transfer Act.

816 (b) The commissioner may avoid any transfer of any interest in real property of the
817 institution that is void as against or voidable by a subsequent purchaser in good faith and for a
818 valuable consideration of the same real property or any portion thereof who has duly recorded
819 his conveyance at the time possession of the institution is taken, whether or not such a
820 purchaser exists.

821 (c) The commissioner may avoid any transfer of any interest in property of the
822 institution or any obligation incurred by the institution that is invalid or void as against, or is
823 voidable by a creditor that extends credit to the institution at the time possession of the
824 institution is taken by the commissioner, and that obtains, at such time and with respect to such
825 credit, a judgment lien or a lien by attachment, levy, execution, garnishment, or other judicial
826 lien on the property involved, whether or not such a creditor exists.

827 (d) The right of the commissioner under Subsections (6)(b) and (c) to avoid any
828 transfer of any interest in property of the institution shall be unaffected by and without regard
829 to any knowledge of the commissioner or of any creditor of the institution.

830 (e) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary
831 or involuntary, or disposing of or parting with property or with an interest in property,
832 including retention of title as a security interest.

833 (f) The commissioner may avoid and recover any payment or other transfer of any

834 interest in property of the institution to or for the benefit of a creditor, for or on account of an
835 antecedent debt owed by the institution before the transfer was made if the creditor at the time
836 of such transfer had reasonable cause to believe that the institution was insolvent, and if the
837 payment or other transfer will allow the creditor to obtain a greater percentage of his debt than
838 he would be entitled to under the provisions of Section 7-2-15. For the purposes of this
839 subsection:

840 (i) antecedent debt does not include earned wages and salaries and other operating
841 expenses incurred and paid in the normal course of business;

842 (ii) a transfer of any interest in real property is deemed to have been made or suffered
843 when it became so far perfected that a subsequent good faith purchaser of the property from the
844 institution for a valuable consideration could not acquire an interest superior to the transferee;
845 and

846 (iii) a transfer of property other than real property is deemed to have been made or
847 suffered when it became so far perfected that a creditor on a simple contract could not acquire a
848 lien by attachment, levy, execution, garnishment, or other judicial lien superior to the interest
849 of the transferee.

850 (g) For purposes of this section, "date of possession" means the earlier of the date the
851 commissioner takes possession of a financial institution under Title 7, Chapter 2, Possession of
852 Depository Institution by Commissioner, or the date when the commissioner enters an order
853 suspending payments to depositors and other creditors under Section 7-2-19.

854 (7) (a) With or without the prior approval of the court, the commissioner or any federal
855 deposit insurance agency appointed by him as receiver or liquidator of a depository institution
856 closed by the commissioner under the provisions of this chapter may setoff against the deposits
857 or other liabilities of the institution any debts or other obligations of the depositor or claimant
858 due and owing to the institution. The amount of any setoff against the liabilities of the
859 institution shall be no greater than the amount the depositor or claimant would receive pursuant
860 to Section 7-2-15 after final liquidation of the institution. When the liquidation value of a
861 depositor's or claimant's claim against the institution will or may be less than the full amount of
862 the claim, setoff may be made prior to final liquidation if the commissioner or any receiver or
863 liquidator appointed by him can reasonably estimate the liquidation value of the claim, and the
864 court, after notice and opportunity for hearing, approves the estimate for purposes of making

865 the setoff. If the right of setoff is exercised, the commissioner or any receiver or liquidator
866 appointed by him shall give written notice to the depositor or claimant of the amount setoff.

867 (b) The existence and amount of a debtor or creditor relationship or both, between the
868 institution and its depositor or claimant and the right to the proceeds in a deposit account shall
869 be determined solely by the books and records of the institution.

870 (c) Any contract purporting to affect the right of setoff shall be in writing and signed by
871 the depositor-debtor and an authorized officer of the institution and be maintained as a part of
872 the records of the institution.

873 (d) Any claim that a deposit account is a special account not subject to setoff because it
874 was maintained for a specific purpose or to satisfy a particular obligation other than satisfaction
875 of or as security for an indebtedness to the institution or that the right to the deposit actually
876 belongs to a third party does not affect the right to setoff of the commissioner or any receiver or
877 liquidator appointed by him unless the special nature of the account is clearly shown in the
878 books and records of the institution.

879 (e) In the absence of any other instrument in writing, the terms and provisions of the
880 signature card applicable to a particular account in effect at the time the commissioner takes
881 possession of the institution shall be determinative of the right of setoff by the commissioner or
882 any receiver or liquidator appointed by him.

883 (f) Knowledge of the institution or of any director, officer, or employee of the
884 institution that the nature of the account is other than as shown in the books and records of the
885 institution does not affect the right of setoff by the commissioner or any receiver or liquidator
886 appointed by him.

887 (g) The liability of the commissioner or any receiver or liquidator appointed by him for
888 exercising a right of setoff other than as authorized by this section shall be only to a person
889 who establishes by the procedure set forth in Section 7-2-6 that his interest in the account is
890 superior to that of the person whose debt to the institution was setoff against the account. The
891 amount of any such liability shall be no greater than the amount of the setoff and neither the
892 commissioner or any receiver or liquidator appointed by him shall be liable for any action taken
893 under this section unless the action taken is determined by the court to be arbitrary or
894 capricious.

895 Section 16. Section 7-3-1 is amended to read:

896 **7-3-1. Application of chapter.**

897 This chapter applies to all banks organized under the laws of this state, to all other
898 banks doing business in this state as permitted by the laws and Constitution of the United
899 States, and to all persons conducting banking business in this state except as provided in
900 Chapter 1, General Provisions.

901 Section 17. Section **7-5-2** is amended to read:

902 **7-5-2. Permit required to engage in trust business -- Exceptions.**

903 (1) No trust company shall accept any appointment to act in any agency or fiduciary
904 capacity, including that of personal representative, executor, administrator, conservator,
905 guardian, assignee, receiver, depository, or trustee under order or judgment of any court or by
906 authority of any law of this state or as trustee for any purpose permitted by law or otherwise
907 engage in the trust business in this state, unless and until it has obtained from the commissioner
908 a permit to act under this chapter. This provision does not apply to any bank or other
909 corporation authorized to engage and lawfully engaged in the trust business in this state before
910 July 1, 1981.

911 (2) Nothing in this chapter prohibits:

912 (a) any corporation organized under Title 16, Chapter 6a [~~or 10a~~], Utah Revised
913 Nonprofit Corporation Act, or Chapter 10a, Utah Revised Business Corporation Act, from
914 acting as trustee of any employee benefit trust established for the employees of the corporation
915 or the employees of one or more other corporations affiliated with the corporation;

916 (b) any corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit
917 Corporation Act, and owned or controlled by a charitable, benevolent, eleemosynary, or
918 religious organization from acting as a trustee for that organization or members of that
919 organization but not offering trust services to the general public;

920 (c) any corporation organized under Title 16, Chapter 6a [~~or 10a~~], Utah Revised
921 Nonprofit Corporation Act, or Chapter 10a, Utah Revised Business Corporation Act, from
922 holding in a fiduciary capacity the controlling shares of another corporation but not offering
923 trust services to the general public; or

924 (d) any depository institution from holding in an agency or fiduciary capacity
925 individual retirement accounts or Keogh plan accounts established under Section 401(a) or
926 408(a) of Title 26 of the United States Code.

927 Section 18. Section 7-5-6 is amended to read:

928 **7-5-6. Confidentiality of communications and writings concerning trust -- Actions**
929 **to protect property or authorized under probate laws not precluded.**

930 Any trust company exercising the powers and performing the duties described in this
931 chapter shall keep inviolate all communications and writings made to or by that trust company
932 relating to the existence, condition, management or administration of any agency or fiduciary
933 account confided to it and no creditor or stockholder of any such trust company shall be
934 entitled to disclosure or knowledge of any such communication or writing, except that the
935 directors, president, vice president, manager, treasurer, and trust officers, and any employees
936 assigned to work on the trust business, and the attorney or auditor employed by it shall be
937 entitled to knowledge of any such communication or writing and except that in any suit or
938 proceeding relating to the existence, condition, management or administration of the account,
939 the court in which the suit is pending may require disclosure of any such communication or
940 writing. A trust company is not, however, precluded from filing an action in court to protect
941 trust account property or as authorized under Title 75, Utah Uniform Probate Code.

942 Section 19. Section 7-5-7 is amended to read:

943 **7-5-7. Management and investment of trust funds.**

944 (1) Funds received or held by any trust company as agent or fiduciary, whether for
945 investment or distribution, shall be invested or distributed as soon as practicable as authorized
946 under the instrument creating the account and may not be held uninvested any longer than is
947 reasonably necessary.

948 (2) If the instrument creating an agency or fiduciary account contains provisions
949 authorizing the trust company, its officers, or its directors to exercise their discretion in the
950 matter of investments, funds held in the trust account under that instrument may be invested
951 only in those classes of securities which are approved by the directors of the trust company or a
952 committee of directors appointed for that purpose. If a trust company acts in any agency or
953 fiduciary capacity under appointment by a court of competent jurisdiction, it shall make and
954 account for all investments according to the provisions of Title 75, Utah Uniform Probate
955 Code, unless the underlying instrument provides otherwise.

956 (3) (a) Funds received or held as agent or fiduciary by any trust company which is also
957 a depository institution, whether for investment or distribution, may be deposited in the

958 commercial department or savings department of that trust company to the credit of its trust
959 department. Whenever the funds so deposited in a fiduciary or managing agency account
960 exceed the amount of federal deposit insurance applicable to that account, the trust company
961 shall deliver to the trust department or put under its control collateral security as outlined in
962 Regulation 9.10 of the Comptroller of the Currency or in Regulation 550.8 of the Office of
963 Thrift Supervision, as amended. However, if the instrument creating such a fiduciary or
964 managing agency account expressly provides that funds may be deposited to the commercial or
965 savings department of the trust company, then the funds may be so deposited without setting
966 aside collateral securities as required under this section and the deposits in the event of
967 insolvency of any such trust company shall be treated as other general deposits are treated. A
968 trust company which deposits trust funds in its commercial or savings department shall be
969 liable for interest on the deposits only at the rates, if any, paid by the trust company on deposits
970 of like kind not made to the credit of its trust department.

971 (b) Funds received or held as agent or fiduciary by a trust company, whether for
972 investment or distribution, may be deposited in an affiliated depository institution. Whenever
973 the funds so deposited in a fiduciary or managing agency account exceed the amount of federal
974 deposit insurance applicable to that account, the depository institution shall deliver to the trust
975 company or put under its control collateral security as outlined in Regulation 9.10 of the
976 Comptroller of the Currency or in Regulation 550.8 of the Office of Thrift Supervision as
977 amended. However, if the instrument creating the fiduciary or managing agency account
978 expressly permits funds to be deposited in the affiliated depository institution, the funds may be
979 so deposited without setting aside collateral securities as required under this section and
980 deposits in the event of insolvency of the depository institution shall be treated as other general
981 deposits are treated. A trust company which deposits trust funds in an affiliated depository
982 institution is liable for interest on the deposits only at the rates, if any, paid by the depository
983 institution on deposits of like kind.

984 (4) In carrying out all aspects of its trust business, a trust company shall have all the
985 powers, privileges, and duties as set forth in Sections [75-7-813](#) and [75-7-814](#) with respect to
986 trustees, whether or not the trust company is acting as a trustee as defined in Title 75, Utah
987 Uniform Probate Code.

988 (5) Nothing in this section may alter, amend, or limit the powers of a trust company

989 acting in a fiduciary capacity as specified in the particular instrument or order creating the
990 fiduciary relationship.

991 Section 20. Section 7-5-8 is amended to read:

992 **7-5-8. Segregation of trust assets -- Books and records required -- Examination --**
993 **Trust property not subject to claims or debts against trust company.**

994 A trust company exercising the powers to act as an agent or fiduciary under this chapter
995 shall segregate all assets held in any agency or fiduciary capacity from the general assets of the
996 company and shall keep a separate set of books and records showing in proper detail all
997 transactions engaged in under authority of this chapter. These books and records shall be open
998 to inspection by the commissioner and shall be examined by him or by examiners appointed by
999 him as provided in Chapter 1, General Provisions, or examined by other appropriate regulating
1000 agencies or both. Property held in an agency or fiduciary capacity by a trust company is not
1001 subject to claims or debts against the trust company.

1002 Section 21. Section 7-5-11 is amended to read:

1003 **7-5-11. Self-dealing with trust property -- Own stock as trust property -- Policies**
1004 **for dealing with trust securities.**

1005 (1) Except as provided in Section 7-5-7, in Title 75, Utah Uniform Probate Code, or as
1006 authorized under the instrument creating the relationship, a trust company may not invest funds
1007 held as an agent or fiduciary in stock or obligations of, or with such funds acquire property
1008 from, the trust company or any of its directors, officers or employees, nor shall a trust company
1009 sell property held as an agent or fiduciary to the company or to any of its directors, officers, or
1010 employees.

1011 (2) A trust company may retain and vote stock of the trust company or of any of its
1012 affiliates received by it as assets of any trust account or in any other fiduciary relationship of
1013 which it is appointed agent or fiduciary, unless the instrument creating the relationship
1014 otherwise provides.

1015 (3) Every trust company shall adopt written policies and procedures regarding
1016 decisions or recommendations to purchase or sell any security to facilitate compliance with
1017 federal and state securities laws. These policies and procedures, in particular, shall prohibit the
1018 trust company from using material inside information in connection with any decision or
1019 recommendation to purchase or sell any security.

1020 Section 22. Section 7-5-15 is amended to read:

1021 **7-5-15. Assets of trust company in possession of the commissioner.**

1022 With respect to a trust company in the possession of the commissioner under Chapter 2,
1023 Possession of Depository Institution by Commissioner, notwithstanding any law to the
1024 contrary, the assets held by the trust company in a fiduciary capacity as a part of its trust
1025 business, as defined in Section 7-5-1, are not subject to the claims of any secured or unsecured
1026 creditor of the trust company.

1027 Section 23. Section 7-9-25 is amended to read:

1028 **7-9-25. Shares -- Number unlimited -- Subscription and payment -- Par value --**
1029 **Ownership required for membership -- Dormant accounts.**

1030 (1) The capital of the credit union shall be unlimited in amount.

1031 (2) Shares of the credit union may be subscribed and paid for in cash or its equivalent
1032 in a manner prescribed in the bylaws.

1033 (3) The par value of each share of a credit union shall be determined by the board of
1034 directors in multiples of \$5 as prescribed in the bylaws.

1035 (4) Each member of the credit union shall subscribe to at least one share and pay the
1036 initial installment thereon. The par value of the share shall be paid for within six months.

1037 (5) The board of directors may close a member's account when the share par value is
1038 not paid within the required period or the par value is not maintained. Notice in writing shall be
1039 mailed to the member at the last known address and shall contain a statement that the member
1040 may increase payment or voluntarily close the account within 60 days of receipt of the notice.

1041 (6) When a member's account becomes dormant or is reasonably presumed to be
1042 dormant and abandoned, as provided in Chapter 1, General Provisions, the credit union by
1043 resolution of the board of directors may close the account and transfer the credits of the account
1044 to an account for unclaimed shares. Thereafter the credit union may not pay dividends or
1045 interest on the account, as provided in the bylaws, until the funds in the account escheat to the
1046 state of Utah. Prior to transferring the member's dormant and abandoned account to the credit
1047 union unclaimed shares account, the credit union shall mail a written notice to the member at
1048 the member's last known address stating that this action will be taken within 30 days of the date
1049 of the notice.

1050 Section 24. Section 7-9-39.5 is amended to read:

1051 **7-9-39.5. Supervisory merger.**

1052 If a credit union is merged with another credit union as a result of a supervisory action
1053 under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or
1054 Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies, the
1055 commissioner may permit the surviving credit union to have a field of membership that is
1056 larger than a field of membership permitted under Section 7-9-51.

1057 Section 25. Section 7-9-42 is amended to read:

1058 **7-9-42. Record requirements.**

1059 (1) A credit union shall maintain all books, records, accounting systems, and procedures
1060 in accordance with rules the commissioner may prescribe or in accordance with Chapter 1,
1061 General Provisions.

1062 (2) In prescribing these rules, the commissioner shall consider the size of a credit union
1063 and its ability to comply.

1064 (3) A credit union is not liable for destroying records after the expiration of the record
1065 retention time prescribed by the rules.

1066 (4) A photostatic or photographic reproduction of any credit union records shall be
1067 admissible as evidence of transactions with the credit union.

1068 Section 26. Section 7-9-45 is amended to read:

1069 **7-9-45. Insurance of shares and deposits -- Security on shares and deposits.**

1070 (1) Except as provided in Subsection (2), a credit union subject to the jurisdiction of the
1071 department shall obtain and maintain insurance on shares and deposits from the National Credit
1072 Union Administration or successor federal deposit insurance agency.

1073 (2) Notwithstanding Subsection 7-1-704(7)(a)(v) and Subsection (1), a credit union
1074 may not be required to obtain federal insurance on shares and deposits if:

1075 (a) the commissioner approves the credit union's election not to obtain federal
1076 insurance on shares and deposits;

1077 (b) as security for the shares and deposits, the credit union maintains securities:

1078 (i) that are issued by or directly and unconditionally guaranteed by:

1079 (A) the United States; or

1080 (B) an agency of the United States;

1081 (ii) that are held in an account with a primary reporting dealer that is:

1082 (A) recognized by the Federal Reserve Bank of New York; and
1083 (B) independent of the credit union;
1084 (iii) that are held in accordance with Title 70A, Chapter 8, Uniform Commercial Code
1085 - Investment Securities; and
1086 (iv) in which the department has an express and exclusive security interest; and
1087 (c) the aggregate value of the securities described in Subsection (2)(b) is at all times
1088 equal to or greater than 1.15 times the aggregate amount of the shares and deposits of the credit
1089 union.

1090 (3) The commissioner may appoint the administrator of the National Credit Union
1091 Administration as liquidating agent of an insured credit union.

1092 (4) Failure to comply with this section constitutes grounds for supervisory action under
1093 [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter
1094 19, Acquisition of Failing Repository Institutions or Holding Companies.

1095 Section 27. Section ~~7-9-55~~ is amended to read:

1096 **7-9-55. Nonexempt credit unions.**

1097 (1) (a) A credit union organized under this chapter is a nonexempt credit union under
1098 this section on the day on which:

1099 (i) on or after May 5, 2003 the credit union has a field of membership as evidenced by
1100 the bylaws of the credit union that includes all residents of two or more counties; and

1101 (ii) at least two of the counties described in Subsection (1)(a)(i) are counties of the first
1102 or second class as classified by Section ~~17-50-501~~.

1103 (b) For purposes of Subsection (1)(a) only:

1104 (i) residents of a county that are added to the field of membership of a credit union as a
1105 result of a supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository
1106 Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or
1107 Holding Companies, are not considered to be within the field of membership of that credit
1108 union; and

1109 (ii) residents of a city of the third, fourth, or fifth class or a town that are added to the
1110 field of membership of a credit union in accordance with Section ~~7-9-52~~ are not considered to
1111 be within the field of membership of that credit union unless all residents of the county in
1112 which that city or town are located are included in the field of membership of the credit union.

1113 (2) If a credit union becomes a nonexempt credit union under this section, the
1114 nonexempt credit union is a nonexempt credit union:

1115 (a) for as long as the nonexempt credit union is organized under this chapter; and

1116 (b) notwithstanding whether after the day on which the nonexempt credit union
1117 becomes a nonexempt credit union the nonexempt credit union meets the requirements of
1118 Subsection (1)(a).

1119 (3) Regardless of whether or not a credit union has located branches in two or more
1120 counties in this state, a credit union organized under this chapter does not become a nonexempt
1121 credit union if the field of membership of the credit union as evidenced by the bylaws of the
1122 credit union does not meet the requirements of Subsection (1).

1123 Section 28. Section **7-9-58** is amended to read:

1124 **7-9-58. Limitations on credit extended by nonexempt credit unions.**

1125 (1) (a) Notwithstanding the other provisions of this chapter, beginning on May 5, 2003,
1126 a nonexempt credit union may not:

1127 (i) (A) extend a member-business loan;

1128 (B) renew a member-business loan that is extended before May 5, 2003; or

1129 (C) extend the maturity date or increase the amount of a member-business loan that is
1130 extended before May 5, 2003;

1131 (ii) originate, participate in, or obtain any interest in a co-lending arrangement,
1132 including a loan participation arrangement; or

1133 (iii) subject to Subsection (2), extend credit that is not a member-business loan if as a
1134 result of the extension of credit the total credit that is not a member-business loan that the
1135 nonexempt credit union has issued to that member exceeds at any one time \$250,000 adjusted
1136 as provided in Subsection (1)(b).

1137 (b) The adjustment described in Subsection (1)(a)(iii) shall be calculated by the
1138 commissioner as follows:

1139 (i) beginning July 1, 2008 and for a calendar year beginning on or after January 1,
1140 2009, the commissioner shall increase or decrease the dollar amount in Subsection (1)(a)(iii) by
1141 a percentage equal to the percentage difference between the consumer price index for the
1142 preceding calendar year and the consumer price index for calendar year 2007;

1143 (ii) after the commissioner increases the dollar amount listed in Subsection [~~(1)(c)~~]

1144 (1)(a)(iii), the commissioner shall round the dollar amount to the nearest whole dollar;
1145 (iii) if the percentage difference under Subsection (1)(b)(i) is zero or a negative
1146 percentage, the consumer price index increase for the year is zero; and
1147 (iv) for purposes of this Subsection (1)(b), the commissioner shall calculate the
1148 consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
1149 (2) Notwithstanding Subsection (1)(a)(iii), a nonexempt credit union may extend credit
1150 in an amount that exceeds the limits provided in Subsection (1)(a)(iii) to a member if:
1151 (a) the excess portion of the credit described in Subsection (1)(a)(iii) is fully secured by
1152 the member's share or deposit savings in the nonexempt credit union; or
1153 (b) the credit is extended to a member of the nonexempt credit union:
1154 (i) for the purpose of:
1155 (A) paying amounts owed by the member to purchase a one- to four-family dwelling
1156 that is the primary residence of that member; or
1157 (B) refinancing the balance of amounts owed by the member for the purchase of a one-
1158 to four-family dwelling that is the primary residence of that member; and
1159 (ii) the credit extended under this Subsection (2)(b) is less than or equals \$1,000,000.
1160 (3) In accordance with Subsection 7-9-20(7)(d), a credit union service organization
1161 may not extend credit to a member of a nonexempt credit union holding an ownership interest
1162 in the credit union service organization if it would be a violation of this section for the
1163 nonexempt credit union to extend the credit to the member.
1164 (4) This section may not prevent a nonexempt credit union from servicing a loan
1165 extended before May 5, 2003.

1166 Section 29. Section 7-14-1 is amended to read:

1167 **7-14-1. Definitions.**

1168 As used in this chapter:

1169 ~~[(2)]~~ (1) "Credit reporting agency" includes any co-operative credit reporting agency
1170 maintained by an association of financial institutions or one or more associations of merchants.

1171 ~~[(+)]~~ (2) "Depository institution" means any institution authorized by state or federal
1172 law to accept and hold demand deposits or other accounts which may be used to effect third
1173 party payment transactions. The definition of "depository institution" in Chapter 1, General
1174 Provisions, does not apply to Chapter 14, Credit Information Exchange.

1175 Section 30. Section 7-19-1 is amended to read:

1176 **7-19-1. Definitions.**

1177 As used in this chapter:

1178 (1) "Failing or failed depository institution" means a depository institution under the
1179 jurisdiction of the department:

1180 (a) regarding which the commissioner makes a finding that any of the conditions set
1181 forth in Subsections 7-2-1(1)(a) through (k) exist;

1182 (b) that meets the requirements of Subsection 7-2-1(1)(l);

1183 (c) whose shareholders have consented to a supervisory action by the commissioner
1184 pursuant to Subsection 7-2-1(2); or

1185 (d) which is in the possession of the commissioner, or any receiver or liquidator
1186 appointed by the commissioner, pursuant to Chapter 2, Possession of Depository Institution by
1187 Commissioner.

1188 (2) "Failing or failed depository institution holding company" means a depository
1189 institution holding company under the jurisdiction of the department:

1190 (a) regarding which the commissioner makes a finding that any of the conditions set
1191 forth in Subsections 7-2-1(1)(a) through (k) exist;

1192 (b) that meets the requirements of Subsection 7-2-1(1)(l);

1193 (c) whose shareholders have consented to a supervisory action by the commissioner
1194 pursuant to Subsection 7-2-1(2);

1195 (d) which is in the possession of the commissioner, or any receiver or liquidator
1196 appointed by the commissioner, pursuant to Chapter 2, Possession of Depository Institution by
1197 Commissioner; or

1198 (e) whose subsidiary depository institution is a failing or failed depository institution.

1199 (3) "Supervisory acquisition" means the acquisition of control, the acquisition of all or
1200 a portion of the assets, or the assumption of all or a portion of the liabilities, pursuant to
1201 Section 7-2-1, 7-2-12, or 7-2-18, of a failing or failed depository institution or a failing or
1202 failed depository institution holding company, whether or not in the possession of the
1203 commissioner, by:

1204 (a) a Utah depository institution;

1205 (b) an out-of-state depository institution;

1206 (c) a Utah depository institution holding company; or
 1207 (d) an out-of-state depository institution holding company.
 1208 (4) "Supervisory merger" means the merger or consolidation, pursuant to Section
 1209 7-2-1, 7-2-12, or 7-2-18 of a failing or failed depository institution or a failing or failed
 1210 depository institution holding company, whether or not in the possession of the commissioner,
 1211 with:

1212 (a) a Utah depository institution;
 1213 (b) an out-of-state depository institution;
 1214 (c) a Utah depository institution holding company; or
 1215 (d) an out-of-state depository institution holding company.

1216 Section 31. Section **9-1-801** is amended to read:

1217 **Part 8. Utah Commission on Service and Volunteerism Act**

1218 **9-1-801. Title.**

1219 This part is known as the "[~~Commission on National and Community Service Act~~] Utah
 1220 Commission on Service and Volunteerism Act."

1221 Section 32. Section **9-6-205** is amended to read:

1222 **9-6-205. Board powers and duties.**

1223 (1) The board may:
 1224 (a) make, amend, or repeal rules for the conduct of its business in governing the
 1225 council in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 1226 (b) receive gifts, bequests, and property; and
 1227 (c) issue certificates and offer and confer prizes, certificates, and awards for works of
 1228 art and achievement in the arts.
 1229 (2) The board shall make policy for the council.
 1230 (3) (a) By September 30 of each year, the board shall prepare and submit a request to
 1231 the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible
 1232 individuals and organizations under this part [~~and Parts 3 through 5~~], Part 3, Utah Arts Council,
 1233 Part 4, Utah Percentage-for-Art Act, and Part 5, State Arts Endowment.
 1234 (b) The board shall prepare a list of the requested capital facilities grants in a
 1235 prioritized order and include a written explanation of:
 1236 (i) the total grant amount requested in the list; and

1237 (ii) the basis of its prioritization of requested grants on the list.

1238 (c) The board shall accept applications for capital facilities grants through June 1 of
1239 each year, prior to compiling and submitting its yearly request to the governor and the
1240 Legislature under Subsection (3)(a).

1241 Section 33. Section **9-7-501** is amended to read:

1242 **9-7-501. Tax for establishment and maintenance of public library -- Library**
1243 **fund.**

1244 (1) A county legislative body may establish and maintain a public library.

1245 (2) For this purpose, counties may levy annually a tax not to exceed .001 of taxable
1246 value of taxable property in the county, outside of cities which maintain their own city libraries
1247 as authorized by Part 4, City Libraries. The tax is in addition to all taxes levied by counties and
1248 is not limited by the levy limitation imposed on counties by law. However, if bonds are issued
1249 for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the
1250 payment of the bonds and any interest may be levied.

1251 (3) The taxes shall be levied and collected in the same manner as other general taxes of
1252 the county and shall constitute a fund to be known as the county library fund.

1253 Section 34. Section **9-8-301** is amended to read:

1254 **9-8-301. Purpose.**

1255 (1) The Legislature declares that the general public and the beneficiaries of the school
1256 and institutional land grants have an interest in the preservation and protection of the state's
1257 archaeological and anthropological resources and a right to the knowledge derived and gained
1258 from scientific study of those resources.

1259 (2) (a) The Legislature finds that policies and procedures for the survey and excavation
1260 of archaeological resources from school and institutional trust lands are consistent with the
1261 school and institutional land grants, if these policies and procedures insure that primary
1262 consideration is given, on a site or project specific basis, to the purpose of support for the
1263 beneficiaries of the school and institutional land grants.

1264 (b) The Legislature finds that the preservation, placement in a repository, curation, and
1265 exhibition of specimens found on school or institutional trust lands for scientific and
1266 educational purposes is consistent with the school and institutional land grants.

1267 (c) The Legislature finds that the preservation and development of sites found on

1268 school or institutional trust lands for scientific or educational purposes, or the disposition of
1269 sites found on school or institutional trust lands, after consultation between the division and the
1270 School and Institutional Trust Lands Administration to determine the appropriate level of data
1271 recovery or implementation of other appropriate preservation measures, for preservation,
1272 development, or economic purposes, is consistent with the school and institutional land grants.

1273 (d) The Legislature declares that specimens found on lands owned or controlled by the
1274 state or its subdivisions may not be sold.

1275 (3) The Legislature declares that the historical preservation purposes of this chapter
1276 must be kept in balance with the other uses of land and natural resources which benefit the
1277 health and welfare of the state's citizens.

1278 (4) It is the purpose of this part and Part 4, Historic Sites, to provide that the survey,
1279 excavation, curation, study, and exhibition of the state's archaeological and anthropological
1280 resources be undertaken in a coordinated, professional, and organized manner for the general
1281 welfare of the public and beneficiaries alike.

1282 Section 35. Section **9-8-307** is amended to read:

1283 **9-8-307. Report of discovery on state or private lands.**

1284 (1) Any person who discovers any archaeological resources on lands owned or
1285 controlled by the state or its subdivisions shall promptly report the discovery to the division.

1286 (2) Any person who discovers any archaeological resources on privately owned lands
1287 shall promptly report the discovery to the division.

1288 (3) Field investigations shall be discouraged except in accordance with this part and
1289 Part 4, Historic Sites.

1290 (4) Nothing in this section may be construed to authorize any person to survey or
1291 excavate for archaeological resources.

1292 Section 36. Section **9-8-405** is amended to read:

1293 **9-8-405. Federal funds -- Agreements on standards and procedures.**

1294 By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds
1295 Procedures Act, the division may accept and administer federal funds provided under the
1296 provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation
1297 Act as amended, and subsequent legislation directed toward the encouragement of historic
1298 preservation, and to enter into those agreements on professional standards and procedures

1299 required by participation in the National Historic Preservation Act of 1966 and the National
1300 Register Office.

1301 Section 37. Section **10-1-114** is amended to read:

1302 **10-1-114. Repealer.**

1303 Title 10, [~~Chapters 1, 2, 3, 5, and 6~~] Chapter 1, General Provisions; Chapter 2,
1304 Incorporation, Classification, Boundaries, Consolidation, and Dissolution of Municipalities;
1305 Chapter 3, Municipal Government; Chapter 5, Uniform Fiscal Procedures Act for Utah Towns;
1306 and Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, are repealed, except as provided
1307 in Section [10-1-115](#).

1308 Section 38. Section **10-1-119** is amended to read:

1309 **10-1-119. Inventory of competitive activities.**

1310 (1) As used in this section:

1311 (a) "Applicable city" means:

1312 (i) on and after July 1, 2009, a city of the first class; and

1313 (ii) on and after July 1, 2010, a city of the first or second class.

1314 (b) "Competitive activity" means an activity engaged in by a city or an entity created by
1315 the city by which the city or an entity created by the city provides a good or service that is
1316 substantially similar to a good or service that is provided by a person:

1317 (i) who is not an entity of the federal government, state government, or a political
1318 subdivision of the state; and

1319 (ii) within the boundary of the county in which the city is located.

1320 (c) (i) Subject to Subsection (1)(c)(ii), "entity created by the city" includes:

1321 (A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal
1322 Cooperation Act, in which the city participates; and

1323 (B) a special service district created under Title 17D, Chapter 1, Special Service
1324 District Act.

1325 (ii) "Entity created by the city" does not include a local district created by a city under
1326 Title 17B, Limited Purpose Local Government Entities - Local Districts.

1327 (2) (a) The governing body of an applicable city shall create an inventory of activities
1328 of the city or an entity created by the city to:

1329 (i) classify whether an activity is a competitive activity; and

- 1330 (ii) identify efforts that have been made to privatize aspects of the activity.
- 1331 (b) An applicable city shall comply with this section by no later than:
- 1332 (i) June 30, 2010, if the applicable city is a city of the first class; and
- 1333 (ii) June 30, 2011, if the applicable city is a city of the second class.
- 1334 (3) The governing body of an applicable city shall update the inventory created under
- 1335 this section at least every two years.

- 1336 (4) An applicable city shall:
- 1337 (a) provide a copy of the inventory and an update to the inventory to the Free Market
- 1338 Protection and Privatization Board created in Title 63I, Chapter 4a[~~Free Market Protection~~
- 1339 ~~and Privatization Board Act~~]; and

- 1340 (b) make the inventory available to the public through electronic means.

1341 Section 39. Section **10-1-203** is amended to read:

1342 **10-1-203. License fees and taxes -- Application information to be transmitted to**

1343 **the county assessor.**

- 1344 (1) As used in this section:

- 1345 (a) "Business" means any enterprise carried on for the purpose of gain or economic
- 1346 profit, except that the acts of employees rendering services to employers are not included in
- 1347 this definition.

- 1348 (b) "Telecommunications provider" is as defined in Section [10-1-402](#).

- 1349 (c) "Telecommunications tax or fee" is as defined in Section [10-1-402](#).

- 1350 (2) Except as provided in Subsections (3) through (5), the legislative body of a
- 1351 municipality may license for the purpose of regulation and revenue any business within the
- 1352 limits of the municipality and may regulate that business by ordinance.

- 1353 (3) (a) The legislative body of a municipality may raise revenue by levying and
- 1354 collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales
- 1355 and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an
- 1356 energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal
- 1357 Energy Sales and Use Tax Act.

- 1358 (b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined
- 1359 in Subsection [10-1-303\(6\)](#), that is in effect on July 1, 1997, or a future franchise.

- 1360 (ii) A franchise agreement as defined in Subsection [10-1-303\(6\)](#) in effect on January 1,

1361 1997, or a future franchise shall remain in full force and effect.

1362 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
1363 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
1364 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

1365 (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as
1366 defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain
1367 a provision that:

1368 (A) requires the energy supplier by agreement to pay a contractual franchise fee that is
1369 otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

1370 (B) imposes the contractual franchise fee on or after the day on which Part 3,
1371 Municipal Energy Sales and Use Tax Act is:

1372 (I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305
1373 is reduced; and

1374 (II) is not superseded by a law imposing a substantially equivalent tax.

1375 (ii) A municipality may not charge a contractual franchise fee under the provisions
1376 permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise
1377 fee or a tax on all energy suppliers.

1378 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a
1379 municipality may raise revenue by levying and providing for the collection of a municipal
1380 telecommunications license tax as provided in Part 4, Municipal Telecommunications License
1381 Tax Act.

1382 (b) A municipality may not levy or collect a telecommunications tax or fee on a
1383 telecommunications provider except as provided in Part 4, Municipal Telecommunications
1384 License Tax Act.

1385 (5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by
1386 levying and collecting a license fee or tax on:

1387 (A) a parking service business in an amount that is less than or equal to:

1388 (I) \$1 per vehicle that parks at the parking service business; or

1389 (II) 2% of the gross receipts of the parking service business;

1390 (B) a public assembly or other related facility in an amount that is less than or equal to
1391 \$5 per ticket purchased from the public assembly or other related facility; and

1392 (C) subject to the limitations of Subsections (5)(c) and (d):
1393 (I) a business that causes disproportionate costs of municipal services; or
1394 (II) a purchaser from a business for which the municipality provides an enhanced level
1395 of municipal services.

1396 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
1397 levy or collect a license fee or tax on a public assembly or other related facility owned and
1398 operated by another political subdivision other than a community development and renewal
1399 agency without the written consent of the other political subdivision.

1400 (b) As used in this Subsection (5):

1401 (i) "Municipal services" includes:

1402 (A) public utilities; and

1403 (B) services for:

1404 (I) police;

1405 (II) fire;

1406 (III) storm water runoff;

1407 (IV) traffic control;

1408 (V) parking;

1409 (VI) transportation;

1410 (VII) beautification; or

1411 (VIII) snow removal.

1412 (ii) "Parking service business" means a business:

1413 (A) that primarily provides off-street parking services for a public facility that is
1414 wholly or partially funded by public money;

1415 (B) that provides parking for one or more vehicles; and

1416 (C) that charges a fee for parking.

1417 (iii) "Public assembly or other related facility" means an assembly facility that:

1418 (A) is wholly or partially funded by public money;

1419 (B) is operated by a business; and

1420 (C) requires a person attending an event at the assembly facility to purchase a ticket.

1421 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
1422 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the

1423 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
1424 under Subsection (5)(a)(i)(C)(I):

1425 (A) the costs that constitute disproportionate costs; and

1426 (B) the amounts that are reasonably related to the costs of the municipal services

1427 provided by the municipality.

1428 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
1429 the costs of the municipal services provided by the municipality.

1430 (d) (i) Before the legislative body of a municipality imposes a license fee on a
1431 purchaser from a business for which it provides an enhanced level of municipal services under
1432 Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance
1433 defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

1434 (A) the level of municipal services that constitutes the basic level of municipal services
1435 in the municipality; and

1436 (B) the amounts that are reasonably related to the costs of providing an enhanced level
1437 of municipal services in the municipality.

1438 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to
1439 the costs of providing an enhanced level of the municipal services.

1440 (6) All license fees and taxes shall be uniform in respect to the class upon which they
1441 are imposed.

1442 (7) The municipality shall transmit the information from each approved business
1443 license application to the county assessor within 60 days following the approval of the
1444 application.

1445 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
1446 1994, imposing a business license fee on rental dwellings under this section shall be upheld
1447 unless the business license fee is found to impose an unreasonable burden on the fee payer.

1448 Section 40. Section **10-2-125** is amended to read:

1449 **10-2-125. Incorporation of a town -- Petition.**

1450 (1) As used in this section:

1451 (a) "Assessed value," with respect to agricultural land, means the value at which the
1452 land would be assessed without regard to a valuation for agricultural use under Section

1453 [59-2-503](#).

- 1454 (b) "Financial feasibility study" means a study described in Subsection [~~(8)~~] (7).
- 1455 (c) "Feasibility consultant" means a person or firm:
- 1456 (i) with expertise in the processes and economics of local government; and
- 1457 (ii) who is independent of and not affiliated with a county or sponsor of a petition to
- 1458 incorporate.
- 1459 (d) "Municipal service" means a publicly provided service that is not provided on a
- 1460 countywide basis.
- 1461 (e) "Nonurban" means having a residential density of less than one unit per acre.
- 1462 (2) (a) (i) A contiguous area of a county not within a municipality, with a population of
- 1463 at least 100 but less than 1,000, may incorporate as a town as provided in this section.
- 1464 (ii) An area within a county of the first class is not contiguous for purposes of
- 1465 Subsection (2)(a)(i) if:
- 1466 (A) the area includes a strip of land that connects geographically separate areas; and
- 1467 (B) the distance between the geographically separate areas is greater than the average
- 1468 width of the strip of land connecting the geographically separate areas.
- 1469 (b) The population figure under Subsection (2)(a) shall be determined:
- 1470 (i) as of the date the incorporation petition is filed; and
- 1471 (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's
- 1472 certification under Subsection (6) of a petition filed under Subsection (4).
- 1473 (3) (a) The process to incorporate an area as a town is initiated by filing a petition to
- 1474 incorporate the area as a town with the clerk of the county in which the area is located.
- 1475 (b) A petition under Subsection (3)(a) shall:
- 1476 (i) be signed by:
- 1477 (A) the owners of private real property that:
- 1478 (I) is located within the area proposed to be incorporated; and
- 1479 (II) is equal in assessed value to more than 1/5 of the assessed value of all private real
- 1480 property within the area; and
- 1481 (B) 1/5 of all registered voters within the area proposed to be incorporated as a town,
- 1482 according to the official voter registration list maintained by the county on the date the petition
- 1483 is filed;
- 1484 (ii) designate as sponsors at least five of the property owners who have signed the

1485 petition, one of whom shall be designated as the contact sponsor, with the mailing address of
1486 each owner signing as a sponsor;

1487 (iii) be accompanied by and circulated with an accurate map or plat, prepared by a
1488 licensed surveyor, showing a legal description of the boundary of the proposed town; and

1489 (iv) substantially comply with and be circulated in the following form:

1490 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
1491 town)

1492 To the Honorable County Legislative Body of (insert the name of the county in which
1493 the proposed town is located) County, Utah:

1494 We, the undersigned owners of real property and registered voters within the area
1495 described in this petition, respectfully petition the county legislative body to submit to the
1496 registered voters residing within the area described in this petition, at the next regular general
1497 election, the question of whether the area should incorporate as a town. Each of the
1498 undersigned affirms that each has personally signed this petition and is an owner of real
1499 property or a registered voter residing within the described area, and that the current residence
1500 address of each is correctly written after the signer's name. The area proposed to be
1501 incorporated as a town is described as follows: (insert an accurate description of the area
1502 proposed to be incorporated).

1503 (c) A petition under this Subsection (3) may not describe an area that includes some or
1504 all of an area proposed for annexation in an annexation petition under Section [10-2-403](#) that:

1505 (i) was filed before the filing of the petition; and

1506 (ii) is still pending on the date the petition is filed.

1507 (d) A petition may not be filed under this section if the private real property owned by
1508 the petition sponsors, designated under Subsection (3)(b)(ii), cumulatively exceeds 40% of the
1509 total private land area within the area proposed to be incorporated as a town.

1510 (e) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn,
1511 reinstate the signer's signature on the petition:

1512 (i) at any time until the county clerk certifies the petition under Subsection (5); and

1513 (ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

1514 (4) (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town
1515 an area located within a county of the first class, the county clerk shall deliver written notice of

1516 the proposed incorporation:

1517 (i) to each owner of private real property owning more than 1% of the assessed value
1518 of all private real property within the area proposed to be incorporated as a town; and

1519 (ii) within seven calendar days after the date on which the petition is filed.

1520 (b) A private real property owner described in Subsection (4)(a)(i) may exclude all or
1521 part of the owner's property from the area proposed to be incorporated as a town by filing a
1522 notice of exclusion:

1523 (i) with the county clerk; and

1524 (ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

1525 (c) The county legislative body shall exclude from the area proposed to be incorporated
1526 as a town the property identified in the notice of exclusion under Subsection (4)(b) if:

1527 (i) the property:

1528 (A) is nonurban; and

1529 (B) does not and will not require a municipal service; and

1530 (ii) exclusion will not leave an unincorporated island within the proposed town.

1531 (d) If the county legislative body excludes property from the area proposed to be
1532 incorporated as a town, the county legislative body shall send written notice of the exclusion to
1533 the contact sponsor within five days after the exclusion.

1534 (5) No later than 20 days after the filing of a petition under Subsection (3), the county
1535 clerk shall:

1536 (a) with the assistance of other county officers from whom the clerk requests
1537 assistance, determine whether the petition complies with the requirements of Subsection (3);
1538 and

1539 (b) (i) if the clerk determines that the petition complies with those requirements:

1540 (A) certify the petition and deliver the certified petition to the county legislative body;
1541 and

1542 (B) mail or deliver written notification of the certification to:

1543 (I) the contact sponsor;

1544 (II) if applicable, the chair of the planning commission of each township in which any
1545 part of the area proposed for incorporation is located; and

1546 (III) the Utah Population Estimates Committee; or

1547 (ii) if the clerk determines that the petition fails to comply with any of those
1548 requirements, reject the petition and notify the contact sponsor in writing of the rejection and
1549 the reasons for the rejection.

1550 (6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to
1551 correct a deficiency for which it was rejected and then refiled with the county clerk.

1552 (ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward
1553 fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended
1554 under Subsection (6)(a)(i) and then refiled with the county clerk.

1555 (b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been
1556 rejected by the county clerk under Subsection (5)(b)(ii):

1557 (i) the amended petition shall be considered as a newly filed petition; and

1558 (ii) the amended petition's processing priority is determined by the date on which it is
1559 refiled.

1560 (7) (a) (i) The legislative body of a county with which a petition is filed under
1561 Subsection (4) and certified under Subsection (6) shall commission and pay for a financial
1562 feasibility study.

1563 (ii) The feasibility consultant shall be chosen:

1564 (A) (I) by the contact sponsor of the incorporation petition, as described in Subsection
1565 (3)(b)(ii), with the consent of the county; or

1566 (II) by the county if the contact sponsor states, in writing, that the sponsor defers
1567 selection of the feasibility consultant to the county; and

1568 (B) in accordance with applicable county procurement procedure.

1569 (iii) The county legislative body shall require the feasibility consultant to complete the
1570 financial feasibility study and submit written results of the study to the county legislative body
1571 no later than 30 days after the feasibility consultant is engaged to conduct the financial
1572 feasibility study.

1573 (b) The financial feasibility study shall consider the:

1574 (i) population and population density within the area proposed for incorporation and
1575 the surrounding area;

1576 (ii) current and five-year projections of demographics and economic base in the
1577 proposed town and surrounding area, including household size and income, commercial and

1578 industrial development, and public facilities;
1579 (iii) projected growth in the proposed town and in adjacent areas during the next five
1580 years;
1581 (iv) subject to Subsection (7)(c), the present and five-year projections of the cost,
1582 including overhead, of governmental services in the proposed town, including:
1583 (A) culinary water;
1584 (B) secondary water;
1585 (C) sewer;
1586 (D) law enforcement;
1587 (E) fire protection;
1588 (F) roads and public works;
1589 (G) garbage;
1590 (H) weeds; and
1591 (I) government offices;
1592 (v) assuming the same tax categories and tax rates as currently imposed by the county
1593 and all other current service providers, the present and five-year projected revenue for the
1594 proposed town; and
1595 (vi) a projection of any new taxes per household that may be levied within the
1596 incorporated area within five years of incorporation.
1597 (c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a
1598 level and quality of governmental services to be provided to the proposed town in the future
1599 that fairly and reasonably approximate the level and quality of governmental services being
1600 provided to the proposed town at the time of the feasibility study.
1601 (ii) In determining the present cost of a governmental service, the feasibility consultant
1602 shall consider:
1603 (A) the amount it would cost the proposed town to provide governmental service for
1604 the first five years after incorporation; and
1605 (B) the county's present and five-year projected cost of providing governmental
1606 service.
1607 (iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation
1608 and anticipated growth.

1609 (d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year
1610 projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall
1611 project and report the expected annual revenue surplus to the contact sponsor and the lieutenant
1612 governor.

1613 (e) The county legislative body shall approve a certified petition proposing the
1614 incorporation of a town and hold a public hearing as provided in Section 10-2-126.

1615 Section 41. Section 10-2-126 is amended to read:

1616 **10-2-126. Incorporation of town -- Public hearing on feasibility.**

1617 (1) If, in accordance with Section 10-2-125, the county clerk certifies a petition for
1618 incorporation or an amended petition for incorporation, the county legislative body shall, at its
1619 next regular meeting after completion of the feasibility study, schedule a public hearing to:

1620 (a) be held no later than 60 days after the day on which the feasibility study is
1621 completed; and

1622 (b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation for
1623 the proposed town.

1624 (2) The county legislative body shall give notice of the public hearing on the proposed
1625 incorporation by:

1626 (a) posting notice of the public hearing on the county's Internet website, if the county
1627 has an Internet website;

1628 (b) (i) publishing notice of the public hearing at least once a week for two consecutive
1629 weeks in a newspaper of general circulation within the proposed town; or

1630 (ii) if there is no newspaper of general circulation within the proposed town, posting
1631 notice of the public hearing in at least five conspicuous public places within the proposed
1632 town; and

1633 (c) publishing notice of the public hearing on the Utah Public Notice Website created
1634 in Section 63F-1-701.

1635 (3) At the public hearing scheduled in accordance with Subsection (1), the county
1636 legislative body shall:

1637 (a) (i) provide a copy of the feasibility study; and

1638 (ii) present the results of the feasibility study to the public; and

1639 (b) allow the public to:

- 1640 (i) review the map or plat of the boundary of the proposed town;
- 1641 (ii) ask questions and become informed about the proposed incorporation; and
- 1642 (iii) express its views about the proposed incorporation, including their views about the
- 1643 boundary of the area proposed to be incorporated.

1644 (4) A county may not hold an election on the incorporation of a town in accordance
 1645 with Section 10-2-127 if the results of the feasibility study show that the five-year projected
 1646 revenues under Subsection 10-2-125(7)(b)(v) exceed the five-year projected costs under
 1647 Subsection 10-2-125(7)(b)(iv) by more than 10%.

1648 Section 42. Section 10-8-62 is amended to read:

1649 **10-8-62. Cemeteries -- Purchase and operation.**

1650 The city legislative body may:

- 1651 (1) purchase, hold, and pay for lands within or without the corporate limits for the
- 1652 burial of the dead, and all necessary grounds for hospitals;
- 1653 (2) have and exercise police jurisdiction over those lands, and over any cemetery used
- 1654 by the inhabitants of the city;
- 1655 (3) survey, plat, map, fence, ornament, and otherwise improve, manage, and operate
- 1656 public burial and cemetery grounds;
- 1657 (4) convey cemetery lots owned by the city, and pass ordinances for the protection and
- 1658 governing of these grounds consistent with Title 8, Chapter 5, [~~Municipal Cemeteries~~] Rights
- 1659 and Title to Cemetery Lots;
- 1660 (5) contract for the care and improvement of cemeteries and cemetery lots, and for any
- 1661 compensation for the care and improvement;
- 1662 (6) receive deposits for the care of lots and invest the deposits by following the
- 1663 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
- 1664 (7) pay the cost of the care from any proceeds from the investment.

1665 Section 43. Section 10-8-63 is amended to read:

1666 **10-8-63. Burial of dead -- Vital statistics.**

1667 They may regulate the burial of the dead, consistent with Title 8, Chapter 5, [~~Municipal~~
 1668 ~~Cemeteries~~] Rights and Title to Cemetery Lots, the registration of births and deaths, direct the
 1669 returning and keeping of bills of mortality, and impose penalties on physicians, sextons, and
 1670 others for any default therein.

1671 Section 44. Section **10-18-104** is amended to read:

1672 **10-18-104. Application to existing contracts.**

1673 (1) (a) If before the sooner of March 1 or the effective date of the chapter, the
1674 legislative body of a municipality authorized the municipality to offer or provide cable
1675 television services or public telecommunications services, each authorized service:

1676 (i) is exempt from Part 2, Conditions for Providing Services; and

1677 (ii) is subject to Part 3, Operational Requirements and Limitations.

1678 (b) The exemption described in Subsection (1)(a)(i) may not apply to any cable
1679 television service or public telecommunications service authorized by the legislative body of a
1680 municipality on or after the sooner of March 1 or the effective date of this chapter.

1681 (2) This chapter does not:

1682 (a) invalidate any contract entered into by a municipality before the sooner of March 1
1683 or the effective date of this chapter:

1684 (i) for the design, construction, equipping, operation, or maintenance of facilities used
1685 or to be used by the municipality, or by a private provider under a contract with the
1686 municipality for the purpose of providing:

1687 (A) cable television services; or

1688 (B) public telecommunications services;

1689 (ii) with a private provider for the use of the facilities described in Subsection (2)(a)(i)
1690 in connection with the private provider offering:

1691 (A) cable television services; or

1692 (B) public telecommunications services;

1693 (iii) with a subscriber for providing:

1694 (A) a cable television service; or

1695 (B) a public telecommunications service; or

1696 (iv) to obtain or secure financing for the acquisition or operation of the municipality's
1697 facilities or equipment used in connection with providing:

1698 (A) a cable television service; or

1699 (B) a public telecommunications service; or

1700 (b) impair any security interest granted by a municipality as collateral for the
1701 municipality's obligations under a contract described in Subsection (2)(a).

1702 (3) (a) A municipality meeting the one or more of the following conditions is exempt
1703 from this chapter as provided in Subsection (3)(b):

1704 (i) a municipality that adopts or enacts a bond resolution on or before January 1, 2001,
1705 to fund facilities or equipment that the municipality uses to provide:

1706 (A) cable television services; or

1707 (B) public telecommunications services; or

1708 (ii) a municipality that has operated for at least three years consecutively before the
1709 sooner of March 1 or the effective date of this chapter:

1710 (A) a cable television service; or

1711 (B) a public telecommunications service.

1712 (b) A municipality described in Subsection (3)(a) is exempt from this chapter except
1713 for:

1714 (i) Subsection 10-18-303(4);

1715 (ii) Subsection 10-18-303(7);

1716 (iii) Subsection 10-18-303(9);

1717 (iv) Section 10-18-304; and

1718 (v) Section 10-18-305.

1719 (4) For the time period beginning on the effective date of this chapter and ending on
1720 December 31, 2001, a municipality that operated a cable television service as of January 1,
1721 2001, is exempt from Subsection 10-18-301(1)(d).

1722 Section 45. Section 11-13-303 is amended to read:

1723 **11-13-303. Source of project entity's payment of sales and use tax -- Gross**
1724 **receipts taxes for facilities providing additional project capacity.**

1725 (1) A project entity is not exempt from sales and use taxes under Title 59, Chapter 12,
1726 Sales and Use Tax Act, to the extent provided in Subsection 59-12-104(2).

1727 (2) A project entity may make payments or prepayments of sales and use taxes, as
1728 provided in Title 63M, Chapter 5, Resource Development Act, from the proceeds of revenue
1729 bonds issued under Section 11-13-218 or other revenues of the project entity.

1730 (3) (a) This Subsection (3) applies with respect to facilities providing additional project
1731 capacity.

1732 (b) (i) The in lieu excise tax imposed under Title 59, Chapter 8, Gross Receipts Tax on

1733 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, shall be
1734 imposed collectively on all gross receipts derived with respect to the ownership interests of all
1735 project entities and other public agencies in facilities providing additional project capacity as
1736 though all such ownership interests were held by a single project entity.

1737 (ii) The in lieu excise tax shall be calculated as though the gross receipts derived with
1738 respect to all such ownership interests were received by a single taxpayer that has no other
1739 gross receipts.

1740 (iii) The gross receipts attributable to such ownership interests shall consist solely of
1741 gross receipts that are expended by each project entity and other public agency holding an
1742 ownership interest in the facilities for the operation or maintenance of or ordinary repairs or
1743 replacements to the facilities.

1744 (iv) For purposes of calculating the in lieu excise tax, the determination of whether
1745 there is a tax rate and, if so, what the tax rate is shall be governed by Section 59-8-104, except
1746 that the \$10,000,000 figures in Section 59-8-104 indicating the amount of gross receipts that
1747 determine the applicable tax rate shall be replaced with \$5,000,000.

1748 (c) Each project entity and public agency owning an interest in the facilities providing
1749 additional project capacity shall be liable only for the portion of the gross receipts tax referred
1750 to in Subsection (3)(b) that is proportionate to its percentage ownership interest in the facilities
1751 and may not be liable for any other gross receipts taxes with respect to its percentage
1752 ownership interest in the facilities.

1753 (d) No project entity or other public agency that holds an ownership interest in the
1754 facilities may be subject to the taxes imposed under Title 59, Chapter 7, Corporate Franchise
1755 and Income Taxes, with respect to those facilities.

1756 (4) For purposes of calculating the gross receipts tax imposed on a project entity or
1757 other public agency under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not
1758 Required to Pay Corporate Franchise or Income Tax Act, or Subsection (3), gross receipts
1759 include only gross receipts from the first sale of capacity, services, or other benefits and do not
1760 include gross receipts from any subsequent sale, resale, or layoff of the capacity, services, or
1761 other benefits.

1762 Section 46. Section 11-13-315 is amended to read:

1763 **11-13-315. Taxed interlocal entity.**

- 1764 (1) As used in this section:
- 1765 (a) "Asset" means funds, money, an account, real or personal property, or personnel.
- 1766 (b) "Public asset" means:
- 1767 (i) an asset used by a public entity;
- 1768 (ii) tax revenue;
- 1769 (iii) state funds; or
- 1770 (iv) public funds.
- 1771 (c) (i) "Taxed interlocal entity" means a project entity that:
- 1772 (A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3,
- 1773 Project Entity Provisions;
- 1774 (B) does not receive a payment of funds from a federal agency or office, state agency or
- 1775 office, political subdivision, or other public agency or office other than a payment that does not
- 1776 materially exceed the greater of the fair market value and the cost of a service provided or
- 1777 property conveyed by the project entity; and
- 1778 (C) does not receive, expend, or have the authority to compel payment from tax
- 1779 revenue.
- 1780 (ii) Before and on May 1, 2014, "taxed interlocal entity" includes an interlocal entity
- 1781 that:
- 1782 (A) (I) was created before 1981 for the purpose of providing power supply at wholesale
- 1783 to its members; or
- 1784 (II) is described in Subsection [11-13-204\(7\)](#);
- 1785 (B) does not receive a payment of funds from a federal agency or office, state agency or
- 1786 office, political subdivision, or other public agency or office other than a payment that does not
- 1787 materially exceed the greater of the fair market value and the cost of a service provided or
- 1788 property conveyed by the interlocal entity; and
- 1789 (C) does not receive, expend, or have the authority to compel payment from tax
- 1790 revenue.
- 1791 (d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit,
- 1792 administer, receive, expend, appropriate, disburse, or have custody.
- 1793 (ii) "Use" includes, when constituting a noun, the corresponding nominal form of each
- 1794 term in Subsection (1)(d)(i), individually.

1795 (2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal
1796 entity does not constitute the use of a public asset.

1797 (3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an
1798 asset that was a public asset prior to the taxed interlocal entity's use of the asset does not
1799 constitute a taxed interlocal entity's use of a public asset.

1800 (4) Notwithstanding any other provision of law, an official of a project entity is not a
1801 public treasurer.

1802 (5) Notwithstanding any other provision of law, a taxed interlocal entity's governing
1803 body, as described in Section 11-13-206, shall determine and direct the use of an asset by the
1804 taxed interlocal entity.

1805 (6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter
1806 6a, Utah Procurement Code.

1807 (b) An agent of a taxed interlocal entity is not an external procurement unit as defined
1808 in Section 63G-6a-104.

1809 (7) (a) A taxed interlocal entity is not a participating local entity as defined in Section
1810 63A-3-401.

1811 (b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall
1812 provide:

1813 (i) the taxed interlocal entity's financial statements for and as of the end of the fiscal
1814 year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end
1815 of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses
1816 and of cash flows for the fiscal year; and

1817 (ii) the accompanying auditor's report and management's discussion and analysis with
1818 respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal
1819 year.

1820 (c) The taxed interlocal entity shall provide the information described in Subsections
1821 (7)(b)(i) and ~~(b)~~ (ii):

1822 (i) in a manner described in Subsection 63A-3-405(3); and

1823 (ii) within a reasonable time after the taxed interlocal entity's independent auditor
1824 delivers to the taxed interlocal entity's governing body the auditor's report with respect to the
1825 financial statements for and as of the end of the fiscal year.

1826 (d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance
1827 with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

1828 (i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of
1829 Finance; and

1830 (ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public
1831 financial information as defined in Section 63A-3-401.

1832 (8) (a) A taxed interlocal entity's governing body is not a governing board as defined in
1833 Section 51-2a-102.

1834 (b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a,
1835 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local
1836 Entities Act.

1837 Section 47. Section 11-14-301 is amended to read:

1838 **11-14-301. Issuance of bonds by governing body -- Computation of indebtedness**
1839 **under constitutional and statutory limitations.**

1840 (1) If the governing body has declared the bond proposition to have carried and no
1841 contest has been filed, or if a contest has been filed and favorably terminated, the governing
1842 body may proceed to issue the bonds voted at the election.

1843 (2) (a) It is not necessary that all of the bonds be issued at one time, but, except as
1844 otherwise provided in this Subsection (2), bonds approved by the voters may not be issued
1845 more than 10 years after the day on which the election is held.

1846 (b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the
1847 10-year period:

1848 (i) an application for a referendum petition is filed with a local clerk, in accordance
1849 with Section 20A-7-602 and Subsection 20A-7-601[~~(4)~~](3)(a), with respect to the local
1850 obligation law relating to the bonds; or

1851 (ii) the bonds are challenged in a court of law or an administrative proceeding in
1852 relation to:

1853 (A) the legality or validity of the bonds, or the election or proceedings authorizing the
1854 bonds;

1855 (B) the authority of the local political subdivision to issue the bonds;

1856 (C) the provisions made for the security or payment of the bonds; or

1857 (D) any other issue that materially and adversely affects the marketability of the bonds,
1858 as determined by the individual or body that holds the executive powers of the local political
1859 subdivision.

1860 (c) A tolling period described in Subsection (2)(b)(i) ends on the later of the day on
1861 which:

1862 (i) the local clerk determines that the petition is insufficient, in accordance with
1863 Subsection 20A-7-607(2)(c), unless an application, described in Subsection 20A-7-607(4)(a), is
1864 made to the Supreme Court;

1865 (ii) the Supreme Court determines, under Subsection 20A-7-607(4)(c), that the petition
1866 for the referendum is not legally sufficient; or

1867 (iii) for a referendum petition that is sufficient, the governing body declares, as
1868 provided by law, the results of the referendum election on the local obligation law.

1869 (d) A tolling period described in Subsection (2)(b)(ii) ends after:

1870 (i) there is a final settlement, a final adjudication, or another type of final resolution of
1871 all challenges described in Subsection (2)(b)(ii); and

1872 (ii) the individual or body that holds the executive powers of the local political
1873 subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii)
1874 are resolved and final.

1875 (e) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection
1876 (2) and, when the tolling ends and after giving effect to the tolling, the period of time
1877 remaining to issue the bonds is less than one year, the period of time remaining to issue the
1878 bonds shall be extended to one year.

1879 (f) The tolling provisions described in this Subsection (2) apply to all bonds described
1880 in this section that were approved by voters on or after May 8, 2002.

1881 (3) (a) Bonds approved by the voters may not be issued to an amount that will cause
1882 the indebtedness of the local political subdivision to exceed that permitted by the Utah
1883 Constitution or statutes.

1884 (b) In computing the amount of indebtedness that may be incurred pursuant to
1885 constitutional and statutory limitations, the constitutionally or statutorily permitted percentage,
1886 as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102,
1887 of the taxable property in the local political subdivision, as computed from the last applicable

1888 equalized assessment roll before the incurring of the additional indebtedness.

1889 (c) In determining the fair market value of the taxable property in the local political
1890 subdivision as provided in this section, the value of all tax equivalent property, as defined in
1891 Section 59-3-102, shall be included as a part of the total fair market value of taxable property
1892 in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property
1893 Act.

1894 (4) Bonds of improvement districts issued in a manner that they are payable solely
1895 from the revenues to be derived from the operation of the facilities of the district may not be
1896 included as bonded indebtedness for the purposes of the computation.

1897 (5) Where bonds are issued by a city, town, or county payable solely from revenues
1898 derived from the operation of revenue-producing facilities of the city, town, or county, or
1899 payable solely from a special fund into which are deposited excise taxes levied and collected by
1900 the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the
1901 city, town, or county, or any combination of those excise taxes, the bonds shall be included as
1902 bonded indebtedness of the city, town, or county only to the extent required by the Utah
1903 Constitution, and any bonds not so required to be included as bonded indebtedness of the city,
1904 town, or county need not be authorized at an election, except as otherwise provided by the Utah
1905 Constitution, the bonds being hereby expressly excluded from the election requirement of
1906 Section 11-14-201.

1907 (6) A bond election is not void when the amount of bonds authorized at the election
1908 exceeded the limitation applicable to the local political subdivision at the time of holding the
1909 election, but the bonds may be issued from time to time in an amount within the applicable
1910 limitation at the time the bonds are issued.

1911 Section 48. Section 11-17-14 is amended to read:

1912 **11-17-14. Uniform Commercial Code not applicable.**

1913 Bonds issued under this act are exempt from the provisions of ~~the~~ Title 70A, Uniform
1914 Commercial Code ~~[, Title 70A]~~.

1915 Section 49. Section 11-32-4 is amended to read:

1916 **11-32-4. Assignment of rights to receive delinquent tax receivables to financing**
1917 **authority -- Documentation -- Agreement.**

1918 (1) At any time following the date of delinquency for property in Title 59, Chapter 2,

1919 Part 13, Collection of Taxes, the governing body of any county desiring to implement the
1920 provisions of this chapter by assigning the delinquent tax receivables of the participant
1921 members to its authority shall ascertain the amount of delinquent taxes owed to the participant
1922 members within the county. After ascertaining the amount of delinquent tax receivables owed,
1923 the governing body of the county may, as agent for the other participant members, assign the
1924 rights of the participant members to receive the delinquent tax receivables, in whole or in part,
1925 as designated by the governing body of the county, to the financing authority. The assignment
1926 of rights described above shall take the form of an assignment of an account receivables. The
1927 purchase price paid by the authority may be equal to, greater than, or less than the amount of
1928 the delinquent tax receivables sold to the authority. The documentation by which the transfer
1929 of the delinquent tax receivables are made shall contain the following:

- 1930 (a) the tax year or years for which the delinquent taxes owing were levied;
- 1931 (b) the amount of taxes, interest, and penalties due to the participant members with
1932 respect to the tax years as of the date the accounts are assigned;
- 1933 (c) the tax identification numbers or other descriptions of the specific properties with
1934 respect to which the delinquent tax receivables are being assigned;
- 1935 (d) the interest rate at which the delinquent taxes subject to the assignment bear interest
1936 pursuant to Section [59-2-1331](#);
- 1937 (e) the discount or premium, if any, at which the account is assigned;
- 1938 (f) a certificate representing the transfer of the rights of the county and the other
1939 participant members to receive the amounts due and owing the county and the other participant
1940 members with respect to the delinquent tax receivables transferred; and
- 1941 (g) certification by the governing body of the county that all amounts received by the
1942 county with respect to the delinquent taxes, interest, and penalties assigned to the authority and
1943 owed to the county and the other participant members, for the tax years specified, upon the
1944 specified property, and the additional interest and penalties to accrue on the delinquent
1945 amounts, shall be deposited upon receipt into a special fund of the county created for this
1946 purpose and shall be used solely to pay the amounts falling due to the financing authority as
1947 specified in the assignment agreement.
- 1948 (2) The assignment agreement shall contain a statement to the effect that any amounts
1949 falling due under it are payable solely from a special fund into which the county shall pay the

1950 amounts collected with respect to the delinquent tax receivables pledged and shall state that
1951 under no circumstances may the county or any of the other participant members be required to
1952 use any other funds, property, or money of the county or the other participant members or to
1953 levy any tax to satisfy amounts due under the agreement.

1954 Section 50. Section **11-42-604** is amended to read:

1955 **11-42-604. Notice regarding resolution or ordinance authorizing interim**
1956 **warrants or bond anticipation notes -- Complaint contesting warrants or notes --**
1957 **Prohibition against contesting warrants and notes.**

1958 (1) A local entity may publish notice, as provided in Subsection (2), of a resolution or
1959 ordinance that the governing body has adopted authorizing the issuance of interim warrants or
1960 bond anticipation notes.

1961 (2) (a) If a local entity chooses to publish notice under Subsection (1)~~(a)~~, the notice
1962 shall:

1963 (i) be published:

1964 (A) in a newspaper of general circulation within the local entity; and

1965 (B) as required in Section 45-1-101; and

1966 (ii) contain:

1967 (A) the name of the issuer of the interim warrants or bond anticipation notes;

1968 (B) the purpose of the issue;

1969 (C) the maximum principal amount that may be issued;

1970 (D) the maximum length of time over which the interim warrants or bond anticipation
1971 notes may mature;

1972 (E) the maximum interest rate, if there is a maximum rate; and

1973 (F) the times and place where a copy of the resolution or ordinance may be examined,
1974 as required under Subsection (2)(b).

1975 (b) The local entity shall allow examination of the resolution or ordinance authorizing
1976 the issuance of the interim warrants or bond anticipation notes at its office during regular
1977 business hours.

1978 (3) Any person may, within 30 days after publication of a notice under Subsection (1),
1979 file a verified, written complaint in the district court of the county in which the person resides,
1980 contesting the regularity, formality, or legality of the interim warrants or bond anticipation

1981 notes issued by the local entity or the proceedings relating to the issuance of the interim
1982 warrants or bond anticipation notes.

1983 (4) After the 30-day period under Subsection (3), no person may contest the regularity,
1984 formality, or legality of the interim warrants or bond anticipation notes issued by a local entity
1985 under the resolution or ordinance that was the subject of the notice under Subsection (1), or the
1986 proceedings relating to the issuance of the interim warrants or bond anticipation notes.

1987 Section 51. Section **13-1a-5** is amended to read:

1988 **13-1a-5. Authority of director.**

1989 The director has authority:

1990 (1) to make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1991 Rulemaking Act, to administer the responsibilities of the division;

1992 (2) to investigate, upon complaint, the corporation and commercial code filings and
1993 compliance governed by the laws administered and enforced by the division; and

1994 (3) under the provisions of Title 63G, Chapter 4, [~~Utah~~] Administrative Procedures
1995 Act, to take administrative action against persons in violation of the division rules and the laws
1996 administered by it, including the issuance of cease and desist orders.

1997 Section 52. Section **13-22-8** is amended to read:

1998 **13-22-8. Exemptions.**

1999 (1) Section **13-22-5** does not apply to:

2000 (a) a solicitation that an organization conducts among its own established and bona fide
2001 membership exclusively through the voluntarily donated efforts of other members or officers of
2002 the organization;

2003 (b) a bona fide religious, ecclesiastical, or denominational organization if:

2004 (i) the solicitation is made for a church, missionary, religious, or humanitarian purpose;

2005 and

2006 (ii) the organization is either:

2007 (A) a lawfully organized corporation, institution, society, church, or established
2008 physical place of worship, at which nonprofit religious services and activities are regularly
2009 conducted and carried on;

2010 (B) a bona fide religious group:

2011 (I) that does not maintain specific places of worship;

- 2012 (II) that is not subject to federal income tax; and
- 2013 (III) not required to file an IRS Form 990 under any circumstance; or
- 2014 (C) a separate group or corporation that is an integral part of an institution that is an
- 2015 income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported
- 2016 by funds solicited outside its own membership or congregation;
- 2017 (c) a solicitation by a broadcast media owned or operated by an educational institution
- 2018 or governmental entity, or any entity organized solely for the support of that broadcast media;
- 2019 (d) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any
- 2020 person sustaining a life-threatening illness or injury specified by name at the time of
- 2021 solicitation if the entire amount collected without any deduction is turned over to the named
- 2022 person;
- 2023 (e) a political party authorized to transact its affairs within this state and any candidate
- 2024 and campaign worker of the party if the content and manner of any solicitation make clear that
- 2025 the solicitation is for the benefit of the political party or candidate;
- 2026 (f) a political action committee or group soliciting funds relating to issues or candidates
- 2027 on the ballot if the committee or group is required to file financial information with a federal or
- 2028 state election commission;
- 2029 (g) any school accredited by the state, any accredited institution of higher learning, or
- 2030 club or parent, teacher, or student organization within and authorized by the school in support
- 2031 of the operations or extracurricular activities of the school;
- 2032 (h) a public or higher education foundation established under Title 53A [~~or 53B~~], State
- 2033 System of Public Education, or Title 53B, State System Of Higher Education;
- 2034 (i) a television station, radio station, or newspaper of general circulation that donates
- 2035 air time or print space for no consideration as part of a cooperative solicitation effort on behalf
- 2036 of a charitable organization, whether or not that organization is required to register under this
- 2037 chapter;
- 2038 (j) a volunteer fire department, rescue squad, or local civil defense organization whose
- 2039 financial oversight is under the control of a local governmental entity;
- 2040 (k) any governmental unit of any state or the United States; and
- 2041 (l) any corporation:
- 2042 (i) established by an act of the United States Congress; and

- 2043 (ii) that is required by federal law to submit an annual report:
- 2044 (A) on the activities of the corporation, including an itemized report of all receipts and
- 2045 expenditures of the corporation; and
- 2046 (B) to the United States Secretary of Defense to be:
- 2047 (I) audited; and
- 2048 (II) submitted to the United States Congress.
- 2049 (2) Any organization claiming an exemption under this section bears the burden of
- 2050 proving its eligibility for, or the applicability of, the exemption claimed.
- 2051 (3) Each organization exempt from registration pursuant to this section that makes a
- 2052 material change in its legal status, officers, address, or similar changes shall file a report
- 2053 informing the division of its current legal status, business address, business phone, officers, and
- 2054 primary contact person within 30 days of the change.
- 2055 (4) The division may by rule:
- 2056 (a) require organizations exempt from registration pursuant to this section to file a
- 2057 notice of claim of exemption;
- 2058 (b) prescribe the contents of the notice of claim; and
- 2059 (c) require a filing fee for the notice, as determined under Section [63J-1-504](#).
- 2060 Section 53. Section **13-23-5** is amended to read:
- 2061 **13-23-5. Registration -- Bond, letter of credit, or certificate of deposit required --**
- 2062 **Penalties.**
- 2063 (1) (a) (i) It is unlawful for any health spa facility to operate in this state unless the
- 2064 facility is registered with the division.
- 2065 (ii) Registration is effective for one year. If the health spa facility renews its
- 2066 registration, the registration shall be renewed at least 30 days prior to its expiration.
- 2067 (iii) The division shall provide by rule for the form, content, application process, and
- 2068 renewal process of the registration.
- 2069 (b) Each health spa registering in this state shall designate a registered agent for
- 2070 receiving service of process. The registered agent shall be reasonably available from 8 a.m.
- 2071 until 5 p.m. during normal working days.
- 2072 (c) The division shall charge and collect a fee for registration under guidelines
- 2073 provided in Section [63J-1-504](#).

2074 (d) If an applicant fails to file a registration application or renewal by the due date, or
2075 files an incomplete registration application or renewal, the applicant shall pay a fee of \$25 for
2076 each month or part of a month after the date on which the registration application or renewal
2077 were due to be filed, in addition to the registration fee described in Subsection (1)(c).

2078 (e) A health spa registering or renewing a registration shall provide the division a copy
2079 of the liability insurance policy that:

2080 (i) covers the health spa; and

2081 (ii) is in effect at the time of the registration or renewal.

2082 (2) (a) Each health spa shall obtain and maintain:

2083 (i) a performance bond issued by a surety authorized to transact surety business in this
2084 state;

2085 (ii) an irrevocable letter of credit issued by a financial institution authorized to do
2086 business in this state; or

2087 (iii) a certificate of deposit.

2088 (b) The bond, letter of credit, or certificate of deposit shall be payable to the division
2089 for the benefit of any consumer who incurs damages as the result of:

2090 (i) the health spa's violation of this chapter; or

2091 (ii) the health spa's going out of business or relocating and failing to offer an alternate
2092 location within five miles.

2093 (c) (i) The division may recover from the bond, letter of credit, or certificate of deposit
2094 the costs of collecting and distributing funds under this section, up to 10% of the face value of
2095 the bond, letter of credit, or certificate of deposit but only if the consumers have fully recovered
2096 their damages first.

2097 (ii) The total liability of the issuer of the bond, letter of credit, or certificate of deposit
2098 may not exceed the amount of the bond, letter of credit, or certificate of deposit.

2099 (iii) The health spa shall maintain a bond, letter of credit, or certificate of deposit in
2100 force for one year after it notifies the division in writing that it has ceased all activities
2101 regulated by this chapter.

2102 (d) A health spa providing services at more than one location shall comply with the
2103 requirements of Subsection (2)(a) for each separate location.

2104 (e) The division may impose a fine against a health spa that fails to comply with the

2105 requirements of Subsection (2)(a) of up to \$100 per day that the health spa remains out of
2106 compliance. All penalties received shall be deposited into the Consumer Protection Education
2107 and Training Fund created in Section 13-2-8.

2108 (3) (a) The minimum principal amount of the bond, letter of credit, or certificate of
2109 credit required under Subsection (2) shall be based on the number of unexpired contracts for
2110 health spa services to which the health spa is a party, in accordance with the following
2111 schedule:

2112 Principal Amount of	Number of Contracts
Bond, Letter of Credit, or Certificate of Deposit	
2113 \$15,000	500 or fewer
2114 35,000	501 to 1,500
2115 50,000	[1,500] 1,501 to 3,000
2116 75,000	3,001 or more

2117 (b) A health spa that is not exempt under Section 13-23-6 shall comply with
2118 Subsection (3)(a) with respect to all of the health spa's unexpired contracts for health spa
2119 services, regardless of whether a portion of those contracts satisfies the criteria in Section
2120 13-23-6.

2121 (4) Each health spa shall obtain the bond, letter of credit, or certificate of deposit and
2122 furnish a certified copy of the bond, letter of credit, or certificate of deposit to the division prior
2123 to selling, offering or attempting to sell, soliciting the sale of, or becoming a party to any
2124 contract to provide health spa services. A health spa is considered to be in compliance with
2125 this section only if the proof provided to the division shows that the bond, letter of credit, or
2126 certificate of credit is current.

2127 (5) Each health spa shall:

2128 (a) maintain accurate records of the bond, letter of credit, or certificate of credit and of
2129 any payments made, due, or to become due to the issuer; and

2130 (b) open the records to inspection by the division at any time during normal business
2131 hours.

2132 (6) If a health spa changes ownership, ceases operation, discontinues facilities, or

2133 relocates and fails to offer an alternate location within five miles within 30 days after its
2134 closing, the health spa is subject to the requirements of this section as if it were a new health
2135 spa coming into being at the time the health spa changed ownership. The former owner may
2136 not release, cancel, or terminate the owner's liability under any bond, letter of credit, or
2137 certificate of deposit previously filed with the division, unless:

2138 (a) the new owner has filed a new bond, letter of credit, or certificate of deposit for the
2139 benefit of consumers covered under the previous owner's bond, letter of credit, or certificate of
2140 deposit; or

2141 (b) the former owner has refunded all unearned payments to consumers.

2142 (7) If a health spa ceases operation or relocates and fails to offer an alternative location
2143 within five miles, the health spa shall provide the division with 45 days prior notice.

2144 Section 54. Section **13-26-4** is amended to read:

2145 **13-26-4. Exemptions from registration.**

2146 (1) In any enforcement action initiated by the division, the person claiming an
2147 exemption has the burden of proving that the person is entitled to the exemption.

2148 (2) The following are exempt from the requirements of this chapter except for the
2149 requirements of Sections [13-26-8](#) and [13-26-11](#):

2150 (a) a broker, agent, dealer, or sales professional licensed under the licensure laws of
2151 this state, when soliciting sales within the scope of his license;

2152 (b) the solicitation of sales by:

2153 (i) a public utility that is regulated under Title 54, Public Utilities, or by an affiliate of
2154 the utility;

2155 (ii) a newspaper of general circulation;

2156 (iii) a solicitation of sales made by a broadcaster licensed by any state or federal
2157 authority;

2158 (iv) a nonprofit organization if no part of the net earnings from the sale inures to the
2159 benefit of any member, officer, trustee, or serving board member of the organization, or
2160 individual, or family member of an individual, holding a position of authority or trust in the
2161 organization; and

2162 (v) a person who periodically publishes and delivers a catalog of the solicitor's
2163 merchandise to prospective purchasers, if the catalog:

- 2164 (A) contains the price and a written description or illustration of each item offered for
2165 sale;
- 2166 (B) includes the business address of the solicitor;
- 2167 (C) includes at least 24 pages of written material and illustrations;
- 2168 (D) is distributed in more than one state; and
- 2169 (E) has an annual circulation by mailing of not less than 250,000;
- 2170 (c) any publicly-traded corporation registered with the Securities and Exchange
2171 Commission, or any subsidiary of the corporation;
- 2172 (d) the solicitation of any depository institution as defined in Section 7-1-103, a
2173 subsidiary of a depository institution, personal property broker, securities broker, investment
2174 adviser, consumer finance lender, or insurer subject to regulation by an official agency of this
2175 state or the United States;
- 2176 (e) the solicitation by a person soliciting only the sale of telephone services to be
2177 provided by the person or the person's employer;
- 2178 (f) the solicitation of a person relating to a transaction regulated by the Commodities
2179 Futures Trading Commission, if:
- 2180 (i) the person is registered with or temporarily licensed by the commission to conduct
2181 that activity under the Commodity Exchange Act; and
- 2182 (ii) the registration or license has not expired or been suspended or revoked;
- 2183 (g) the solicitation of a contract for the maintenance or repair of goods previously
2184 purchased from the person:
- 2185 (i) who is making the solicitation; or
- 2186 (ii) on whose behalf the solicitation is made;
- 2187 (h) the solicitation of previous customers of the business on whose behalf the call is
2188 made if the person making the call:
- 2189 (i) does not offer any premium in conjunction with a sale or offer;
- 2190 (ii) is not selling an investment or an opportunity for an investment that is not
2191 registered with any state or federal authority; and
- 2192 (iii) is not regularly engaged in telephone sales;
- 2193 (i) the solicitation of a sale that is an isolated transaction and not done in the course of
2194 a pattern of repeated transactions of a like nature;

2195 (j) the solicitation of a person by a retail business establishment that has been in
2196 operation for at least five years in Utah under the same name as that used in connection with
2197 telemarketing if both of the following occur on a continuing basis:

2198 (i) products are displayed and offered for sale at the place of business, or services are
2199 offered for sale and provided at the place of business; and

2200 (ii) a majority of the seller's business involves the buyer obtaining the products or
2201 services at the seller's place of business;

2202 (k) a person primarily soliciting the sale of a magazine or periodical sold by the
2203 publisher or the publisher's agent through a written agreement, or printed or recorded material
2204 through a contractual plan, such as a book or record club, continuity plan, subscription,
2205 standing order arrangement, or supplement or series arrangement if:

2206 (i) the seller provides the consumer with a form that the consumer may use to instruct
2207 the seller not to ship the offered merchandise, and the arrangement is regulated by the Federal
2208 Trade Commission trade regulation concerning use of negative option plans by sellers in
2209 commerce; or

2210 (ii) (A) the seller periodically ships merchandise to a consumer who has consented in
2211 advance to receive the merchandise on a periodic basis; and

2212 (B) the consumer retains the right to cancel at any time and receive a full refund for the
2213 unused portion; or

2214 (l) a telephone marketing service company that provides telemarketing sales services
2215 under contract to sellers if:

2216 (i) it has been doing business regularly with customers in Utah for at least five years
2217 under the same business name and with its principal office in the same location;

2218 (ii) at least 75% of its contracts are performed on behalf of persons exempted from
2219 registration under this chapter; and

2220 (iii) neither the company nor its principals have been enjoined from doing business or
2221 subjected to criminal actions for their business activities in this or any other state.

2222 Section 55. Section **13-32a-104** is amended to read:

2223 **13-32a-104. Register required to be maintained -- Contents -- Identification of**
2224 **items -- Prohibition against pawning or selling certain property.**

2225 (1) Every pawnbroker or secondhand merchandise dealer shall keep a register of each

2226 article of property a person pawns or sells to the pawnbroker or secondhand merchandise
2227 dealer, except as provided in Subsection 13-32a-102(23)(b). Every pawn and secondhand
2228 business owner or operator, or his employee, shall enter the following information regarding
2229 every article pawned or sold to the owner or employee:

2230 (a) the date and time of the transaction;

2231 (b) the pawn transaction ticket number, if the article is pawned;

2232 (c) the date by which the article must be redeemed;

2233 (d) the following information regarding the person who pawns or sells the article:

2234 (i) the person's name, residence address, and date of birth;

2235 (ii) the number of the driver license or other form of positive identification presented

2236 by the person, and notations of discrepancies if the person's physical description, including

2237 gender, height, weight, race, age, hair color, and eye color, does not correspond with

2238 identification provided by the person;

2239 (iii) the person's signature; and

2240 (iv) a legible fingerprint of the person's right index finger, or if the right index finger

2241 cannot be fingerprinted, a legible fingerprint of the person with a written notation identifying

2242 the fingerprint and the reason why the index finger's print was unavailable;

2243 (e) the amount loaned on or paid for the article, or the article for which it was traded;

2244 (f) the identification of the pawn or secondhand business owner or the employee,

2245 whoever is making the register entry; and

2246 (g) an accurate description of the article of property, including available identifying
2247 marks such as:

2248 (i) names, brand names, numbers, serial numbers, model numbers, color,

2249 manufacturers' names, and size;

2250 (ii) metallic composition, and any jewels, stones, or glass;

2251 (iii) any other marks of identification or indicia of ownership on the article;

2252 (iv) the weight of the article, if the payment is based on weight;

2253 (v) any other unique identifying feature;

2254 (vi) gold content, if indicated; and

2255 (vii) if multiple articles of a similar nature are delivered together in one transaction and

2256 the articles do not bear serial or model numbers and do not include precious metals or

2257 gemstones, such as musical or video recordings, books, or hand tools, the description of the
2258 articles is adequate if it includes the quantity of the articles and a description of the type of
2259 articles delivered.

2260 (2) A pawn or secondhand business may not accept any personal property if, upon
2261 inspection, it is apparent that serial numbers, model names, or identifying characteristics have
2262 been intentionally defaced on that article of property.

2263 (3) (a) A person may not pawn or sell any property to a business regulated under this
2264 chapter if the property is subject to being turned over to a law enforcement agency in
2265 accordance with Title 77, Chapter ~~[24, Unclaimed]~~ 24a, Lost or Mislaid Personal Property.

2266 (b) If an individual attempts to sell or pawn property to a business regulated under this
2267 chapter and the employee or owner of the business knows or has reason to know that the
2268 property is subject to Title 77, Chapter ~~[24, Unclaimed]~~ 24a, Lost or Mislaid Personal Property,
2269 the employee or owner shall advise the individual of the requirements of Title 77, Chapter ~~[24,~~
2270 ~~Unclaimed]~~ 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn
2271 or sale.

2272 (4) A violation of this section is a class B misdemeanor and is also subject to civil
2273 penalties under Section [13-32a-110](#).

2274 Section 56. Section **13-32a-115** is amended to read:

2275 **13-32a-115. Investigation phase and victim's responsibilities.**

2276 (1) If the property pawned or sold to a pawn or secondhand business is the subject of a
2277 criminal investigation and a hold has been placed on the property under Section [13-32a-109](#),
2278 the original victim shall do the following to establish a claim:

2279 (a) positively identify to law enforcement the item stolen or lost;

2280 (b) if a police report has not already been filed for the original theft or loss of property,
2281 file a police report, and provide for the law enforcement agency information surrounding the
2282 original theft or loss of property; and

2283 (c) give a sworn statement under penalty of law that:

2284 (i) claims ownership of the property;

2285 (ii) references the original theft or loss; and

2286 (iii) identifies the perpetrator if known.

2287 (2) The pawn or secondhand business shall retain possession of any property subject to

2288 a hold until a criminal prosecution is commenced relating to the property for which the hold
2289 was placed unless:

2290 (a) during the course of a criminal investigation the actual physical possession by law
2291 enforcement of an article purchased or pawned is essential for the purpose of fingerprinting the
2292 property, chemical testing of the property, or if the property contains unique or sensitive
2293 personal identifying information; or

2294 (b) an agreement between the original victim and the pawn or secondhand business to
2295 return the property is reached.

2296 (3) (a) Upon the commencement of a criminal prosecution, any article subject to a hold
2297 for investigation under this chapter may be seized by the law enforcement agency which
2298 requested the hold.

2299 (b) Subsequent disposition of the property shall be consistent with Section [~~77-24-2~~]
2300 [24-3-103](#) regarding property not needed as evidence and this chapter.

2301 (c) If a conflict exists between the provisions of Section [~~77-24-2~~] [24-3-103](#) regarding
2302 property not needed as evidence and this chapter, this chapter takes precedence regarding
2303 property held by pawn or secondhand businesses.

2304 (4) At all times during the course of a criminal investigation and subsequent
2305 prosecution, the article subject to a law enforcement hold shall be kept secure by the pawn or
2306 secondhand business subject to the hold unless a pawned or sold article has been seized by the
2307 law enforcement agency pursuant to Section [13-32a-109.5](#).

2308 Section 57. Section [13-32a-117](#) is amended to read:

2309 **[13-32a-117](#). Property disposition if no criminal charges filed -- Administrative**
2310 **hearing.**

2311 (1) The original victim or the pawn or secondhand business may request an
2312 administrative property disposition hearing with the Division of Consumer Protection if:

2313 (a) more than 30 days have passed since:

2314 (i) the law enforcement agency placed a hold on the property; or

2315 (ii) the property was seized by the law enforcement agency; and

2316 (b) an agreement pursuant to Subsection [13-32a-115\(2\)\(b\)](#) has not been reached.

2317 (2) The original victim or the pawn or secondhand business shall provide to the
2318 Division of Consumer Protection at the time of the request for a property disposition hearing:

2319 (a) a copy of the sworn statement of the original victim taken pursuant to Section
2320 13-32a-115 and the case number assigned by the law enforcement agency; and

2321 (b) a written notice from the prosecuting agency with jurisdiction over the case
2322 involving the property that the prosecuting agency has made an initial determination under
2323 Section [77-24-2] 13-32a-109 or 13-32a-109.5 and this chapter that the property is no longer
2324 needed as evidence.

2325 (3) (a) Within 30 days after receiving the request for a property disposition hearing
2326 from the original victim or the pawn or secondhand business, the Division of Consumer
2327 Protection shall schedule an adjudicative hearing in accordance with Title 63G, Chapter 4,
2328 Administrative Procedures Act, to determine ownership of the claimed property. The division
2329 shall provide written notice of the hearing to the pawn or secondhand business and the original
2330 victim.

2331 (b) The division shall conduct the hearing to determine disposition of the claimed
2332 seized property, taking into consideration:

2333 (i) the proof of ownership of the property and compliance with Subsection
2334 13-32a-115(1) by the original victim;

2335 (ii) the claim of ownership by the pawn or secondhand business and the potential
2336 financial loss to the business; and

2337 (iii) compliance by the pawn or secondhand business with the requirements of this
2338 chapter.

2339 (c) If the division determines that the property should be released to the pawn or
2340 secondhand business, the original victim retains a right of first refusal over the property for 15
2341 days and may purchase the property at the amount financed or paid by the pawn or secondhand
2342 business.

2343 (d) The party to whom the division determines the property is to be released shall
2344 maintain possession of the property for the duration of any time period regarding any
2345 applicable right of appeal.

2346 Section 58. Section 13-47-102 (Contingently Repealed) is amended to read:

2347 **13-47-102 (Contingently Repealed). Definitions.**

2348 As used in this chapter:

2349 (1) "Department" means the Department of Commerce.

- 2350 (2) "Employee" means an individual:
- 2351 (a) who is hired to perform services in Utah; and
- 2352 (b) to whom a private employer provides a federal form required for federal taxation
- 2353 purposes to report income paid to the individual for the services performed.
- 2354 (3) (a) Except as provided in Subsection (3)(b), "private employer" means a person
- 2355 who for federal taxation purposes is required to provide a federal form:
- 2356 (i) to an individual who performs services for the person in Utah; and
- 2357 (ii) to report income paid to the individual who performs the services.
- 2358 (b) "Private employer" does not mean a public employer as defined in Section
- 2359 ~~[63G-11-103]~~ [63G-12-102](#).
- 2360 (4) (a) "Status verification system" means an electronic system operated by the federal
- 2361 government, through which an employer may inquire to verify the federal legal working status
- 2362 of an individual who is a newly hired employee.
- 2363 (b) "Status verification system" includes:
- 2364 (i) the electronic verification of the work authorization program of the Illegal
- 2365 Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. Sec. 1324a;
- 2366 (ii) a federal program equivalent to the program described in Subsection (4)(b)(i) that
- 2367 is designated by the United States Department of Homeland Security or other federal agency
- 2368 authorized to verify the employment eligibility status of a newly hired employee pursuant to the
- 2369 Immigration Reform and Control Act of 1986;
- 2370 (iii) the Social Security Number Verification Service or similar online verification
- 2371 process implemented by the United States Social Security Administration; or
- 2372 (iv) an independent third-party system with an equal or higher degree of reliability as
- 2373 the programs, systems, or processes described in Subsection (4)(b)(i), (ii), or (iii).
- 2374 Section 59. Section **13-47-201 (Contingently Repealed)** is amended to read:
- 2375 **13-47-201 (Contingently Repealed). Verification required for new hires.**
- 2376 (1) A private employer who employs 15 or more employees ~~[as of]~~ on or after July 1,
- 2377 2010, may not hire a new employee on or after July 1, 2010, unless the private employer:
- 2378 (a) is registered with a status verification system to verify the federal legal working
- 2379 status of any new employee; and
- 2380 (b) uses the status verification system to verify the federal legal working status of the

2381 new employee in accordance with the requirements of the status verification system.

2382 (2) This section does not apply to a private employer of a foreign national if the foreign
2383 national holds a visa issued in response to a petition by the private employer that is classified as
2384 H-2A or H-2B.

2385 Section 60. Section **15-8-4** is amended to read:

2386 **15-8-4. Inapplicability of other laws -- Exempted transactions.**

2387 (1) Rental purchase agreements that comply with this chapter are not governed by the
2388 laws relating to:

2389 (a) a security interest as defined in Subsection **70A-1a-201(2)(ii)**; or

2390 (b) Title 70C, Utah Consumer Credit Code, except that Sections **70C-7-102** through
2391 **70C-7-104** and **70C-2-205** shall apply to lessors as defined in this chapter to the same extent as
2392 they apply to creditors under Title 70C, Utah Consumer Credit Code.

2393 (2) The chapter does not apply to the following:

2394 (a) rental purchase agreements primarily for business, commercial, or agricultural
2395 purposes, or those made with governmental agencies or instrumentalities or with organizations;

2396 (b) a lease of a safe deposit box;

2397 (c) a lease or bailment of personal property which is incidental to the lease of real
2398 property and which provides that the consumer has no option to purchase the leased property;
2399 or

2400 (d) a lease of a motor vehicle, as defined in Section **41-1a-102**.

2401 Section 61. Section **15-9-103** is amended to read:

2402 **15-9-103. Administration -- Rulemaking -- Service of process.**

2403 (1) (a) This chapter shall be administered by the division and is subject to the
2404 requirements of Title 58, Chapter 1, Division of Occupational and Professional Licensing Act,
2405 so long as the requirements of Title 58, Chapter 1, Division of Occupational and Professional
2406 Licensing Act, are not inconsistent with the requirements of this chapter.

2407 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2408 division may make rules necessary to implement this chapter.

2409 (2) By acting as an athlete agent in this state, a nonresident individual appoints the
2410 director of the division as the individual's agent for service of process in any civil action in this
2411 state related to the individual's acting as an athlete agent in this state.

2412 Section 62. Section **15-10-201** is amended to read:

2413 **15-10-201. Notice requirement.**

2414 (1) Except as provided in Subsection [(†)] (2)(b), a service contract may not contain an
2415 automatic renewal provision unless the seller provides the consumer written notice complying
2416 with Subsection (2) that informs the consumer of the automatic renewal provision.

2417 (2) (a) For a service contract executed on or after July 1, 2011, that exceeds 12 months
2418 for a renewal period, a seller shall provide written notice of an automatic renewal provision
2419 prominently displayed on the first page of the service contract.

2420 (b) In addition to complying with Subsection (2)(a), a seller shall provide written
2421 notice required under Subsection (1) to the consumer:

2422 (i) personally;

2423 (ii) by certified mail; or

2424 (iii) prominently displayed on the first page of a monthly statement.

2425 (c) (i) A seller shall provide written notice under Subsection (2)(b):

2426 (A) no later than 30 calendar days before the last day on which the consumer may give
2427 notice of the consumer's intention to terminate the service contract; and

2428 (B) no sooner than 90 calendar days before the last day on which the consumer may
2429 give notice of the consumer's intention to terminate the service contract.

2430 (ii) A seller may not provide written notice required under Subsection (1) except:

2431 (A) as provided in Subsection (2)(a); or

2432 (B) during the time period described in Subsection (2)(c)(i).

2433 (d) Written notice required under Subsection (1) shall be:

2434 (i) written in clear and understandable language; and

2435 (ii) printed in an easy-to-read type size and style.

2436 Section 63. Section **15A-1-204** is amended to read:

2437 **15A-1-204. Adoption of State Construction Code -- Amendments by commission--**
2438 **Approved codes -- Exemptions.**

2439 (1) (a) The State Construction Code is the construction codes adopted with any
2440 modifications in accordance with this section that the state and each political subdivision of the
2441 state shall follow.

2442 (b) A person shall comply with the applicable provisions of the State Construction

2443 Code when:

2444 (i) new construction is involved; and

2445 (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

2446 (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,

2447 conservation, or reconstruction of the building; or

2448 (B) changing the character or use of the building in a manner that increases the

2449 occupancy loads, other demands, or safety risks of the building.

2450 (c) On and after July 1, 2010, the State Construction Code is the State Construction

2451 Code in effect on July 1, 2010, until in accordance with this section:

2452 (i) a new State Construction Code is adopted; or

2453 (ii) one or more provisions of the State Construction Code are amended or repealed in

2454 accordance with this section.

2455 (d) A provision of the State Construction Code may be applicable:

2456 (i) to the entire state; or

2457 (ii) within a county, city, or town.

2458 (2) (a) The Legislature shall adopt a State Construction Code by enacting legislation

2459 that adopts a construction code with any modifications.

2460 (b) Legislation enacted under this Subsection (2) shall state that it takes effect on the

2461 July 1 after the day on which the legislation is enacted, unless otherwise stated in the

2462 legislation.

2463 (c) Subject to Subsection (5), a State Construction Code adopted by the Legislature is

2464 the State Construction Code until, in accordance with this section, the Legislature adopts a new

2465 State Construction Code by:

2466 (i) adopting a new State Construction Code in its entirety; or

2467 (ii) amending or repealing one or more provisions of the State Construction Code.

2468 (3) (a) The commission shall by no later than November 30 of each year recommend to

2469 the Business and Labor Interim Committee whether the Legislature should:

2470 (i) amend or repeal one or more provisions of a State Construction Code; or

2471 (ii) in a year of a regularly scheduled update of a nationally recognized code, adopt a

2472 construction code with any modifications.

2473 (b) The commission may recommend legislative action related to the State

2474 Construction Code:

2475 (i) on its own initiative;

2476 (ii) upon the recommendation of the division; or

2477 (iii) upon the receipt of a request by one of the following that the commission

2478 recommend legislative action related to the State Construction Code:

2479 (A) a local regulator;

2480 (B) a state regulator;

2481 (C) a state agency involved with the construction and design of a building;

2482 (D) the Construction Services Commission;

2483 (E) the Electrician Licensing Board;

2484 (F) the Plumbers Licensing Board; or

2485 (G) a recognized construction-related association.

2486 (4) If the Business and Labor Interim Committee decides to recommend legislative

2487 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation

2488 for consideration by the Legislature in the next general session that, if passed by the

2489 Legislature, would:

2490 (a) adopt a new State Construction Code in its entirety; or

2491 (b) amend or repeal one or more provisions of the State Construction Code.

2492 (5) (a) Notwithstanding Subsection (3), the commission may, in accordance with Title

2493 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if

2494 the commission determines that waiting for legislative action in the next general legislative

2495 session would:

2496 (i) cause an imminent peril to the public health, safety, or welfare; or

2497 (ii) place a person in violation of federal or other state law.

2498 (b) If the commission amends the State Construction Code in accordance with this

2499 Subsection (5), the commission shall file with the division:

2500 (i) the text of the amendment to the State Construction Code; and

2501 (ii) an analysis that includes the specific reasons and justifications for the commission's

2502 findings.

2503 (c) If the State Construction Code is amended under this Subsection (5), the division

2504 shall:

2505 (i) publish the amendment to the State Construction Code in accordance with Section
2506 15A-1-205; and

2507 (ii) notify the Business and Labor Interim Committee of the amendment to the State
2508 Construction Code, including a copy of the commission's analysis described in Subsection
2509 (5)(b).

2510 (d) If not formally adopted by the Legislature at its next annual general session, an
2511 amendment to the State Construction Code under this Subsection (5) is repealed on the July 1
2512 immediately following the next annual general session that follows the adoption of the
2513 amendment.

2514 (6) (a) The division, in consultation with the commission, may approve, without
2515 adopting, one or more approved codes, including a specific edition of a construction code, for
2516 use by a compliance agency.

2517 (b) If the code adopted by a compliance agency is an approved code described in
2518 Subsection (6)(a), the compliance agency may:

2519 (i) adopt an ordinance requiring removal, demolition, or repair of a building;

2520 (ii) adopt, by ordinance or rule, a dangerous building code; or

2521 (iii) adopt, by ordinance or rule, a building rehabilitation code.

2522 (7) (a) Except as provided in Subsection (7)(b), a structure used solely in conjunction
2523 with agriculture use, and not for human occupancy, is exempt from the permit requirements of
2524 the State Construction Code.

2525 (b) (i) Unless exempted by a provision other than Subsection (7)(a), a plumbing,
2526 electrical, and mechanical permit may be required when that work is included in a structure
2527 described in Subsection (7)(a).

2528 (ii) Unless located in whole or in part in an agricultural protection area created under
2529 Title 17, Chapter 41, Agriculture and Industrial Protection [~~Area~~] Areas, a structure described
2530 in Subsection (7)(a) is not exempt from a permit requirement if the structure is located on land
2531 that is:

2532 (A) within the boundaries of a city or town, and less than five contiguous acres; or

2533 (B) within a subdivision for which the county has approved a subdivision plat under
2534 Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

2535 Section 64. Section **15A-2-102** is amended to read:

2536 **15A-2-102. Definitions.**

2537 As used in this chapter and [~~Chapters 3 and 4~~] Chapter 3, Statewide Amendments
 2538 Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments
 2539 Incorporated as Part of State Construction Code:

2540 (1) "HUD Code" means the Federal Manufactured Housing Construction and Safety
 2541 Standards Act, as issued by the Department of Housing and Urban Development and published
 2542 in 24 C.F.R. Parts 3280 and 3282 (as revised April 1, 1990).

2543 (2) "IBC" means the edition of the International Building Code adopted under Section
 2544 [15A-2-103](#).

2545 (3) "IECC" means the edition of the International Energy Conservation Code adopted
 2546 under Section [15A-2-103](#).

2547 (4) "IFGC" means the edition of the International Fuel Gas Code adopted under
 2548 Section [15A-2-103](#).

2549 (5) "IMC" means the edition of the International Mechanical Code adopted under
 2550 Section [15A-2-103](#).

2551 (6) "IPC" means the edition of the International Plumbing Code adopted under Section
 2552 [15A-2-103](#).

2553 (7) "IRC" means the edition of the International Residential Code adopted under
 2554 Section [15A-2-103](#).

2555 (8) "NEC" means the edition of the National Electrical Code adopted under Section
 2556 [15A-2-103](#).

2557 (9) "UWUI" means the edition of the Utah Wildland Urban Interface Code adopted
 2558 under Section [15A-2-103](#).

2559 Section 65. Section **15A-2-104** is amended to read:

2560 **15A-2-104. Installation standards for manufactured housing.**

2561 (1) The following are the installation standards for manufactured housing for new
 2562 installations or for existing manufactured or mobile homes that are subject to relocation,
 2563 building alteration, remodeling, or rehabilitation in the state:

2564 (a) The manufacturer's installation instruction for the model being installed is the
 2565 primary standard.

2566 (b) If the manufacturer's installation instruction for the model being installed is not

2567 available or is incomplete, the following standards apply:

2568 (i) Appendix E of the 2012 edition of the IRC, as issued by the International Code
2569 Council for installations defined in Section AE101 of Appendix E; or

2570 (ii) if an installation is beyond the scope of the 2012 edition of the IRC as defined in
2571 Section AE101 of Appendix E, the 2005 edition of the NFPA 225 Model Manufactured Home
2572 Installation Standard, issued by the National Fire Protection Association.

2573 (c) A manufacturer, dealer, or homeowner is permitted to design for unusual
2574 installation of a manufactured home not provided for in the manufacturer's standard installation
2575 instruction, Appendix E of the 2012 edition of the IRC, or the 2005 edition of the NFPA 225, if
2576 the design is approved in writing by a professional engineer or architect licensed in Utah.

2577 (d) For a mobile home built before June 15, 1976, the mobile home shall also comply
2578 with the additional installation and safety requirements specified in Chapter 3, Part 8,
2579 Installation and Safety Requirements for Mobile Homes Built Before June 15, 1976.

2580 (2) Pursuant to the HUD Code Section 604(d), a manufactured home may be installed
2581 in the state that does not meet the local snow load requirements as specified in Chapter 3, Part
2582 2, Statewide Amendments to [HRC] International Residential Code, except that the
2583 manufactured home shall have a protective structure built over the home that meets the IRC
2584 and the snow load requirements under Chapter 3, Part 2, Statewide Amendments to [HRC]
2585 International Residential Code.

2586 Section 66. Section **15A-3-201** is amended to read:

2587 **15A-3-201. General provision.**

2588 (1) The amendments in this part are adopted as amendments to the IRC to be
2589 applicable statewide.

2590 (2) The statewide amendments to the following which may be applied to detached one-
2591 and two-family dwellings and multiple single-family dwellings shall be applicable to the
2592 corresponding provisions of the IRC:

2593 (a) IBC under Part 1, Statewide Amendments to [IBC] International Building Code;

2594 (b) IPC under Part 3, Statewide Amendments to [IPC] International Plumbing Code;

2595 (c) IMC under Part 4, Statewide Amendments to [IMC] International Mechanical
2596 Code;

2597 (d) IFGC under Part 5, Statewide Amendments to [IFGC] International Fuel Gas Code;

2598 (e) NEC under Part 6, Statewide Amendments to [~~NEC~~] National Electrical Code; and
 2599 (f) IECC under Part 7, Statewide Amendments to [~~IECC~~] International Energy
 2600 Conservation Code.

2601 Section 67. Section **15A-3-306** is amended to read:

2602 **15A-3-306. Amendments to Chapter 6 of IPC.**

2603 (1) IPC, Section 602.3, is deleted and replaced with the following: "602.3 Individual
 2604 water supply. Where a potable public water supply is not available, individual sources of
 2605 potable water supply shall be utilized provided that the source has been developed in
 2606 accordance with Utah Code, Sections [73-3-1](#), [73-3-3](#), and [73-3-25](#), as administered by the
 2607 Department of Natural Resources, Division of Water Rights. In addition, the quality of the
 2608 water shall be approved by the local health department having jurisdiction. The source shall
 2609 supply sufficient quantity of water to comply with the requirements of this chapter."

2610 (2) IPC, Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5, and 602.3.5.1, are
 2611 deleted.

2612 (3) A new IPC, Section 604.4.1, is added as follows: "604.4.1 Manually operated
 2613 metering faucets. Self closing or manually operated metering faucets shall provide a flow of
 2614 water for at least 15 seconds without the need to reactivate the faucet."

2615 (4) IPC, Section 606.5, is deleted and replaced with the following: "606.5 Water
 2616 pressure booster systems. Water pressure booster systems shall be provided as required by
 2617 Section 606.5.1 through 606.5.11."

2618 (5) A new IPC, Section 606.5.11, is added as follows: "606.5.11 Prohibited
 2619 installation. In no case shall a booster pump be allowed that will lower the pressure in the
 2620 public main to less than the minimum water pressure specified in Utah Administrative Code
 2621 R309-105-9."

2622 (6) In IPC, Section 608.1, the words "and pollution" are added after the word
 2623 "contamination."

2624 (7) IPC, Table 608.1, is deleted and replaced with the following:

"TABLE 608.1			
Application of Back Flow Preventers			
DEVICE	DEGREE OF HAZARD ^a	APPLICATION ^b	APPLICABLE STANDARDS

2628	BACKFLOW PREVENTION ASSEMBLIES:			
2629	Double check backflow prevention assembly and double check fire protection backflow prevention assembly	Low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1015, AWWA C510, CSA B64.5, CSA B64.5.1
2630	Double check detector fire protection backflow prevention assemblies	Low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1048
2631	Pressure vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" - 2"	ASSE 1020, CSA B64.1.2
2632	Reduced pressure principle backflow prevention assembly and reduced pressure principle fire protection backflow assembly	High or low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1013, AWWA C511, CSA B64.4, CSA B64.4.1
2633	Reduced pressure detector fire protection backflow prevention assemblies	High or low hazard	Backpressure or backsiphonage (Fire Sprinkler Systems)	ASSE 1047
2634	Spill-resistant vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" - 2"	ASSE 1056
2635	BACKFLOW PREVENTER PLUMBING DEVICES:			
2636	Antisiphon-type fill valves for gravity water closet flush tanks	High hazard	Backsiphonage only	ASSE 1002, CSA B125.3

2637	Backflow preventer for carbonated beverage machines	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 3/8"	ASSE 1022
2638	Backflow preventer with intermediate atmospheric vents	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 3/8"	ASSE 1012, CSA B64.3
2639	Dual check valve type backflow preventers	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 1"	ASSE 1024, CSA B64.6
2640	Hose connection backflow preventer	High or low hazard	Backsiphonage only Sizes 1/2" - 1"	ASSE 1052, CSA B64.2, B64.2.1
2641	Hose connection vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2", 3/4", 1"	ASSE 1011, CAN/CSA B64.1.1
2642	Atmospheric type vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2" - 4"	ASSE 1001, CSA B64.1.1
2643	Vacuum breaker wall hydrants, frost resistant, automatic draining type	High or low hazard	Backsiphonage only Sizes 3/4", 1"	ASSE 1019, CSA B64.2.2
2644	OTHER MEANS or METHODS:			
2645	Air gap	High or low hazard	Backsiphonage only	ASME A112.1.2
2646	Air gap fittings for use with plumbing fixtures, appliances and appurtenances	High or low hazard	Backpressure or backsiphonage	ASME A112.1.3
2647	For SI: 1 inch = 25.4 mm			
2648	a. Low Hazard - See Pollution (Section 202), High Hazard - See Contamination (Section 202)			
2649	b. See Backpressure (Section 202), See Backpressure, low head (Section 202), See Backsiphonage (Section 202)			

2650 Installation Guidelines: The above specialty devices shall be installed in accordance with
2651 their listing and the manufacturer's instructions and the specific provisions of this chapter."

2651 (8) In IPC, Section 608.3, the word "and" after the word "contamination" is deleted and
2652 replaced with a comma and the words "and pollution" are added after the word "contamination"
2653 in the first sentence.

2654 (9) In IPC, Section 608.5, the words "with the potential to create a condition of either
2655 contamination or pollution or" are added after the word "substances".

2656 (10) In IPC, Section 608.6, the following sentence is added at the end of the paragraph:
2657 "Any connection between potable water piping and sewer-connected waste shall be protected
2658 by an air gap in accordance with Section 608.13.1."

2659 (11) IPC, Section 608.7, is deleted and replaced with the following: "608.7 Stop and
2660 Waste Valves installed below grade. Combination stop-and-waste valves shall be permitted to
2661 be installed underground or below grade. Freeze proof yard hydrants that drain the riser into
2662 the ground are considered to be stop-and-waste valves and shall be permitted."

2663 (12) In IPC, Section 608.11, the following sentence is added at the end of the
2664 paragraph: "The coating and installation shall conform to NSF Standard 61 and application of
2665 the coating shall comply with the manufacturer's instructions."

2666 (13) IPC, Section 608.13.3, is deleted and replaced with the following: "608.13.3
2667 Backflow preventer with intermediate atmospheric vent. Backflow preventers with
2668 intermediate atmospheric vents shall conform to ASSE 1012 or CSA CAN/CSA-B64.3. These
2669 devices shall be permitted to be installed on residential boilers only, without chemical
2670 treatment, where subject to continuous pressure conditions. The relief opening shall discharge
2671 by air gap and shall be prevented from being submerged."

2672 (14) IPC, Section 608.13.4, is deleted.

2673 (15) IPC, Section 608.13.9, is deleted and replaced with the following: "608.13.9
2674 Chemical dispenser backflow devices. Backflow devices for chemical dispensers shall comply
2675 with Section 608.16.7."

2676 (16) IPC, Section 608.15.3, is deleted and replaced with the following: "608.15.3
2677 Protection by a backflow preventer with intermediate atmospheric vent. Connections to
2678 residential boilers only, without chemical treatment, shall be protected by a backflow preventer
2679 with an intermediate atmospheric vent."

2680 (17) IPC, Section 608.15.4, is deleted and replaced with the following: "608.15.4
2681 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type
2682 or pressure-type vacuum breakers. Vacuum breakers shall not be installed under exhaust hoods
2683 or similar locations that will contain toxic fumes or vapors. Fill valves shall be set in
2684 accordance with Section 425.3.1. Atmospheric Vacuum Breakers - The critical level of the
2685 atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood
2686 level rim of the fixture or device. Pipe-applied vacuum breakers shall be installed not less than
2687 6 inches (152 mm) above the flood level rim of the fixture, receptor, or device served. No
2688 valves shall be installed downstream of the atmospheric vacuum breaker. Pressure Vacuum
2689 Breaker - The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches
2690 (304 mm) above the flood level of the fixture or device."

2691 (18) In IPC, Section 608.15.4.2, the following is added after the first sentence:
2692 "Add-on-backflow prevention devices shall be non-removable. In climates where freezing
2693 temperatures occur, a listed self-draining frost proof hose bibb with an integral backflow
2694 preventer shall be used."

2695 (19) [Hr] IPC, Section 608.16.2, is deleted and replaced as follows: "608.16.2
2696 Connections to boilers. The potable supply to a boiler shall be protected by an air gap or a
2697 reduced pressure principle backflow preventer, complying with ASSE 1013, CSA B64.4 or
2698 AWWA C511.
2699 Exception: The potable supply to a residential boiler without chemical treatment may be
2700 equipped with a backflow preventer with an intermediate atmospheric vent complying with
2701 ASSE 1012 or CSA CAN/CSA-B64.3."

2702 (20) IPC, Section 608.16.3, is deleted and replaced with the following: "608.16.3 Heat
2703 exchangers. Heat exchangers shall be separated from potable water by double-wall
2704 construction. An air gap open to the atmosphere shall be provided between the two walls.
2705 Exceptions:
2706 1. Single wall heat exchangers shall be permitted when all of the following conditions are met:
2707 a. It utilizes a heat transfer medium of potable water or contains only substances which are
2708 recognized as safe by the United States Food and Drug Administration (FDA);
2709 b. The pressure of the heat transfer medium is maintained less than the normal minimum
2710 operating pressure of the potable water system; and

2711 c. The equipment is permanently labeled to indicate only additives recognized as safe by the
2712 FDA shall be used.

2713 2. Steam systems that comply with paragraph 1 above.

2714 3. Approved listed electrical drinking water coolers."

2715 (21) In IPC, Section 608.16.4.1, a new exception is added as follows: "Exception: All
2716 class 1 and 2 systems containing chemical additives consisting of strictly glycerine (C.P. or
2717 U.S.P. 96.5 percent grade) or propylene glycol shall be protected against backflow with a
2718 double check valve assembly. Such systems shall include written certification of the chemical
2719 additives at the time of original installation and service or maintenance."

2720 (22) IPC, Section 608.16.7, is deleted and replaced with the following: "608.16.7
2721 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the
2722 water supply system shall be protected against backflow in accordance with Section 608.13.1,
2723 Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8. Chemical
2724 dispensers shall connect to a separate dedicated water supply separate from any sink faucet."

2725 (23) IPC, Section 608.16.8, is deleted and replaced with the following: "608.16.8
2726 Portable cleaning equipment. Where the portable cleaning equipment connects to the water
2727 distribution system, the water supply system shall be protected against backflow in accordance
2728 with Section 608.13.1, Section 608.13.2 or Section 608.13.8."

2729 (24) A new IPC, Section 608.16.11, is added as follows: "608.16.11 Automatic and
2730 coin operated car washes. The water supply to an automatic or coin operated car wash shall be
2731 protected in accordance with Section 608.13.1 or Section 608.13.2."

2732 (25) IPC, Section 608.17, is deleted and replaced with the following: "608.17
2733 Protection of individual water supplies. See Section 602.3 for requirements."

2734 Section 68. Section **15A-4-201** is amended to read:

2735 **15A-4-201. General provision.**

2736 (1) The amendments in this part are adopted as amendments to the IRC to be
2737 applicable to specified jurisdiction.

2738 (2) A local amendment to the following which may be applied to detached one and two
2739 family dwellings and multiple single family dwellings shall be applicable to the corresponding
2740 provisions of the IRC for the local jurisdiction to which the local amendment has been made:

2741 (a) IBC under Part 1, Local Amendments to ~~IBC~~ International Building Code;

- 2742 (b) IPC under Part 3, Local Amendments to [~~IPC~~] International Plumbing Code;
- 2743 (c) IMC under Part 4, Local Amendments to [~~IMC~~] International Mechanical Code;
- 2744 (d) IFGC under Part 5, Local Amendments to [~~IFGC~~] International Fuel Gas Code;
- 2745 (e) NEC under Part 6, Local Amendments to [~~NEC~~] National Electrical Code; and
- 2746 (f) IECC under Part 7, Local Amendments to [~~IECC~~] International Energy
- 2747 Conservation Code.

2748 Section 69. Section **15A-5-103** is amended to read:

2749 **15A-5-103. Nationally recognized codes incorporated by reference.**

2750 The following codes are incorporated by reference into the State Fire Code:

2751 (1) the International Fire Code, 2012 edition, excluding appendices, as issued by the
2752 International Code Council, Inc., except as amended by Part 2, Statewide Amendments and
2753 Additions to [~~IFC~~] International Fire Code Incorporated as Part of State Fire Code;

2754 (2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control
2755 and Fire Protection of Commercial Cooking Operations, 2011 edition, except as amended by
2756 Part 3, Statewide Amendments and Additions to [~~NFPA~~] National Fire Protection Association
2757 Incorporated as Part of State Fire Code; and

2758 (3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training
2759 Evolutions, 2012 edition, except as amended by Part 3, Statewide Amendments and Additions
2760 to [~~NFPA~~] National Fire Protection Association Incorporated as Part of State Fire Code.

2761 Section 70. Section **16-6a-1011** is amended to read:

2762 **16-6a-1011. Bylaw changing quorum or voting requirement for members.**

2763 (1) (a) If authorized by the articles of incorporation, the members may adopt, amend, or
2764 repeal bylaws that fix a greater quorum or voting requirement for members, or voting groups of
2765 members, than is required by this chapter.

2766 (b) An action by the members under Subsection (1)(a) is subject to [~~Parts 6 and 7~~] Part
2767 6, Members, and Part 7, Member Meetings and Voting.

2768 (2) Bylaws that fix a greater quorum requirement or a greater voting requirement for
2769 members pursuant to Section **16-6a-716** may not be amended by the board of directors.

2770 Section 71. Section **16-6a-1202** is amended to read:

2771 **16-6a-1202. Sale of property other than in regular course of activities.**

2772 (1) (a) A nonprofit corporation may sell, lease, exchange, or otherwise dispose of all,

2773 or substantially all, of its property, with or without its good will, other than in the usual and
2774 regular course of business on the terms and conditions and for the consideration determined by
2775 the board of directors, if:

2776 (i) the board of directors proposes the transaction; and

2777 (ii) the members entitled to vote on the transaction approve the transaction.

2778 (b) A sale, lease, exchange, or other disposition of all, or substantially all, of the
2779 property of a nonprofit corporation, with or without its good will, in connection with its
2780 dissolution, other than in the usual and regular course of business, and other than pursuant to a
2781 court order, shall be subject to this section.

2782 (c) A sale, lease, exchange, or other disposition of all, or substantially all, of the
2783 property of a nonprofit corporation, with or without its good will, pursuant to a court order is
2784 not subject to this section.

2785 (2) (a) A nonprofit corporation shall comply with Subsection (2)(b) to vote or
2786 otherwise consent with respect to the sale, lease, exchange, or other disposition of all, or
2787 substantially all, of the property with or without the good will of another entity that the
2788 nonprofit corporation controls if:

2789 (i) the nonprofit corporation is entitled to vote or otherwise consent; and

2790 (ii) the property interests held by the nonprofit corporation in the other entity constitute
2791 all, or substantially all, of the property of the nonprofit corporation.

2792 (b) A nonprofit corporation may vote or otherwise consent to a transaction described in
2793 Subsection (2)(a) only if:

2794 (i) the board of the directors of the nonprofit corporation proposes the vote or consent;
2795 and

2796 (ii) the members, if any are entitled to vote on the vote or consent, approve giving the
2797 vote or consent.

2798 (3) For a transaction described in Subsection (1) or a consent described in Subsection
2799 (2) to be approved by the members:

2800 (a) (i) the board of directors shall recommend the transaction or the consent to the
2801 members; or

2802 (ii) the board of directors shall:

2803 (A) determine that because of a conflict of interest or other special circumstance it

2804 should make no recommendation; and

2805 (B) communicate the basis for its determination to the members at a membership
2806 meeting with the submission of the transaction or consent; and

2807 (b) the members entitled to vote on the transaction or the consent shall approve the
2808 transaction or the consent as provided in Subsection (6).

2809 (4) The board of directors may condition the effectiveness of the transaction or the
2810 consent on any basis.

2811 (5) (a) The nonprofit corporation shall give notice, in accordance with Section
2812 16-6a-704 to each member entitled to vote on the transaction described in Subsection (1) or the
2813 consent described in Subsection (2), of the members' meeting at which the transaction or the
2814 consent will be voted upon.

2815 (b) The notice required by Subsection (1) shall:

2816 (i) state that the purpose, or one of the purposes, of the meeting is to consider:

2817 (A) in the case of action pursuant to Subsection (1), the sale, lease, exchange, or other
2818 disposition of all, or substantially all, of the property of the nonprofit corporation; or

2819 (B) in the case of action pursuant to Subsection (2), the nonprofit corporation's consent
2820 to the sale, lease, exchange, or other disposition of all, or substantially all, of the property of
2821 another entity, the property interests of which:

2822 (I) are held by the nonprofit corporation; and

2823 (II) constitute all, or substantially all, of the property of the nonprofit corporation;

2824 (ii) contain or be accompanied by a description of:

2825 (A) the transaction, in the case of action pursuant to Subsection (1); or

2826 (B) the transaction underlying the consent, in the case of action pursuant to Subsection
2827 (2); and

2828 (iii) in the case of action pursuant to Subsection (2), identify the entity whose property
2829 is the subject of the transaction.

2830 (6) The transaction described in Subsection (1) or the consent described in Subsection
2831 (2) shall be approved by the votes required by Sections 16-6a-714 and 16-6a-715 by every
2832 voting group entitled to vote on the transaction or the consent unless a greater vote is required
2833 by:

2834 (a) this chapter;

2835 (b) the articles of incorporation;

2836 (c) bylaws adopted by the members; or

2837 (d) the board of directors acting pursuant to Subsection (4).

2838 (7) After a transaction described in Subsection (1) or a consent described in Subsection
2839 (2) is authorized, the transaction may be abandoned or the consent withheld or revoked, subject
2840 to any contractual rights or other limitations on such abandonment, withholding, or revocation,
2841 without further action by the members.

2842 (8) A transaction that constitutes a distribution is governed by Part 13, Distributions,
2843 and not by this section.

2844 Section 72. Section **16-6a-1701** is amended to read:

2845 **16-6a-1701. Application to existing domestic nonprofit corporations -- Reports of**
2846 **domestic and foreign nonprofit corporation.**

2847 (1) Except as otherwise provided in Section 16-6a-1704, this chapter applies to
2848 domestic nonprofit corporations as follows:

2849 (a) domestic nonprofit corporations in existence on April 30, 2001, that were
2850 incorporated under any general statute of this state providing for incorporation of nonprofit
2851 corporations, including all nonprofit corporations organized under any former provisions of
2852 [~~Title 16, Chapter 6, Utah Nonprofit Corporation and Co-operative Association Act~~] this
2853 chapter;

2854 (b) mutual irrigation, canal, ditch, reservoir, and water companies and water users'
2855 associations organized and existing under the laws of this state on April 30, 2001;

2856 (c) corporations organized under the provisions of Title 16, Chapter 7, Corporations
2857 Sole, for purposes of applying all provisions relating to merger or consolidation; and

2858 (d) to actions taken by the directors, officers, and members of the entities described in
2859 Subsections (1)(a), (b), and (c) after April 30, 2001.

2860 (2) Domestic nonprofit corporations to which this chapter applies, that are organized
2861 and existing under the laws of this state on April 30, 2001:

2862 (a) shall continue in existence with all the rights and privileges applicable to nonprofit
2863 corporations organized under this chapter; and

2864 (b) from April 30, 2001 shall have all the rights and privileges and shall be subject to
2865 all the remedies, restrictions, liabilities, and duties prescribed in this chapter except as

2866 otherwise specifically provided in this chapter.

2867 (3) Every existing domestic nonprofit corporation and foreign nonprofit corporation
2868 qualified to conduct affairs in this state on April 30, 2001 shall file an annual report with the
2869 division setting forth the information prescribed by Section 16-6a-1607. The annual report
2870 shall be filed at such time as would have been required had this chapter not taken effect and
2871 shall be filed annually thereafter as required in Section 16-6a-1607.

2872 Section 73. Section 16-6a-1702 is amended to read:

2873 **16-6a-1702. Application to foreign nonprofit corporations.**

2874 (1) A foreign nonprofit corporation authorized to conduct affairs in this state on April
2875 30, 2001, is subject to this chapter, but is not required to obtain a new certificate of authority to
2876 conduct affairs under this chapter.

2877 (2) A foreign nonprofit corporation that is qualified to do business in this state under
2878 the provisions of [~~Title 16,~~] Chapter 8, which provisions were repealed by Laws of Utah 1961,
2879 Chapter 28, shall be authorized to transact business in this state subject to all of the limitations,
2880 restrictions, liabilities, and duties prescribed in this chapter.

2881 (3) This chapter shall apply to all foreign nonprofit corporations sole qualified to do
2882 business in this state with respect to mergers and consolidations.

2883 Section 74. Section 16-10a-402 is amended to read:

2884 **16-10a-402. Reserved name.**

2885 (1) Any person may apply for the reservation of a name by delivering to the division
2886 for filing an application setting forth the name and address of the applicant and the name
2887 proposed to be reserved. If the division finds that the name applied for would be available for
2888 use as a corporate name under Section 16-10a-401, the division shall reserve the name for the
2889 applicant for a 120-day period. Any person which has in effect a reservation of a name
2890 permitted by this Subsection may renew the reservation by delivering to the division for filing
2891 prior to expiration of the reservation a renewal application for reservation, which complies with
2892 the requirements of this Subsection (1). When filed, the renewal application for reservation
2893 renews the reservation for a period of 120 days from the date of filing.

2894 (2) The applicant for a reserved name may transfer the reservation to another person by
2895 delivering to the division a notice of the transfer signed by the applicant for which the name
2896 was reserved and specifying the reserved name, the name of the holder of the name, and the

2897 name and address of the transferee.

2898 (3) A name reservation does not authorize the applicant to use the name until:

2899 (a) the name is registered as a trade name under Section 42-2-5;

2900 (b) articles of incorporation which bear the name are filed with the division; or

2901 (c) an application for authority to transact business in this state under the name has

2902 been filed with the division pursuant to Part 15 [~~of this chapter~~], Authority of Foreign

2903 Corporation to Transact Business.

2904 Section 75. Section **16-10a-901** is amended to read:

2905 **16-10a-901. Definitions.**

2906 As used in Part 9, Indemnification:

2907 (1) "Corporation" includes any domestic or foreign entity that is a predecessor of a

2908 corporation by reason of a merger or other transaction in which the predecessor's existence

2909 ceased upon consummation of the transaction.

2910 (2) "Director" means an individual who is or was a director of a corporation or an

2911 individual who, while a director of a corporation, is or was serving at the corporation's request

2912 as a director, officer, partner, trustee, employee, fiduciary, or agent of another domestic or

2913 foreign corporation or other person or of an employee benefit plan. A director is considered to

2914 be serving an employee benefit plan at the corporation's request if his duties to the corporation

2915 also impose duties on, or otherwise involve services by, him to the plan or to participants in or

2916 beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate

2917 or personal representative of a director.

2918 (3) "Expenses" include counsel fees.

2919 (4) "Liability" means the obligation incurred with respect to a proceeding to pay a

2920 judgment, settlement, penalty, fine (including an excise tax assessed with respect to an

2921 employee benefit plan), or reasonable expenses.

2922 (5) "Officer," "employee," "fiduciary," and "agent" include any person who, while

2923 serving the indicated relationship to the corporation, is or was serving at the corporation's

2924 request as a director, officer, partner, trustee, employee, fiduciary, or agent of another domestic

2925 or foreign corporation or other person or of an employee benefit plan. An officer, employee,

2926 fiduciary, or agent is considered to be serving an employee benefit plan at the corporation's

2927 request if that person's duties to the corporation also impose duties on, or otherwise involve

2928 services by, that person to the plan or participants in, or beneficiaries of the plan. Unless the
2929 context requires otherwise, such terms include the estates or personal representatives of such
2930 persons.

2931 (6) (a) "Official capacity" means:

2932 (i) when used with respect to a director, the office of director in a corporation; and

2933 (ii) when used with respect to a person other than a director, as contemplated in

2934 Section 16-10a-907, the office in a corporation held by the officer or the employment,
2935 fiduciary, or agency relationship undertaken by him on behalf of the corporation.

2936 (b) "Official capacity" does not include service for any other foreign or domestic
2937 corporation, other person, or employee benefit plan.

2938 (7) "Party" includes an individual who was, is, or is threatened to be made a named
2939 defendant or respondent in a proceeding.

2940 (8) "Proceeding" means any threatened, pending, or completed action, suit, or
2941 proceeding, whether civil, criminal, administrative, or investigative and whether formal or
2942 informal.

2943 Section 76. Section 16-10a-1106 is amended to read:

2944 **16-10a-1106. Effect of merger or share exchange.**

2945 (1) When a merger takes effect:

2946 (a) Every other corporation party to the merger merges into the surviving corporation
2947 and the separate existence of every corporation except the surviving corporation ceases.

2948 (b) The title to all real estate and other property owned by each corporation party to the
2949 merger is transferred to and vested in the surviving corporation without reversion or
2950 impairment. The transfer to and vesting in the surviving corporation occurs by operation of
2951 law. No consent or approval of any other person is required in connection with the transfer or
2952 vesting unless consent or approval is specifically required in the event of merger by law or by
2953 express provision in any contract, agreement, decree, order, or other instrument to which any of
2954 the corporations so merged is a party or by which it is bound.

2955 (c) The surviving corporation has all liabilities of each corporation party to the merger.

2956 (d) A proceeding pending against any corporation party to the merger may be
2957 continued as if the merger did not occur, or the surviving corporation may be substituted in the
2958 proceeding for the corporation whose existence ceased.

2959 (e) The articles of incorporation of the surviving corporation are amended to the extent
2960 provided in the plan of merger.

2961 (f) The shares of each corporation party to the merger, which are to be converted into
2962 shares, obligations, or other securities of the surviving or any other corporation or into money
2963 or other property, are converted, and the former holders of the shares are entitled only to the
2964 rights provided in the articles of merger or to their rights under Part 13, Dissenters' Rights.

2965 (2) When a share exchange takes effect, the shares of each acquired corporation are
2966 exchanged as provided in the plan, and the former holders of the shares are entitled only to the
2967 exchange rights provided in the articles of share exchange or to their rights under Part 13,
2968 Dissenters' Rights.

2969 Section 77. Section **16-10a-1301** is amended to read:

2970 **16-10a-1301. Definitions.**

2971 For purposes of Part 13, Dissenters' Rights:

2972 (1) "Beneficial shareholder" means the person who is a beneficial owner of shares held
2973 in a voting trust or by a nominee as the record shareholder.

2974 (2) "Corporation" means the issuer of the shares held by a dissenter before the
2975 corporate action, or the surviving or acquiring corporation by merger or share exchange of that
2976 issuer.

2977 (3) "Dissenter" means a shareholder who is entitled to dissent from corporate action
2978 under Section 16-10a-1302 and who exercises that right when and in the manner required by
2979 Sections 16-10a-1320 through 16-10a-1328.

2980 (4) "Fair value" with respect to a dissenter's shares, means the value of the shares
2981 immediately before the effectuation of the corporate action to which the dissenter objects,
2982 excluding any appreciation or depreciation in anticipation of the corporate action.

2983 (5) "Interest" means interest from the effective date of the corporate action until the
2984 date of payment, at the statutory rate set forth in Section 15-1-1, compounded annually.

2985 (6) "Record shareholder" means the person in whose name shares are registered in the
2986 records of a corporation or the beneficial owner of shares that are registered in the name of a
2987 nominee to the extent the beneficial owner is recognized by the corporation as the shareholder
2988 as provided in Section 16-10a-723.

2989 (7) "Shareholder" means the record shareholder or the beneficial shareholder.

2990 Section 78. Section **16-10a-1405** is amended to read:

2991 **16-10a-1405. Effect of dissolution.**

2992 (1) A dissolved corporation continues its corporate existence but may not carry on any
2993 business except that appropriate to wind up and liquidate its business and affairs, including:

2994 (a) collecting its assets;

2995 (b) disposing of its properties that will not be distributed in kind to its shareholders;

2996 (c) discharging or making provision for discharging its liabilities;

2997 (d) distributing its remaining property among its shareholders according to their

2998 interests; and

2999 (e) doing every other act necessary to wind up and liquidate its business and affairs.

3000 (2) Dissolution of a corporation does not:

3001 (a) transfer title to the corporation's property;

3002 (b) prevent transfer of its shares or securities, although the authorization to dissolve
3003 may provide for closing the corporation's share transfer records;

3004 (c) subject its directors or officers to standards of conduct different from those
3005 prescribed in Part 8, Directors and Officers;

3006 (d) change:

3007 (i) quorum or voting requirements for its board of directors or shareholders;

3008 (ii) provisions for selection, resignation, or removal of its directors or officers or both;

3009 or

3010 (iii) provisions for amending its bylaws or its articles of incorporation;

3011 (e) prevent commencement of a proceeding by or against the corporation in its

3012 corporate name;

3013 (f) abate or suspend a proceeding pending by or against the corporation on the effective
3014 date of dissolution; or

3015 (g) terminate the authority of the registered agent of the corporation.

3016 Section 79. Section **16-16-113** is amended to read:

3017 **16-16-113. Effect of organic rules.**

3018 (1) The relations between a limited cooperative association and its members are
3019 consensual. Unless required, limited, or prohibited by this chapter, the organic rules may
3020 provide for any matter concerning the relations among the members of the association and

3021 between the members and the association, the activities of the association, and the conduct of
3022 its activities.

3023 (2) The matters referred to in Subsections (2)(a) through (i) may be varied only in the
3024 articles of organization. The articles may:

3025 (a) state a term of existence for the association under Subsection 16-16-105(3);

3026 (b) limit or eliminate the acceptance of new or additional members by the initial board
3027 of directors under Subsection 16-16-303(2);

3028 (c) vary the limitations on the obligations and liability of members for association
3029 obligations under Section 16-16-504;

3030 (d) require a notice of an annual members meeting to state a purpose of the meeting
3031 under Subsection 16-16-508(2);

3032 (e) vary the board of directors meeting quorum under Subsection 16-16-815(1);

3033 (f) vary the matters the board of directors may consider in making a decision under
3034 Section 16-16-820;

3035 (g) specify causes of dissolution under Subsection 16-16-1202(1);

3036 (h) delegate amendment of the bylaws to the board of directors pursuant to Subsection
3037 16-16-405(6);

3038 (i) provide for member approval of asset dispositions under ~~[Subsection]~~ Section
3039 16-16-1501; and

3040 (j) provide for any matters that may be contained in the organic rules, including those
3041 under Subsection (3).

3042 (3) The matters referred to in Subsections (3)(a) through (y) may be varied only in the
3043 organic rules. The organic rules may:

3044 (a) require more information to be maintained under Section 16-16-114 or provided to
3045 members under Subsection 16-16-505(11);

3046 (b) provide restrictions on transactions between a member and an association under
3047 Section 16-16-115;

3048 (c) provide for the percentage and manner of voting on amendments to the organic
3049 rules by district, class, or voting group under Subsection 16-16-404(1);

3050 (d) provide for the percentage vote required to amend the bylaws concerning the
3051 admission of new members under Subsection 16-16-405(5)(e);

- 3052 (e) provide for terms and conditions to become a member under Section 16-16-502;
- 3053 (f) restrict the manner of conducting members meetings under Subsections
- 3054 16-16-506(3) and 16-16-507(5);
- 3055 (g) designate the presiding officer of members meetings under Subsections
- 3056 16-16-506(5) and 16-16-507(7);
- 3057 (h) require a statement of purposes in the annual meeting notice under Subsection
- 3058 16-16-508(2);
- 3059 (i) increase quorum requirements for members meetings under Section 16-16-510 and
- 3060 board of directors meetings under Section 16-16-815;
- 3061 (j) allocate voting power among members, including patron members and investor
- 3062 members, and provide for the manner of member voting and action as permitted by Sections
- 3063 16-16-511 through 16-16-517;
- 3064 (k) authorize investor members and expand or restrict the transferability of members'
- 3065 interests to the extent provided in Sections 16-16-602 through 16-16-604;
- 3066 (l) provide for enforcement of a marketing contract under Subsection 16-16-704(1);
- 3067 (m) provide for qualification, election, terms, removal, filling vacancies, and member
- 3068 approval for compensation of directors in accordance with Sections 16-16-803 through
- 3069 16-16-805, 16-16-807, 16-16-809, and 16-16-810;
- 3070 (n) restrict the manner of conducting board meetings and taking action without a
- 3071 meeting under Sections 16-16-811 and 16-16-812;
- 3072 (o) provide for frequency, location, notice and waivers of notice for board meetings
- 3073 under Sections 16-16-813 and 16-16-814;
- 3074 (p) increase the percentage of votes necessary for board action under Subsection
- 3075 16-16-816(2);
- 3076 (q) provide for the creation of committees of the board of directors and matters related
- 3077 to the committees in accordance with Section 16-16-817;
- 3078 (r) provide for officers and their appointment, designation, and authority under Section
- 3079 16-16-822;
- 3080 (s) provide for forms and values of contributions under Section 16-16-1002;
- 3081 (t) provide for remedies for failure to make a contribution under Subsection
- 3082 16-16-1003(2);

3083 (u) provide for the allocation of profits and losses of the association, distributions, and
3084 the redemption or repurchase of distributed property other than money in accordance with
3085 Sections 16-16-1004 through 16-16-1007;

3086 (v) specify when a member's dissociation is wrongful and the liability incurred by the
3087 dissociating member for damage to the association under Subsections 16-16-1101(2) and (3);

3088 (w) provide the personal representative, or other legal representative of, a deceased
3089 member or a member adjudged incompetent with additional rights under Section 16-16-1103;

3090 (x) increase the percentage of votes required for board of director approval of:

3091 (i) a resolution to dissolve under Subsection 16-16-1205(1)(a);

3092 (ii) a proposed amendment to the organic rules under Subsection 16-16-402(1)(a);

3093 (iii) a plan of conversion under Subsection 16-16-1603(1);

3094 (iv) a plan of merger under Subsection 16-16-1607(1); and

3095 (v) a proposed disposition of assets under Subsection 16-16-1503(1); and

3096 (y) vary the percentage of votes required for members' approval of:

3097 (i) a resolution to dissolve under Section 16-16-1205;

3098 (ii) an amendment to the organic rules under Section 16-16-405;

3099 (iii) a plan of conversion under Section 16-16-1603;

3100 (iv) a plan of merger under Section 16-16-1608; and

3101 (v) a disposition of assets under Section 16-16-1504.

3102 (4) The organic rules shall address members' contributions pursuant to Section
3103 16-16-1001.

3104 Section 80. Section 17-18a-405 is amended to read:

3105 **17-18a-405. Civil responsibilities of public prosecutors.**

3106 A public prosecutor may act as legal counsel to the state, county, government agency,
3107 or government entity regarding the following matters of civil law:

3108 (1) bail bond forfeiture actions;

3109 (2) actions for the forfeiture of property or contraband, as provided in Title 24,

3110 [~~Chapter 1, Utah Uniform Forfeiture Procedures Act~~] Forfeiture and Disposition of Property
3111 Act;

3112 (3) civil actions incidental to or appropriate to supplement a public prosecutor's duties,
3113 including an injunction, a habeas corpus, a declaratory action, or an extraordinary writ action,

3114 in which the interests of the state may be affected; and

3115 (4) any other civil duties related to criminal prosecution that are otherwise provided by
3116 statute.

3117 Section 81. Section 17-23-17.5 is amended to read:

3118 **17-23-17.5. Corner perpetuation and filing -- Definitions -- Establishment of**
3119 **corner file -- Preservation of map records -- Filing fees -- Exemptions.**

3120 (1) As used in this section:

3121 (a) "Accessory to a corner" means any exclusively identifiable physical object whose
3122 spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing
3123 objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles,
3124 steel or wooden stakes, or other objects.

3125 (b) "Corner," unless otherwise qualified, means a property corner, a property
3126 controlling corner, a public land survey corner, or any combination of these.

3127 (c) "Geographic coordinates" means mathematical values that designate a position on
3128 the earth relative to a given reference system. Coordinates shall be established pursuant to
3129 Title 57, Chapter 10, Utah Coordinate System.

3130 (d) "Land surveyor" means a surveyor who is licensed to practice land surveying in this
3131 state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land
3132 Surveyors Licensing Act.

3133 (e) "Monument" means an accessory that is presumed to occupy the exact position of a
3134 corner.

3135 (f) "Property controlling corner" means a public land survey corner or any property
3136 corner which does not lie on a property line of the property in question, but which controls the
3137 location of one or more of the property corners of the property in question.

3138 (g) "Property corner" means a geographic point of known geographic coordinates on
3139 the surface of the earth, and is on, a part of, and controls a property line.

3140 (h) "Public land survey corner" means any corner actually established and monumented
3141 in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the
3142 land to a private person from the United States government.

3143 (i) "Reference monument" means a special monument that does not occupy the same
3144 geographical position as the corner itself, but whose spatial relationship to the corner is

3145 recorded and which serves to witness the corner.

3146 (2) (a) Any land surveyor making a boundary survey of lands within this state and
3147 utilizing a corner shall, within 90 days, complete, sign, and file with the county surveyor of the
3148 county where the corner is situated, a written record to be known as a corner file for every
3149 public land survey corner and accessory to the corner which is used as control in any survey by
3150 the surveyor, unless the corner and its accessories are already a matter of record in the county.

3151 (b) Where reasonably possible, the corner file shall include the geographic coordinates
3152 of the corner.

3153 (c) A surveyor may file a corner record as to any property corner, reference monument,
3154 or accessory to a corner.

3155 (d) Corner records may be filed concerning corners used before the effective date of
3156 this section.

3157 (3) The county surveyor of the county containing the corners shall have on record as
3158 part of the official files maps of each township within the county, the bearings and lengths of
3159 the connecting lines to government corners, and government corners looked for and not found.

3160 (4) The county surveyor shall make these records available for public inspection at the
3161 county facilities during normal business hours.

3162 (5) Filing fees for corner records shall be established by the county legislative body
3163 consistent with existing fees for similar services. All corners, monuments, and their
3164 accessories used prior to the effective date of this section shall be accepted and filed with the
3165 county surveyor without requiring the payment of the fees.

3166 (6) When a corner record of a public land survey corner is required to be filed under
3167 the provisions of this section and the monument needs to be reconstructed or rehabilitated, the
3168 land surveyor shall contact the county surveyor in accordance with Section [17-23-14](#).

3169 (7) A corner record may not be filed unless it is signed by a land surveyor.

3170 (8) All filings relative to official cadastral surveys of the Bureau of Land Management
3171 of the United States of America performed by authorized personnel shall be exempt from filing
3172 fees.

3173 Section 82. Section **17-23-19** is amended to read:

3174 **17-23-19. County permitted to establish Public Land Corner Preservation Fund**
3175 **-- Use of fund -- Fee schedule for filing maps.**

3176 (1) The county legislative body may establish by ordinance a fund to be known as the
3177 Public Land Corner Preservation Fund. Money generated for the fund shall be used only to pay
3178 expenses incurred and authorized by the county surveyor in the establishment, reestablishment,
3179 and maintenance of corners of government surveys pursuant to the powers and duties provided
3180 under Title 17, Chapter 23, County Surveyor, and Title 57, Chapter 10, Utah Coordinate
3181 System.

3182 (2) The county legislative body may by ordinance establish a fee schedule for filing
3183 maps in the county surveyor's office of surveys filed under Section 17-23-17, subdivisions,
3184 road dedication plats, and other property plats. All money collected under this subsection shall
3185 be deposited with the county treasurer to be credited to the Public Land Corner Preservation
3186 Fund.

3187 Section 83. Section 17-27a-205 is amended to read:

3188 **17-27a-205. Notice of public hearings and public meetings on adoption or**
3189 **modification of land use ordinance.**

3190 (1) Each county shall give:

3191 (a) notice of the date, time, and place of the first public hearing to consider the
3192 adoption or modification of a land use ordinance; and

3193 (b) notice of each public meeting on the subject.

3194 (2) Each notice of a public hearing under Subsection (1)(a) shall be:

3195 (a) mailed to each affected entity at least 10 calendar days before the public hearing;

3196 (b) posted:

3197 (i) in at least three public locations within the county; or

3198 (ii) on the county's official website; and

3199 (c) (i) published:

3200 (A) in a newspaper of general circulation in the area at least 10 calendar days before
3201 the public hearing; and

3202 (B) on the Utah Public Notice Website created in Section 63F-1-701, at least 10
3203 calendar days before the public hearing; or

3204 (ii) mailed at least 10 days before the public hearing to:

3205 (A) each property owner whose land is directly affected by the land use ordinance
3206 change; and

3207 (B) each adjacent property owner within the parameters specified by county ordinance.

3208 (3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours
3209 before the hearing and shall be posted:

3210 (a) in at least three public locations within the county; or

3211 (b) on the county's official website.

3212 (4) (a) If a county plans to hold a public hearing in accordance with Section
3213 17-27a-502 to adopt a zoning map or map amendment, the [~~municipality~~] county shall send a
3214 courtesy notice to each owner of private real property whose property is located entirely or
3215 partially within the proposed map at least 10 days prior to the scheduled day of the public
3216 hearing.

3217 (b) The notice shall:

3218 (i) identify with specificity each owner of record of real property that will be affected
3219 by the proposed zoning map or map amendments;

3220 (ii) state the current zone in which the real property is located;

3221 (iii) state the proposed new zone for the real property;

3222 (iv) provide information regarding or a reference to the proposed regulations,
3223 prohibitions, and permitted uses that the property will be subject to if the zoning map or map
3224 amendment is adopted;

3225 (v) state that the owner of real property may no later than 10 days after the day of the
3226 first public hearing file a written objection to the inclusion of the owner's property in the
3227 proposed zoning map or map amendment;

3228 (vi) state the address where the property owner should file the protest;

3229 (vii) notify the property owner that each written objection filed with the county will be
3230 provided to the [~~municipal~~] county legislative body; and

3231 (viii) state the location, date, and time of the public hearing described in Section
3232 17-27a-502.

3233 (c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii)
3234 for a public hearing on a zoning map or map amendment, the notice required in this Subsection
3235 (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent
3236 separately.

3237 Section 84. Section 17-27a-301 is amended to read:

3238 **17-27a-301. Ordinance establishing planning commission required -- Exception --**
3239 **Ordinance requirements -- Township planning commission -- Compensation.**

3240 (1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance
3241 establishing a countywide planning commission for the unincorporated areas of the county not
3242 within a township.

3243 (b) Subsection (1)(a) does not apply if all of the county is included within any
3244 combination of:

- 3245 (i) municipalities; and
- 3246 (ii) townships with their own planning commissions.

3247 (2) (a) The ordinance shall define:

3248 (i) the number and terms of the members and, if the county chooses, alternate
3249 members;

3250 (ii) the mode of appointment;

3251 (iii) the procedures for filling vacancies and removal from office;

3252 (iv) the authority of the planning commission;

3253 (v) subject to Subsection (2)(b), the rules of order and procedure for use by the
3254 planning commission in a public meeting; and

3255 (vi) other details relating to the organization and procedures of the planning
3256 commission.

3257 (b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with
3258 Title 52, Chapter 4, Open and Public Meetings Act.

3259 (3) (a) (i) If the county establishes a township planning commission, the county
3260 legislative body shall enact an ordinance that defines:

3261 (A) appointment procedures;

3262 (B) procedures for filling vacancies and removing members from office;

3263 (C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the
3264 township planning commission in a public meeting; and

3265 (D) details relating to the organization and procedures of each township planning
3266 commission.

3267 (ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to
3268 comply with Title 52, Chapter 4, Open and Public Meetings Act.

3269 (b) The planning commission for each township shall consist of seven members who,
3270 except as provided in Subsection (4), shall be appointed by:

3271 (i) in a county operating under a form of government in which the executive and
3272 legislative functions of the governing body are separated, the county executive with the advice
3273 and consent of the county legislative body; or

3274 (ii) in a county operating under a form of government in which the executive and
3275 legislative functions of the governing body are not separated, the county legislative body.

3276 (c) (i) Members shall serve four-year terms and until their successors are appointed or,
3277 as provided in Subsection (4), elected and qualified.

3278 (ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in
3279 Subsection (4), members of the first planning commissions shall be appointed so that, for each
3280 commission, the terms of at least one member and no more than two members expire each
3281 year.

3282 (d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township
3283 planning commission shall be a registered voter residing within the township.

3284 (ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission
3285 of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established
3286 under Subsection 17-27a-306(1)(k)(i) may be an appointed member who is a registered voter
3287 residing outside the township if that member:

3288 (I) is an owner of real property located within the township; and

3289 (II) resides within the county in which the township is located.

3290 (B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township
3291 planning commission from a list of three persons submitted by the county legislative body.

3292 (II) If the township planning commission has not notified the county legislative body of
3293 its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning
3294 commission's receipt of the list, the county legislative body may appoint one of the three
3295 persons on the list or a registered voter residing within the township as a member of the
3296 township planning commission.

3297 (4) (a) The legislative body of each county in which a township reconstituted under
3298 Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection
3299 17-27a-306(1)(~~e~~)(k)(i) is located shall on or before January 1, 2012, enact an ordinance that

3300 provides for the election of at least three members of the planning commission of that
3301 township.

3302 (b) (i) Beginning with the 2012 general election, the election of planning commission
3303 members under Subsection (4)(a) shall coincide with the election of other county officers
3304 during even-numbered years.

3305 (ii) Approximately half the elected planning commission members shall be elected
3306 every four years during elections held on even-numbered years, and the remaining elected
3307 members shall be elected every four years on alternating even-numbered years.

3308 (c) If no person files a declaration of candidacy in accordance with Section [20A-9-202](#)
3309 for an open township planning commission member position:

3310 (i) the position may be appointed in accordance with Subsection (3)(b); and

3311 (ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time
3312 that exceeds the elected term for which there was no candidate.

3313 (5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1,
3314 2012, enact an ordinance that:

3315 (i) designates the seats to be elected; and

3316 (ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board
3317 of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the
3318 planning commission of the reconstituted or reinstated township.

3319 (b) A member appointed under Subsection (5)(a) is considered an elected member.

3320 (6) (a) Except as provided in Subsection (6)(b), the term of each member appointed
3321 under Subsection (5)(a) shall continue until the time that the member's term as an elected
3322 member of the former township planning and zoning board would have expired.

3323 (b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the
3324 terms of the members appointed under Subsection (5)(a) so that the terms of those members
3325 coincide with the schedule under Subsection (4)(b) for elected members.

3326 (ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a
3327 township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established
3328 under Subsection [17-27a-306\(1\)\(~~e~~\)\(k\)](#)(i) is located may enact an ordinance allowing each
3329 appointed member of the planning and zoning board of the former township, established under
3330 Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning

3331 commission of the reconstituted or reinstated township until the time that the member's term as
3332 a member of the former township's planning and zoning board would have expired.

3333 (iii) If a planning commission of a township reconstituted under Laws of Utah 1997,
3334 Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(~~e~~)(k)(i) has more
3335 than one appointed member who resides outside the township, the legislative body of the
3336 county in which that township is located shall, within 15 days of the effective date of this
3337 Subsection (6)(b)(iii), dismiss all but one of the appointed members who reside outside the
3338 township, and a new member shall be appointed under Subsection (3)(b) to fill the position of
3339 each dismissed member.

3340 (7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all
3341 members of a township planning commission, each township planning commission under this
3342 section shall begin to exercise the powers and perform the duties provided in Section
3343 17-27a-302 with respect to all matters then pending that previously had been under the
3344 jurisdiction of the countywide planning commission or township planning and zoning board.

3345 (b) Notwithstanding Subsection (7)(a), if the members of a former township planning
3346 and zoning board continue to hold office as members of the planning commission of the
3347 township planning district under an ordinance enacted under Subsection (5)(a), the township
3348 planning commission shall immediately begin to exercise the powers and perform the duties
3349 provided in Section 17-27a-302 with respect to all matters then pending that had previously
3350 been under the jurisdiction of the township planning and zoning board.

3351 (8) The legislative body may fix per diem compensation for the members of the
3352 planning commission, based on necessary and reasonable expenses and on meetings actually
3353 attended.

3354 Section 85. Section 17-27a-512 is amended to read:

3355 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
3356 **without providing compensation -- Limit on allowing nonconforming billboard to be**
3357 **rebuilt or replaced -- Validity of county permit after issuance of state permit.**

3358 (1) As used in this section:

3359 (a) "Clearly visible" means capable of being read without obstruction by an occupant of
3360 a vehicle traveling on a street or highway within the visibility area.

3361 (b) "Highest allowable height" means:

3362 (i) if the height allowed by the county, by ordinance or consent, is higher than the
3363 height under Subsection (1)(b)(ii), the height allowed by the county; or

3364 (ii) (A) for a noninterstate billboard:

3365 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
3366 previous use or structure; or

3367 (II) if the height of the previous use or structure is less than 45 feet, the height of the
3368 previous use or structure or the height to make the entire advertising content of the billboard
3369 clearly visible, whichever is higher, but no higher than 45 feet; and

3370 (B) for an interstate billboard:

3371 (I) if the height of the previous use or structure is at or above the interstate height, the
3372 height of the previous use or structure; or

3373 (II) if the height of the previous use or structure is less than the interstate height, the
3374 height of the previous use or structure or the height to make the entire advertising content of
3375 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

3376 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
3377 highway that is an interstate.

3378 (d) "Interstate height" means a height that is the higher of:

3379 (i) 65 feet above the ground; and

3380 (ii) 25 feet above the grade of the interstate.

3381 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
3382 street or highway that is not an interstate.

3383 (f) "Visibility area" means the area on a street or highway that is:

3384 (i) defined at one end by a line extending from the base of the billboard across all lanes
3385 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

3386 (ii) defined on the other end by a line extending across all lanes of traffic of the street
3387 or highway in a plane that is:

3388 (A) perpendicular to the street or highway; and

3389 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

3390 (II) for a noninterstate billboard, 300 feet from the base of the billboard.

3391 (2) (a) A county is considered to have initiated the acquisition of a billboard structure
3392 by eminent domain if the county prevents a billboard owner from:

3393 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
3394 by casualty, an act of God, or vandalism;

3395 (ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard
3396 structure, or taking other measures, to correct a mistake in the placement or erection of a
3397 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
3398 other measure is consistent with the intent of that permit;

3399 (iii) structurally modifying or upgrading a billboard;

3400 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
3401 within the unincorporated area of the county, if:

3402 (A) the relocated billboard is:

3403 (I) within 5,280 feet of its previous location; and

3404 (II) no closer than:

3405 (Aa) 300 feet from an off-premise sign existing on the same side of the street or
3406 highway; or

3407 (Bb) if the street or highway is an interstate or limited access highway that is subject to
3408 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
3409 between the relocated billboard and an off-premise sign existing on the same side of the
3410 interstate or limited access highway; and

3411 (B) (I) the billboard owner has submitted a written request under Subsection
3412 [17-27a-510\(3\)\(c\)](#); and

3413 (II) the county and billboard owner are unable to agree, within the time provided in
3414 Subsection [17-27a-510\(3\)\(c\)](#), to a mutually acceptable location; or

3415 (v) making the following modifications, as the billboard owner determines, to a
3416 billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated
3417 under Subsection (2)(a)(iv):

3418 (A) erecting the billboard:

3419 (I) to the highest allowable height; and

3420 (II) as the owner determines, to an angle that makes the entire advertising content of
3421 the billboard clearly visible; and

3422 (B) installing a sign face on the billboard that is at least the same size as, but no larger
3423 than, the sign face on the billboard before its relocation.

3424 (b) A modification under Subsection [~~(1)~~] (2)(a)(v) shall comply with Title 72, Chapter
3425 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

3426 (c) A county's denial of a billboard owner's request to relocate or rebuild a billboard
3427 structure, or to take other measures, in order to correct a mistake in the placement or erection of
3428 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
3429 (2)(a) if the mistake in placement or erection of the billboard is determined by clear and
3430 convincing evidence to have resulted from an intentionally false or misleading statement:

3431 (i) by the billboard applicant in the application; and

3432 (ii) regarding the placement or erection of the billboard.

3433 (d) If a county is considered to have initiated the acquisition of a billboard structure by
3434 eminent domain under Subsection (1)(a) or any other provision of applicable law, the county
3435 shall pay just compensation to the billboard owner in an amount that is:

3436 (i) the value of the existing billboard at a fair market capitalization rate, based on
3437 actual annual revenue, less any annual rent expense;

3438 (ii) the value of any other right associated with the billboard structure that is acquired;

3439 (iii) the cost of the sign structure; and

3440 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
3441 billboard owner's interest is a part.

3442 (3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may remove a
3443 billboard without providing compensation if:

3444 (a) the county determines:

3445 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
3446 false or misleading statement in the applicant's application regarding the placement or erection
3447 of the billboard; or

3448 (ii) by substantial evidence that the billboard:

3449 (A) is structurally unsafe;

3450 (B) is in an unreasonable state of repair; or

3451 (C) has been abandoned for at least 12 months;

3452 (b) the county notifies the owner in writing that the owner's billboard meets one or
3453 more of the conditions listed in Subsections (3)(a)(i) and (ii);

3454 (c) the owner fails to remedy the condition or conditions within:

3455 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's
3456 receipt of written notice under Subsection (3)(b); or

3457 (ii) if the condition forming the basis of the county's intention to remove the billboard
3458 is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a
3459 natural disaster, following the billboard owner's receipt of written notice under Subsection
3460 (3)(b); and

3461 (d) following the expiration of the applicable period under Subsection (3)(c) and after
3462 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
3463 the county finds:

3464 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
3465 a false or misleading statement in the application regarding the placement or erection of the
3466 billboard; or

3467 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
3468 unreasonable state of repair, or has been abandoned for at least 12 months.

3469 (4) A county may not allow a nonconforming billboard to be rebuilt or replaced by
3470 anyone other than its owner or the owner acting through its contractors.

3471 (5) A permit issued, extended, or renewed by a county for a billboard remains valid
3472 from the time the county issues, extends, or renews the permit until 180 days after a required
3473 state permit is issued for the billboard if:

3474 (a) the billboard requires a state permit; and

3475 (b) an application for the state permit is filed within 30 days after the county issues,
3476 extends, or renews a permit for the billboard.

3477 Section 86. Section 17-36-3 is amended to read:

3478 **17-36-3. Definitions.**

3479 As used in this chapter:

3480 (1) "Accrual basis of accounting" means a method where revenues are recorded when
3481 earned and expenditures recorded when they become liabilities notwithstanding that the receipt
3482 of the revenue or payment of the expenditure may take place in another accounting period.

3483 (2) "Appropriation" means an allocation of money for a specific purpose.

3484 (3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying
3485 estimates for proposed expenditures for given purposes and the means of financing the

3486 expenditures.

3487 (b) "Budget" may refer to the budget of a fund for which a budget is required by law, or
3488 collectively to the budgets for all those funds.

3489 (4) "Budgetary fund" means a fund for which a budget is required, such as those
3490 described in Section [17-36-8](#).

3491 (5) "Budget officer" means:

3492 (a) for a county of the second, third, fourth, fifth, or sixth class, the county auditor,
3493 county clerk, or county executive as provided in Subsection [17-19-19\(1\)](#); or

3494 (b) for a county of the first class, a person described in Section [17-19a-203](#).

3495 (6) "Budget period" means the fiscal period for which a budget is prepared.

3496 (7) "Check" means an order in a specific amount drawn upon the depository by any
3497 authorized officer in accordance with Section [17-19-3](#), [17-19a-301](#), [17-24-1](#), or [~~[17-24-1.1](#)~~]
3498 [17-24-4](#), as applicable.

3499 (8) "Countywide service" means a service provided in both incorporated and
3500 unincorporated areas of a county.

3501 (9) "Current period" means the fiscal period in which a budget is prepared and adopted.

3502 (10) "Department" means any functional unit within a fund which carries on a specific
3503 activity.

3504 (11) "Encumbrance system" means a method of budgetary control where part of an
3505 appropriation is reserved to cover a specific expenditure by charging obligations, such as
3506 purchase orders, contracts, or salary commitments to an appropriation account. An expenditure
3507 ceases to be an encumbrance when paid or when the actual liability is entered in the books of
3508 account.

3509 (12) "Estimated revenue" means any revenue estimated to be received during the
3510 budget period in any fund for which a budget is prepared.

3511 (13) "Fiscal period" means the annual or biennial period for recording county fiscal
3512 operations.

3513 (14) "Fund" means an independent fiscal and accounting entity comprised of a sum of
3514 money or other resources segregated for a specific purpose or objective.

3515 (15) "Fund balance" means the excess of the assets over liabilities, reserves, and
3516 contributions, as reflected by its books of account.

3517 (16) "Fund deficit" means the excess of liabilities, reserves, and contributions over its
3518 assets, as reflected by its books of account.

3519 (17) "General Fund" means the fund used to account for all receipts, disbursements,
3520 assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be
3521 accounted for in other funds.

3522 (18) "Interfund loan" means a loan of cash from one fund to another, subject to future
3523 repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance,
3524 or unappropriated surplus of the lending fund.

3525 (19) "Last completed fiscal period" means the fiscal period next preceding the current
3526 period.

3527 (20) "Modified accrual basis of accounting" means a method under which expenditures
3528 other than accrued interest on general long-term debt are recorded at the time liabilities are
3529 incurred and revenues are recorded when they become measurable and available to finance
3530 expenditures of the current period.

3531 (21) "Municipal capital project" means the acquisition, construction, or improvement
3532 of capital assets that facilitate providing municipal service.

3533 (22) "Municipal service" means a service not provided on a countywide basis and not
3534 accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or
3535 irrigation water retail service, water conservation, local parks, sewers, sewage treatment and
3536 disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and
3537 zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

3538 (23) "Retained earnings" means that part of the net earnings retained by an enterprise
3539 or internal service fund which is not segregated or reserved for any specific purpose.

3540 (24) "Special fund" means any fund other than the General Fund, such as those
3541 described in Section [17-36-6](#).

3542 (25) "Unappropriated surplus" means that part of a fund which is not appropriated for
3543 an ensuing budget period.

3544 (26) "Warrant" means an order in a specific amount drawn upon the treasurer by the
3545 auditor.

3546 Section 87. Section **17-36-39** is amended to read:

3547 **17-36-39. Independent audits.**

3548 Independent audits are required for all counties as provided in Title 51, Chapter 2a,
3549 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local
3550 Entities Act.

3551 Section 88. Section **17-53-301** is amended to read:

3552 **17-53-301. General powers, duties, and functions of county executive.**

3553 (1) The elected county executive is the chief executive officer of the county.

3554 (2) Except as expressly provided otherwise in statute and except as contrary to the
3555 powers, duties, and functions of other county officers expressly provided for in [~~Chapters 16,~~
3556 ~~17, 18, 19, 20, 21, 22, 23, and 24]~~ Chapter 16, County Officers; Chapter 17, County Assessor;
3557 Chapter 18a, Powers and Duties of County and District Attorney; Chapter 19, County Auditor;
3558 Chapter 19a, County Auditor; Chapter 20, County Clerk; Chapter 21, Recorder; Chapter 22,
3559 Sheriff; Chapter 23, County Surveyor; and Chapter 24, County Treasurer, each county
3560 executive shall exercise all executive powers, have all executive duties, and perform all
3561 executive functions of the county, including those enumerated in this part.

3562 (3) A county executive may take any action required by law and necessary to the full
3563 discharge of the executive's duties, even though the action is not expressly authorized in
3564 statute.

3565 Section 89. Section **17B-1-121** is amended to read:

3566 **17B-1-121. Limit on fees -- Requirement to itemize and account for fees --**
3567 **Appeals.**

3568 (1) A local district may not impose or collect:

3569 (a) an application fee that exceeds the reasonable cost of processing the application; or
3570 (b) an inspection or review fee that exceeds the reasonable cost of performing an
3571 inspection or review.

3572 (2) (a) Upon request by a service applicant who is charged a fee or an owner of
3573 residential property upon which a fee is imposed, a local district shall provide a statement of
3574 each itemized fee and calculation method for each fee.

3575 (b) If an applicant who is charged a fee or an owner of residential property upon which
3576 a fee is imposed submits a request for a statement of each itemized fee no later than 30 days
3577 after the day on which the applicant or owner pays the fee, the local district shall, no later than
3578 10 days after the day on which the request is received, provide or commit to provide within a

3579 specific time:

3580 (i) for each fee, any studies, reports, or methods relied upon by the local district to
3581 create the calculation method described in Subsection (2)(a);

3582 (ii) an accounting of each fee paid;

3583 (iii) how each fee will be distributed by the local district; and

3584 (iv) information on filing a fee appeal through the process described in Subsection
3585 (2)(c).

3586 (c) (i) A local district shall establish an impartial fee appeal process to determine
3587 whether a fee reflects only the reasonable estimated cost of delivering the service for which the
3588 fee was paid.

3589 (ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial
3590 review of the local district's final decision.

3591 (3) A local district may not impose on or collect from a public agency a fee associated
3592 with the public agency's development of the public agency's land other than:

3593 (a) subject to Subsection (1), a hookup fee; or

3594 (b) an impact fee, as defined in Section [~~11-36-102~~] [11-36a-102](#) and subject to Section
3595 [~~11-36-202~~] [11-36a-402](#), for a public facility listed in Subsection [~~11-36-102(13)~~]
3596 [11-36a-102\(16\)](#)(a), (b), (c), (d), (e), or (g).

3597 Section 90. Section **17B-1-512** is amended to read:

3598 **17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period**
3599 **-- Judicial review.**

3600 (1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file
3601 with the lieutenant governor:

3602 (i) a copy of a notice of an impending boundary action, as defined in Section [67-1a-6.5](#),
3603 that meets the requirements of Subsection [67-1a-6.5\(3\)](#); and

3604 (ii) a copy of an approved final local entity plat, as defined in Section [67-1a-6.5](#).

3605 (b) The board of trustees shall file the documents listed in Subsection (1)(a):

3606 (i) within 10 days after adopting a resolution approving a withdrawal under Section
3607 [17B-1-510](#); and

3608 (ii) as soon as practicable after receiving a notice under Subsection [10-2-425\(2\)](#) of an
3609 automatic withdrawal under Subsection [17B-1-502\(2\)](#), after receiving a copy of the municipal

3610 legislative body's resolution approving an automatic withdrawal under Subsection
3611 [17B-1-502\(3\)\(a\)](#), or after receiving notice of a withdrawal of a municipality from a local
3612 district under Section [~~17B-2-505~~] [17B-1-502](#).

3613 (c) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section
3614 [67-1a-6.5](#), the board shall:

3615 (i) if the withdrawn area is located within the boundary of a single county, submit to
3616 the recorder of that county:

3617 (A) the original:

3618 (I) notice of an impending boundary action;

3619 (II) certificate of withdrawal; and

3620 (III) approved final local entity plat; and

3621 (B) if applicable, a certified copy of the resolution or notice referred to in Subsection
3622 (1)(b); or

3623 (ii) if the withdrawn area is located within the boundaries of more than a single county,
3624 submit:

3625 (A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III)
3626 and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to
3627 one of those counties; and

3628 (B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III)
3629 and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other
3630 county.

3631 (2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under
3632 Section [67-1a-6.5](#) for a withdrawal under Section [17B-1-510](#), for an automatic withdrawal
3633 under Subsection [17B-1-502\(3\)](#), or for the withdrawal of a municipality from a local district
3634 under Section [17B-1-505](#), the withdrawal shall be effective, subject to the conditions of the
3635 withdrawal resolution, if applicable.

3636 (b) An automatic withdrawal under Subsection [17B-1-502\(3\)](#) shall be effective upon
3637 the lieutenant governor's issuance of a certificate of withdrawal under Section [67-1a-6.5](#).

3638 (3) (a) The local district may provide for the publication of any resolution approving or
3639 denying the withdrawal of an area:

3640 (i) in a newspaper of general circulation in the area proposed for withdrawal; and

3641 (ii) as required in Section 45-1-101.

3642 (b) In lieu of publishing the entire resolution, the local district may publish a notice of
3643 withdrawal or denial of withdrawal, containing:

3644 (i) the name of the local district;

3645 (ii) a description of the area proposed for withdrawal;

3646 (iii) a brief explanation of the grounds on which the board of trustees determined to
3647 approve or deny the withdrawal; and

3648 (iv) the times and place where a copy of the resolution may be examined, which shall
3649 be at the place of business of the local district, identified in the notice, during regular business
3650 hours of the local district as described in the notice and for a period of at least 30 days after the
3651 publication of the notice.

3652 (4) Any sponsor of the petition or receiving entity may contest the board's decision to
3653 deny a withdrawal of an area from the local district by submitting a request, within 60 days
3654 after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting
3655 terms or conditions to mitigate or eliminate the conditions upon which the board of trustees
3656 based its decision to deny the withdrawal.

3657 (5) Within 60 days after the request under Subsection (4) is submitted to the board of
3658 trustees, the board may consider the suggestions for mitigation and adopt a resolution
3659 approving or denying the request in the same manner as provided in Section 17B-1-510 with
3660 respect to the original resolution denying the withdrawal and file a notice of the action as
3661 provided in Subsection (1).

3662 (6) (a) Any person in interest may seek judicial review of:

3663 (i) the board of trustees' decision to withdraw an area from the local district;

3664 (ii) the terms and conditions of a withdrawal; or

3665 (iii) the board's decision to deny a withdrawal.

3666 (b) Judicial review under this Subsection (6) shall be initiated by filing an action in the
3667 district court in the county in which a majority of the area proposed to be withdrawn is located:

3668 (i) if the resolution approving or denying the withdrawal is published under Subsection
3669 (3), within 60 days after the publication or after the board of trustees' denial of the request
3670 under Subsection (5);

3671 (ii) if the resolution is not published pursuant to Subsection (3), within 60 days after

3672 the resolution approving or denying the withdrawal is adopted; or

3673 (iii) if a request is submitted to the board of trustees of a local district under Subsection
3674 (4), and the board adopts a resolution under Subsection (5), within 60 days after the board
3675 adopts a resolution under Subsection (5) unless the resolution is published under Subsection
3676 (3), in which event the action shall be filed within 60 days after the publication.

3677 (c) A court in which an action is filed under this Subsection (6) may not overturn, in
3678 whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

3679 (i) the court finds the board of trustees' decision to be arbitrary or capricious; or

3680 (ii) the court finds that the board materially failed to follow the procedures set forth in
3681 this part.

3682 (d) A court may award costs and expenses of an action under this section, including
3683 reasonable attorney fees, to the prevailing party.

3684 (7) After the applicable contest period under Subsection (4) or (6), no person may
3685 contest the board of trustees' approval or denial of withdrawal for any cause.

3686 Section 91. Section **17B-2a-902** is amended to read:

3687 **17B-2a-902. Provisions applicable to service areas.**

3688 (1) Each service area is governed by and has the powers stated in:

3689 (a) this part; and

3690 (b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local
3691 Districts.

3692 (2) This part applies only to service areas.

3693 (3) A service area is not subject to the provisions of any other part of this chapter.

3694 (4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All
3695 Local Districts, and a provision in this part, the provision in this part governs.

3696 (5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a
3697 service area may not charge or collect a fee under Section [17B-1-643](#) for:

3698 (i) law enforcement services;

3699 (ii) fire protection services;

3700 (iii) 911 ambulance or paramedic services as defined in Section [26-8a-102](#) that are
3701 provided under a contract in accordance with Section [26-8a-405.2](#); or

3702 (iv) emergency services.

- 3703 (b) Subsection (5)(a) does not apply to:
- 3704 (i) a fee charged or collected on an individual basis rather than a general basis;
- 3705 (ii) a non-911 service as defined in Section [26-8a-102](#) that is provided under a contract
- 3706 in accordance with Section [26-8a-405.2](#);
- 3707 (iii) an impact fee charged or collected for a public safety facility as defined in Section
- 3708 [~~11-36-102~~] [11-36a-102](#); or
- 3709 (iv) a service area that includes within the boundary of the service area a county of the
- 3710 fifth or sixth class.
- 3711 Section 92. Section **17B-2a-905** is amended to read:
- 3712 **17B-2a-905. Service area board of trustees.**
- 3713 (1) (a) Except as provided in Subsection (2) or (3):
- 3714 (i) the initial board of trustees of a service area located entirely within the
- 3715 unincorporated area of a single county may, as stated in the petition or resolution that initiated
- 3716 the process of creating the service area:
- 3717 (A) consist of the county legislative body;
- 3718 (B) be appointed, as provided in Section [17B-1-304](#); or
- 3719 (C) be elected, as provided in Section [17B-1-306](#);
- 3720 (ii) if the board of trustees of a service area consists of the county legislative body, the
- 3721 board may adopt a resolution providing for future board members to be appointed, as provided
- 3722 in Section [17B-1-304](#), or elected, as provided in Section [17B-1-306](#); and
- 3723 (iii) members of the board of trustees of a service area shall be elected, as provided in
- 3724 Section [17B-1-306](#), if:
- 3725 (A) the service area is not entirely within the unincorporated area of a single county;
- 3726 (B) a petition is filed with the board of trustees requesting that board members be
- 3727 elected, and the petition is signed by registered voters within the service area equal in number
- 3728 to at least 10% of the number of registered voters within the service area who voted at the last
- 3729 gubernatorial election; or
- 3730 (C) an election is held to authorize the service area's issuance of bonds.
- 3731 (b) If members of the board of trustees of a service area are required to be elected
- 3732 under Subsection (1)(a)(iii)(C) because of a bond election:
- 3733 (i) board members shall be elected in conjunction with the bond election;

3734 (ii) the board of trustees shall:
3735 (A) establish a process to enable potential candidates to file a declaration of candidacy
3736 sufficiently in advance of the election; and
3737 (B) provide a ballot for the election of board members separate from the bond ballot;
3738 and
3739 (iii) except as provided in this Subsection (1)(b), the election shall be held as provided
3740 in Section [17B-1-306](#).
3741 (2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:
3742 (i) the service area was created to provide:
3743 (A) fire protection, paramedic, and emergency services; or
3744 (B) law enforcement service;
3745 (ii) in the creation of the service area, an election was not required under Subsection
3746 [17B-1-214](#)(3)(d); and
3747 (iii) the service area is not a service area described in Subsection (3).
3748 (b) (i) Each county whose unincorporated area is included within a service area
3749 described in Subsection (2)(a), whether in conjunction with the creation of the service area or
3750 by later annexation, shall appoint three members to the board of trustees.
3751 (ii) Each municipality whose area is included within a service area described in
3752 Subsection (2)(a), whether in conjunction with the creation of the service area or by later
3753 annexation, shall appoint one member to the board of trustees.
3754 (iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or
3755 (ii) shall be an elected official of the appointing county or municipality, respectively.
3756 (c) Notwithstanding Subsection [17B-1-302](#)(2), the number of members of a board of
3757 trustees of a service area described in Subsection (2)(a) shall be the number resulting from
3758 application of Subsection (2)(b).
3759 (3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013,
3760 if:
3761 (i) the service area was created to provide fire protection, paramedic, and emergency
3762 services;
3763 (ii) in the creation of the service area, an election was not required under Subsection
3764 [~~17B-1-213~~] [17B-1-214](#)(3)(d); and

3765 (iii) each municipality whose area is included within the service area or county whose
3766 unincorporated area, whether in whole or in part, is included within a service area is a party to
3767 an agreement:

3768 (A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act
3769 with all the other municipalities or counties whose area is included in the service area;

3770 (B) to provide the services described in Subsection (3)(a)(i); and

3771 (C) at the time a resolution proposing the creation of the service area is adopted by
3772 each applicable municipal or county legislative body in accordance with Subsection

3773 [17B-1-203](#)(1)(d).

3774 (b) (i) Each county whose unincorporated area, whether in whole or in part, is included
3775 within a service area described in Subsection (3)(a), whether in conjunction with the creation of
3776 the service area or by later annexation, shall appoint one member to the board of trustees.

3777 (ii) Each municipality whose area is included within a service area described in
3778 Subsection (3)(a), whether in conjunction with the creation of the service area or by later
3779 annexation, shall appoint one member to the board of trustees.

3780 (iii) Each member appointed by a county or municipality under Subsection (3)(b)(i) or
3781 (ii) shall be an elected official of the appointing county or municipality, respectively.

3782 (iv) A vote by a member of the board of trustees may be weighted or proportional.

3783 (c) Notwithstanding Subsection [17B-1-302](#)(2), the number of members of a board of
3784 trustees of a service area described in Subsection (3)(a) shall be the number resulting from the
3785 application of Subsection (3)(b).

3786 Section 93. Section [17C-4-202](#) is amended to read:

3787 **[17C-4-202](#). Resolution or interlocal agreement to provide funds for the**
3788 **community development project area plan -- Notice -- Effective date of resolution or**
3789 **interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability**
3790 **of resolution or interlocal agreement.**

3791 (1) The approval and adoption of each resolution or interlocal agreement under
3792 Subsection [17C-4-201](#)(2) shall be in an open and public meeting.

3793 (2) (a) Upon the adoption of a resolution or interlocal agreement under Section
3794 [17C-4-201](#), the agency shall provide notice as provided in Subsection (2)(b) by:

3795 (i) (A) publishing or causing to be published a notice in a newspaper of general

3796 circulation within the agency's boundaries; or

3797 (B) if there is no newspaper of general circulation within the agency's boundaries,
3798 causing a notice to be posted in at least three public places within the agency's boundaries; and

3799 (ii) publishing or causing to be published a notice on the Utah Public Notice Website
3800 created in Section 63F-1-701.

3801 (b) Each notice under Subsection (2)(a) shall:

3802 (i) set forth a summary of the resolution or interlocal agreement; and

3803 (ii) include a statement that the resolution or interlocal agreement is available for
3804 general public inspection and the hours of inspection.

3805 (3) The resolution or interlocal agreement shall become effective on the date of:

3806 (a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the
3807 notice; or

3808 (b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.

3809 (4) (a) For a period of 30 days after the effective date of the resolution or interlocal
3810 agreement under Subsection (3), any person in interest may contest the resolution or interlocal
3811 agreement or the procedure used to adopt the resolution or interlocal agreement if the
3812 resolution or interlocal agreement or procedure fails to comply with applicable statutory
3813 requirements.

3814 (b) After the 30-day period under Subsection (4)(a) expires, a person may not, for any
3815 cause, contest:

3816 (i) the resolution or interlocal agreement;

3817 (ii) a payment to the agency under the resolution or interlocal agreement; or

3818 (iii) the agency's use of tax increment under the resolution or interlocal agreement.

3819 (5) Each agency that is to receive funds under a resolution or interlocal agreement
3820 under Section 17C-4-201 and each taxing entity or public entity that approves a resolution or
3821 enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or
3822 interlocal agreement, as the case may be, available at its offices to the general public for
3823 inspection and copying during normal business hours.

3824 Section 94. Section 17D-3-105 is amended to read:

3825 **17D-3-105. Conservation districts subject to other provisions.**

3826 (1) A conservation district is, to the same extent as if it were a local district, subject to

3827 and governed by:

3828 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, [~~17B-1-109~~], 17B-1-110, 17B-1-112,
3829 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;

3830 (b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

3831 (c) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

3832 (d) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

3833 (e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

3834 (2) For purposes of applying the provisions listed in Subsection (1) to a conservation
3835 district, each reference in those provisions to the local district board of trustees means the
3836 board of supervisors described in Section 17D-3-301.

3837 Section 95. Section 20A-1-306 is amended to read:

3838 **20A-1-306. Electronic signatures prohibited.**

3839 Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and
3840 Subsections 68-3-12(1)(e) and 68-3-12.5[~~(24)~~](26) and [~~(33)~~] (35), an electronic signature may
3841 not be used to sign a petition to:

3842 (1) qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the
3843 Voters;

3844 (2) organize and register a political party under Chapter 8, Political Party Formation
3845 and Procedures; or

3846 (3) qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and
3847 Nominating Procedures.

3848 Section 96. Section 26-28-112 is amended to read:

3849 **26-28-112. Search and notification.**

3850 (1) The following persons shall make a reasonable search of an individual who the
3851 person reasonably believes is dead or near death for a document of gift or other information
3852 identifying the individual as a donor or as an individual who made a refusal:

3853 (a) a law enforcement officer, firefighter, paramedic, or other emergency rescuer
3854 finding the individual;

3855 (b) if no other source of the information is immediately available, a hospital, as soon as
3856 practical after the individual's arrival at the hospital; and

3857 (c) a law enforcement officer, firefighter, emergency medical services provider, or

3858 other emergency rescuer who finds an individual who is deceased at the scene of a motor
3859 vehicle accident, when the deceased individual is transported from the scene of the accident to
3860 a funeral establishment licensed under Title 58, Chapter 9, Funeral Services Licensing Act:

3861 (i) the law enforcement officer, firefighter, emergency medical services provider, or
3862 other emergency rescuer shall as soon as reasonably possible, notify the appropriate organ
3863 procurement organization, tissue bank, or eye bank of:

3864 (A) the identity of the deceased individual, if known;

3865 (B) information, if known, pertaining to the deceased individual's legal next-of-kin in
3866 accordance with Section [26-28-109](#); and

3867 (C) the name and location of the funeral establishment which received custody of and
3868 transported the deceased individual; and

3869 (ii) the funeral establishment receiving custody of the deceased individual under this
3870 Subsection (1)(c) may not embalm the body of the deceased individual until:

3871 (A) the funeral establishment receives notice from the organ procurement organization,
3872 tissue bank, or eye bank that the readily available persons listed as having priority in Section
3873 [26-28-109](#) have been informed by the organ procurement organization of the option to make or
3874 refuse to make an anatomical gift in accordance with Section [~~26-28-4~~] [26-28-104](#), with
3875 reasonable discretion and sensitivity appropriate to the circumstances of the family;

3876 (B) in accordance with federal law, prior approval for embalming has been obtained
3877 from a family member or other authorized person; and

3878 (C) the period of time in which embalming is prohibited under Subsection (1)(c)(ii)
3879 may not exceed 24 hours after death.

3880 (2) If a document of gift or a refusal to make an anatomical gift is located by the search
3881 required by Subsection (1)(a) and the individual or deceased individual to whom it relates is
3882 taken to a hospital, the person responsible for conducting the search shall send the document of
3883 gift or refusal to the hospital.

3884 (3) A person is not subject to criminal or civil liability for failing to discharge the
3885 duties imposed by this section but may be subject to administrative sanctions.

3886 Section 97. Section **36-23-109** is amended to read:

3887 **36-23-109. Review of state regulation of occupations and professions.**

3888 Before the annual written report described in Section [~~36-23-107~~] [36-23-106](#) is

3889 submitted for 2013, the committee shall study potentially less restrictive alternatives to
3890 licensing for the regulation of occupations and professions, including registration and
3891 certification if appropriate, that would better avoid unnecessary regulation and intrusion upon
3892 individual liberties by the state, while still protecting the health and safety of the public.

3893 Section 98. Section **38-8-3.5** is amended to read:

3894 **38-8-3.5. Right to tow certain vehicles subject to lien.**

3895 (1) If the property subject to a lien described in Section **38-3-2** is a vehicle, the
3896 occupant is in default for a continuous 60-day period, and the owner chose not to sell the
3897 vehicle under Section **38-8-3**, the owner may have the vehicle towed from the [~~self-storage~~]
3898 self-service storage facility by an independent towing carrier that is certified by the Department
3899 of Transportation as described in Section **72-9-602**.

3900 (2) Within one day after the day on which a vehicle is towed under Subsection (1), the
3901 owner shall send written notice by certified mail, postage prepaid, to the occupant's last known
3902 address that states:

3903 (a) the date the vehicle was towed; and

3904 (b) the address and telephone number of the person that towed the vehicle.

3905 (3) An owner that has a vehicle towed under Subsection (1) is not liable for any
3906 damage that occurs to the vehicle after the independent towing carrier takes possession of the
3907 vehicle.

3908 Section 99. Section **39-6-36** is amended to read:

3909 **39-6-36. Desertion or absence without leave and other offenses -- Time limit on**
3910 **trial -- Tolling of time limits.**

3911 (1) A person charged with desertion or absence without leave may be tried and
3912 punished at any time, within four years after the preferral of charges.

3913 (2) Except under Subsection (1), a person charged with any offense is not liable to be
3914 tried by a military court or punished under Section [~~39-6-13~~] **39-6-14** if the offense was
3915 committed more than two years before the receipt of sworn charges and specifications by an
3916 officer exercising jurisdiction as a military court convening authority.

3917 (3) Periods when the accused was outside the state's jurisdiction to apprehend him, or
3918 when he is in the custody of civilian authorities, are excluded in computing limitations of time
3919 under this section.

3920 Section 100. Section **48-1d-1305** is amended to read:

3921 **48-1d-1305. Limit of one profession.**

3922 (1) A professional services partnership organized to provide a professional service
3923 under this part may provide only:

3924 (a) one specific type of professional service; and

3925 (b) services ancillary to the professional service described in Subsection (1)(a).

3926 (2) A professional services partnership organized to provide a professional service
3927 under this part may not engage in a business other than to provide:

3928 (a) the professional service that it was organized to provide; and

3929 (b) services ancillary to the professional service described in Subsection (2)(a).

3930 (3) Notwithstanding Subsections (1) and (2), a professional services partnership may:

3931 (a) own real and personal property necessary or appropriate for providing the type of
3932 professional service it was organized to provide; and

3933 (b) invest the professional services partnership's money in one or more of the
3934 following:

3935 (i) real estate;

3936 (ii) mortgages;

3937 (iii) stocks;

3938 [~~(vi)~~] (iv) bonds; or

3939 (v) another type of investment.

3940 Section 101. Section **53-5-707** is amended to read:

3941 **53-5-707. Concealed firearm permit -- Fees -- Disposition.**

3942 (1) (a) Each applicant for a concealed firearm permit shall pay a fee of \$29.75 at the
3943 time of filing an application, except that a nonresident applicant shall pay an additional \$5 for
3944 the additional cost of processing a nonresident application.

3945 (b) The bureau shall waive the initial fee for an applicant who is a law enforcement
3946 officer under Section [53-13-103](#).

3947 (c) Concealed firearm permit renewal fees for active duty servicemembers and
3948 [~~spouses~~] the spouse of an active duty servicemember shall be waived.

3949 (2) The renewal fee for the permit is \$15.

3950 (3) The replacement fee for the permit is \$10.

3951 (4) (a) The late fee for the renewal permit is \$7.50.

3952 (b) As used in this section, "late fee" means the fee charged by the bureau for a renewal
3953 submitted on a permit that has been expired for more than 30 days but less than one year.

3954 (5) The bureau shall use the fees collected under Subsections (1), (2), (3), and (4) as a
3955 dedicated credit to cover the costs of issuing concealed firearm permits under this part.

3956 (6) (a) The bureau may collect any fees charged by an outside agency for additional
3957 services required by statute as a prerequisite for issuance of a permit.

3958 (b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that
3959 the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest
3960 even dollar amount to that total.

3961 (c) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the
3962 appropriate agency.

3963 (7) The bureau shall make an annual report in writing to the Legislature's Law
3964 Enforcement and Criminal Justice Interim Committee on the amount and use of the fees
3965 collected under this section.

3966 Section 102. Section **53-13-110** is amended to read:

3967 **53-13-110. Duties to investigate specified instances of abuse or neglect.**

3968 In accordance with the requirements of Section [~~62A-4a-202.5~~] [62A-4a-202.6](#), law
3969 enforcement officers shall investigate alleged instances of abuse or neglect of a child that occur
3970 while the child is in the custody of the Division of Child and Family Services, within the
3971 Department of Human Services.

3972 Section 103. Section **53A-1a-521** is amended to read:

3973 **53A-1a-521. Authorization of a charter school by a board of trustees of a higher**
3974 **education institution.**

3975 (1) Subject to the approval of the State Board of Education and except as provided in
3976 Subsection (8), an individual or entity identified in Section [53A-1a-504](#) may enter into an
3977 agreement with a board of trustees of a higher education institution authorizing the individual
3978 or entity to establish and operate a charter school.

3979 (2) (a) An individual or entity identified in Section [53A-1a-504](#) applying for
3980 authorization from a board of trustees of a higher education institution to establish and operate
3981 a charter school shall provide a copy of the application to the State Charter School Board and

3982 the local school board of the school district in which the proposed charter school shall be
3983 located either before or at the same time it files its application with the board of trustees.

3984 (b) The State Charter School Board and the local school board may review the
3985 application and may offer suggestions or recommendations to the applicant or the board of
3986 trustees of a higher education institution prior to its acting on the application.

3987 (c) The board of trustees of a higher education institution shall give due consideration
3988 to suggestions or recommendations made by the State Charter School Board or the local school
3989 board under Subsection (2)(b).

3990 (3) (a) If a board of trustees of a higher education institution approves an application to
3991 establish and operate a charter school, the board of trustees shall submit the application to the
3992 State Board of Education.

3993 (b) The State Board of Education shall, by majority vote, within 60 days of receipt of
3994 the application approve or deny an application approved by a board of trustees of a higher
3995 education institution.

3996 (c) The State Board of Education's action under Subsection (3)(b) is final action subject
3997 to judicial review.

3998 (4) The State Board of Education shall make a rule providing a timeline for the
3999 opening of a charter school following the approval of a charter school application by a board of
4000 trustees of a higher education institution.

4001 (5) (a) After approval of a charter school application, the applicant and the board of
4002 trustees of a higher education institution shall set forth the terms and conditions for the
4003 operation of the charter school in a written contractual agreement.

4004 (b) The agreement is the school's charter.

4005 (6) (a) The school's charter may include a provision that the charter school pay an
4006 annual fee for the board of trustees' costs in providing oversight of, and technical support to,
4007 the charter school in accordance with Subsection (7).

4008 (b) In the first two years that a charter school is in operation, an annual fee described in
4009 Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives
4010 from the state in the current fiscal year.

4011 (c) Beginning with the third year that a charter school is in operation, an annual fee
4012 described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter

4013 school receives from the state in the current fiscal year.

4014 (d) An annual fee described in Subsection (6)(a) shall be:

4015 (i) paid to the board of trustees' higher education institution; and

4016 (ii) expended as directed by the board of trustees.

4017 (7) A board of trustees of a higher education institution shall:

4018 (a) annually review and evaluate the performance of charter schools authorized by the
4019 board of trustees and hold the schools accountable for their performance;

4020 (b) monitor charter schools authorized by the board of trustees for compliance with
4021 federal and state laws, rules, and regulations; and

4022 (c) provide technical support to charter schools authorized by the board of trustees to
4023 assist them in understanding and performing their charter obligations.

4024 (8) (a) In addition to complying with the requirements of this section, a campus board
4025 of directors of a college campus within the Utah College of Applied Technology shall obtain
4026 the approval of the Utah College of Applied Technology Board of Trustees before entering into
4027 an agreement to establish and operate a charter school.

4028 (b) If a campus board of directors of a college campus with the Utah College of
4029 Applied Technology approves an application to establish and operate a charter school, the
4030 campus board of directors of the college campus shall submit the application to the Utah
4031 College of Applied Technology Board of Trustees.

4032 (c) The Utah College of Applied Technology Board of Trustees shall, by majority vote,
4033 within 60 days ~~or~~ of receipt of the application, approve or deny the application approved by
4034 the campus board of directors.

4035 (d) The Utah College of Applied Technology Board of Trustees may deny an
4036 application approved by a campus board of directors if the proposed charter school does not
4037 accomplish a purpose of charter schools as provided in Section [53A-1a-503](#).

4038 (e) A charter school application may not be denied on the basis that the establishment
4039 of the charter school will have any or all of the following impacts on a public school, including
4040 another charter school:

4041 (i) an enrollment decline;

4042 (ii) a decrease in funding; or

4043 (iii) a modification of programs or services.

4044 (9) (a) Subject to the requirements of this part, a campus board of directors of a college
 4045 campus within the Utah College of Applied Technology may establish:

4046 (i) procedures for submitting applications to establish and operate a charter school to a
 4047 campus board of directors of a college campus within the Utah College of Applied Technology;
 4048 and

4049 (ii) criteria for a campus board of directors' approval of an application to establish and
 4050 operate a charter school.

4051 (b) The Utah College of Applied Technology Board of Trustees may not establish
 4052 policy governing the procedures or criteria described in Subsection (9)(a).

4053 Section 104. Section **53A-3-701** is amended to read:

4054 **53A-3-701. School and school district professional development plans.**

4055 (1) (a) Each public school and school district shall develop and implement a
 4056 systematic, comprehensive, and long-term plan for staff professional development.

4057 (b) Each school shall use its school community council, school directors, or a
 4058 subcommittee or task force created by the school community council as provided in Section
 4059 [53A-1a-108](#) to help develop and implement the plan.

4060 (2) Each plan shall include the following components:

4061 (a) an alignment of professional development activities at the school and school district
 4062 level with:

4063 (i) the school improvement plan under Section [53A-1a-108.5](#);

4064 (ii) the School LAND Trust Program authorized under Section [53A-16-101.5](#);

4065 (iii) the Utah Performance Assessment System for Students under Title 53A, Chapter
 4066 1, Part 6, Achievement Tests;

4067 (iv) Sections [53A-6-101](#) through [53A-6-104](#) of the Educator Licensing and
 4068 Professional Practices Act; and

4069 (v) [~~Title 53A, Chapter 9, Teacher Career Ladders, and (vi)~~] Title 53A, Chapter [~~10;~~
 4070 ~~Educator Evaluation~~] 8a, Public Education Human Resource Management Act;

4071 (b) provision for the development of internal instructional leadership and support;

4072 (c) the periodic presence of all stakeholders at the same time in the professional
 4073 development process, to include administrators, educators, support staff, parents, and students;

4074 (d) provisions for the use of consultants to enhance and evaluators to assess the

4075 effectiveness of the plan as implemented; and

4076 (e) the time required for and the anticipated costs of implementing and maintaining the
4077 plan.

4078 (3) (a) Each local school board shall review and either approve or recommend
4079 modifications for each school plan within its district so that each school's plan is compatible
4080 with the district plan.

4081 (b) The board shall:

4082 (i) provide positive and meaningful assistance to a school, if requested by its
4083 community council or school directors, in drafting and implementing its plan; and

4084 (ii) monitor the progress of each school plan and hold each school accountable for
4085 meeting the objectives of its plan.

4086 (4) The State Board of Education, through the superintendent of public instruction,
4087 shall work with school districts to identify the resources required to implement and maintain
4088 each school's and school district's professional development plan required under this section.

4089 Section 105. Section **53A-16-107** is amended to read:

4090 **53A-16-107. Capital outlay levy -- Authority to use proceeds of .0002 tax rate for**
4091 **maintenance of school facilities -- Restrictions and procedure -- Limited authority to use**
4092 **proceeds for general fund purposes -- Notification required when using proceeds for**
4093 **general fund purposes -- Authority for small school districts to use levy proceeds for**
4094 **operation and maintenance of plant services.**

4095 (1) Subject to Subsection (3) and except as provided in Subsections (2), (5), (6), and
4096 (7), a local school board may annually impose a capital outlay levy not to exceed .0024 per
4097 dollar of taxable value to be used for:

4098 (a) capital outlay; or

4099 (b) debt service.

4100 (2) (a) A local school board with an enrollment of 2,500 students or more may utilize
4101 the proceeds of a maximum of .0002 per dollar of taxable value of the local school board's
4102 annual capital outlay levy for the maintenance of school facilities in the school district.

4103 (b) A local school board that uses the option provided under Subsection (2)(a) shall:

4104 (i) maintain the same level of expenditure for maintenance in the current year as it did
4105 in the preceding year, plus the annual average percentage increase applied to the maintenance

4106 and operation budget for the current year; and

4107 (ii) identify the expenditure of capital outlay funds for maintenance by a district project
4108 number to ensure that the funds are expended in the manner intended.

4109 (c) The State Board of Education shall establish by rule the expenditure classification
4110 for maintenance under this program using a standard classification system.

4111 (3) Beginning January 1, 2009, and through the taxable year beginning January 1,
4112 2011, in order to qualify for receipt of the state contribution toward the minimum school
4113 program, a local school board in a county of the first class shall impose a capital outlay levy of
4114 at least .0006 per dollar of taxable value.

4115 (4) (a) The county treasurer of a county of the first class shall distribute revenues
4116 generated by the .0006 portion of the capital outlay levy required in Subsection (3) to school
4117 districts within the county in accordance with Section [53A-16-114](#).

4118 (b) (i) Except as provided in Subsection (4)(b)(ii), if a school district in a county of the
4119 first class imposes a capital outlay levy pursuant to this section which exceeds .0006 per dollar
4120 of taxable value, the county treasurer of a county of the first class shall distribute revenues
4121 generated by the portion of the capital outlay levy which exceeds .0006 to the school district
4122 imposing the levy.

4123 (ii) If a new district and a remaining district are required to impose property tax levies
4124 pursuant to Subsection [53A-2-118.4\(2\)](#), the county treasurer shall distribute revenues of the
4125 new district or remaining district generated by the portion of a capital outlay levy that exceeds
4126 .0006 in accordance with Section [53A-2-118.4](#).

4127 (5) (a) Notwithstanding Subsections (1)(a) and (b) and subject to Subsections (5)(b),
4128 (c), and (d), for fiscal years 2010-11 and 2011-12, a local school board may use the proceeds of
4129 the local school board's capital outlay levy for general fund purposes if the proceeds are not
4130 committed or dedicated to pay debt service or bond payments.

4131 (b) If a local school board uses the proceeds described in Subsection (5)(a) for general
4132 fund purposes, the local school board shall notify the public of the local school board's use of
4133 the capital outlay levy proceeds for general fund purposes:

4134 (i) prior to the board's budget hearing in accordance with the notification requirements
4135 described in Section [53A-19-102](#); and

4136 (ii) at a budget hearing required in Section [53A-19-102](#).

4137 (c) A local school board may not use the proceeds described in Subsection (5)(a) to
4138 fund the following accounting function classifications as provided in the Financial Accounting
4139 for Local and State School Systems guidelines developed by the National Center for Education
4140 Statistics:

- 4141 (i) 2300 Support Services - General District Administration; or
- 4142 (ii) 2500 Support Services - Central Services.

4143 (d) A local school board may not use the proceeds from a distribution described in
4144 Section [~~53A-16-107.1~~] [53A-16-114](#) for general fund purposes.

4145 (6) (a) In addition to the uses described in Subsection (1), a local school board of a
4146 school district with an enrollment of fewer than 2,500 students, may use the proceeds of the
4147 local school board's capital outlay levy, in fiscal years 2011-12, 2012-13, and 2013-14, for
4148 expenditures made within the accounting function classification 2600, Operation and
4149 Maintenance of Plant Services, of the Financial Accounting for Local and State School
4150 Systems guidelines developed by the National Center for Education Statistics, excluding
4151 expenditures for mobile phone service and vehicle operation and maintenance.

4152 (b) If a local school board of a school district with an enrollment of fewer than 2,500
4153 students uses the proceeds of a capital outlay levy for the operation and maintenance of plant
4154 services as described in Subsection (6)(a), the local school board shall notify the public of the
4155 local school board's use of the capital outlay levy proceeds for operation and maintenance of
4156 plant services:

4157 (i) prior to the board's budget hearing in accordance with the notification requirements
4158 described in Section [53A-19-102](#); and

4159 (ii) at a budget hearing required in Section [53A-19-102](#).

4160 (7) Beginning January 1, 2012, a local school board may not levy a tax in accordance
4161 with this section.

4162 Section 106. Section **53A-16-114** is amended to read:

4163 **53A-16-114. School capital outlay in counties of the first class -- Allocation --**
4164 **Report to Education Interim Committee.**

4165 (1) For purposes of this section:

4166 (a) "Average annual enrollment growth over the prior three years" means the quotient
4167 of:

4168 (i) (A) enrollment in the current school year, based on October 1 enrollment counts;
4169 minus

4170 (B) enrollment in the year three years prior, based on October 1 enrollment counts;
4171 divided by

4172 (ii) three.

4173 (b) "Capital outlay increment money" means the amount of revenue equal to the
4174 difference between:

4175 (i) the amount of revenue generated by a levy of .0006 per dollar of taxable value
4176 within a receiving school district during a fiscal year; and

4177 (ii) the amount of revenue the receiving school district received during the same fiscal
4178 year from the distribution described in Subsection (2).

4179 (c) "Contributing school district" means a school district in a county of the first class
4180 that in a fiscal year receives less revenue from the distribution described in Subsection (2) than
4181 it would have received during the same fiscal year from a levy imposed within the school
4182 district of .0006 per dollar of taxable value.

4183 (d) "Receiving school district" means a school district in a county of the first class that
4184 in a fiscal year receives more revenue from the distribution described in Subsection (2) than it
4185 would have received during the same fiscal year from a levy imposed within the school district
4186 of .0006 per dollar of taxable value.

4187 (2) The county treasurer of a county of the first class shall distribute revenues
4188 generated by the .0006 portion of the capital outlay levy required in Subsection 53A-16-107(3)
4189 or the capital local levy required in Section 53A-16-113 to school districts located within the
4190 county of the first class as follows:

4191 (a) 25% of the revenues shall be distributed in proportion to a school district's
4192 percentage of the total enrollment growth in all of the school districts within the county that
4193 have an increase in enrollment, calculated on the basis of the average annual enrollment growth
4194 over the prior three years in all of the school districts within the county that have an increase in
4195 enrollment over the prior three years, as of the October 1 enrollment counts; and

4196 (b) 75% of the revenues shall be distributed in proportion to a school district's
4197 percentage of the total current year enrollment in all of the school districts within the county, as
4198 of the October 1 enrollment counts.

4199 (3) If a new school district is created or school district boundaries are adjusted, the
4200 enrollment and average annual enrollment growth for each affected school district shall be
4201 calculated on the basis of enrollment in school district schools located within that school
4202 district's newly created or adjusted boundaries, as of October 1 enrollment counts.

4203 (4) On or before December 31 of each year, the State Board of Education shall provide
4204 a county treasurer with audited enrollment information from the fall enrollment audit necessary
4205 to distribute revenues as required by this section.

4206 (5) On or before March 31 of each year, a county treasurer in a county of the first class
4207 shall distribute the revenue generated within the county of the first class during the prior
4208 calendar year from the capital outlay levy described in Section [53A-16-107](#) or the capital local
4209 levy described in Section ~~[[53A-17a-113](#)]~~ [53A-16-113](#).

4210 (6) On or before the November meeting of the Education Interim Committee of each
4211 year, a receiving school district shall report to the committee:

4212 (a) how the receiving school district spent the district's capital outlay increment money
4213 during the prior fiscal year; and

4214 (b) the receiving school district's plan to increase student capacity of existing school
4215 buildings within the district.

4216 (7) The Education Interim Committee shall consider the reports of receiving school
4217 districts described in Subsection (6) as part of a review to reauthorize this section and
4218 provisions related to this section, if the committee is directed to conduct a review pursuant to
4219 Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

4220 Section 107. Section ~~53A-17a-133~~ is amended to read:

4221 **53A-17a-133. State-supported voted local levy authorized -- Election**
4222 **requirements -- State guarantee -- Reconsideration of the program.**

4223 (1) As used in this section, "voted and board local levy funding balance" means the
4224 difference between:

4225 (a) the amount appropriated for the voted and board local levy program in a fiscal year;
4226 and

4227 (b) the amount necessary to provide the state guarantee per weighted pupil unit as
4228 determined under this section and Section [53A-17a-164](#) in the same fiscal year.

4229 (2) An election to consider adoption or modification of a voted local levy is required if

4230 initiative petitions signed by 10% of the number of electors who voted at the last preceding
4231 general election are presented to the local school board or by action of the board.

4232 (3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at
4233 an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special
4234 tax.

4235 (ii) The tax rate may not exceed .002 per dollar of taxable value.

4236 (b) Except as provided in Subsection (3)(c), in order to receive state support the first
4237 year, a district must receive voter approval no later than December 1 of the year prior to
4238 implementation.

4239 (c) Beginning on or after January 1, 2012, a school district may receive state support in
4240 accordance with Subsection (4) without complying with the requirements of Subsection (3)(b)
4241 if the local school board imposed a tax in accordance with this section during the taxable year
4242 beginning on January 1, 2011 and ending on December 31, 2011.

4243 (4) (a) In addition to the revenue a school district collects from the imposition of a levy
4244 pursuant to this section, the state shall contribute an amount sufficient to guarantee \$27.36 per
4245 weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

4246 (b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar
4247 of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy
4248 authorized in Section [53A-17a-164](#), so that the guarantee shall apply up to a total of .002 per
4249 dollar of taxable value if a school district levies a tax rate under both programs.

4250 (c) (i) Beginning July 1, 2014, the \$27.36 guarantee under Subsections (4)(a) and (b)
4251 shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12
4252 program by making the value of the guarantee equal to .00963 times the value of the prior
4253 year's weighted pupil unit for the grades 1 through 12 program.

4254 (ii) The guarantee shall increase by .0005 times the value of the prior year's weighted
4255 pupil unit for the grades 1 through 12 program for each succeeding year subject to the
4256 Legislature appropriating funds for an increase in the guarantee.

4257 (d) (i) The amount of state guarantee money to which a school district would otherwise
4258 be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the
4259 district's levy is reduced as a consequence of changes in the certified tax rate under Section
4260 [59-2-924](#) pursuant to changes in property valuation.

4261 (ii) Subsection (4)(d)(i) applies for a period of five years following any such change in
4262 the certified tax rate.

4263 (e) The guarantee provided under this section does not apply to the portion of a voted
4264 local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal
4265 year, unless an increase in the voted local levy rate was authorized in an election conducted on
4266 or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

4267 (f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the
4268 State Board of Education shall:

4269 (A) use the voted and board local levy funding balance to increase the value of the state
4270 guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

4271 (B) distribute the state contribution to the voted and board local levy programs to
4272 school districts based on the increased value of the state guarantee per weighted pupil unit
4273 described in Subsection (4)(f)(i)(A).

4274 (ii) The State Board of Education shall report action taken under this Subsection (4)(f)
4275 to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and
4276 Budget.

4277 (5) (a) An election to modify an existing voted local levy is not a reconsideration of the
4278 existing authority unless the proposition submitted to the electors expressly so states.

4279 (b) A majority vote opposing a modification does not deprive the district of authority to
4280 continue the levy.

4281 (c) If adoption of a voted local levy is contingent upon an offset reducing other local
4282 school board levies, the board must allow the electors, in an election, to consider modifying or
4283 discontinuing the imposition of the levy prior to a subsequent increase in other levies that
4284 would increase the total local school board levy.

4285 (d) Nothing contained in this section terminates, without an election, the authority of a
4286 school district to continue imposing an existing voted local levy previously authorized by the
4287 voters as a voted leeway program.

4288 (6) Notwithstanding Section 59-2-919, a school district may budget an increased
4289 amount of ad valorem property tax revenue derived from a voted local levy imposed under this
4290 section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without
4291 having to comply with the notice requirements of Section 59-2-919, if:

4292 (a) the voted local levy is approved:
4293 (i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and
4294 (ii) within the four-year period immediately preceding the year in which the school
4295 district seeks to budget an increased amount of ad valorem property tax revenue derived from
4296 the voted local levy; and

4297 (b) for a voted local levy approved or modified in accordance with this section on or
4298 after January 1, 2009, the school district complies with the requirements of Subsection (8).

4299 (7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this
4300 section that exceeds the certified tax rate without having to comply with the notice
4301 requirements of Section 59-2-919 if:

4302 (a) the levy exceeds the certified tax rate as the result of a school district budgeting an
4303 increased amount of ad valorem property tax revenue derived from a voted local levy imposed
4304 under this section;

4305 (b) the voted local levy was approved:

4306 (i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

4307 (ii) within the four-year period immediately preceding the year in which the school
4308 district seeks to budget an increased amount of ad valorem property tax revenue derived from
4309 the voted local levy; and

4310 (c) for a voted local levy approved or modified in accordance with this section on or
4311 after January 1, 2009, the school district complies with requirements of Subsection (8).

4312 (8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the
4313 electors regarding the adoption or modification of a voted local levy shall contain the following
4314 statement:

4315 "A vote in favor of this tax means that (name of the school district) may increase
4316 revenue from this property tax without advertising the increase for the next five years."

4317 (9) (a) Before imposing a property tax levy pursuant to this section, a school district
4318 shall submit an opinion question to the school district's registered voters voting on the
4319 imposition of the tax rate so that each registered voter has the opportunity to express the
4320 registered voter's opinion on whether the tax rate should be imposed.

4321 (b) The election required by this Subsection (9) shall be held:

4322 (i) at a regular general election conducted in accordance with the procedures and

4323 requirements of Title 20A, Election Code, governing regular elections;

4324 (ii) at a municipal general election conducted in accordance with the procedures and
4325 requirements of Section 20A-1-202; or

4326 (iii) at a local special election conducted in accordance with the procedures and
4327 requirements of Section 20A-1-203.

4328 (c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or
4329 after January 1, 2012, a school district may levy a tax rate in accordance with this section
4330 without complying with the requirements of Subsections (9)(a) and (b) if the school district
4331 imposed a tax in accordance with this section at any time during the taxable year beginning on
4332 January 1, 2011, and ending on December 31, 2011.

4333 (10) If a school district determines that a majority of the school district's registered
4334 voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax
4335 rate in accordance with Subsection (9), the school district may impose the tax rate.

4336 Section 108. Section 53A-25a-102 is amended to read:

4337 **53A-25a-102. Definitions.**

4338 As used in this chapter:

4339 (1) "Blind student" means an individual between ages three through 21 who is eligible
4340 for special education services and who:

4341 (a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a
4342 limited field of vision such that the widest diameter subtends an angular distance no greater
4343 than 20 degrees;

4344 (b) has a medically indicated expectation of visual deterioration; or

4345 (c) has functional blindness.

4346 (2) "Braille" means the system of reading and writing through touch, commonly known
4347 as English Braille.

4348 (3) "Functional blindness" means a visual impairment that renders a student unable to
4349 read or write print at a level commensurate with the student's cognitive abilities.

4350 (4) "Individualized education program" or "IEP" means a written statement developed
4351 for a student eligible for special education services pursuant to [Section 602(a)(20) of part B
4352 of] the Individuals with Disabilities Education Act, 20 U.S.C. Section [1401(a)] 1414(d).

4353 Section 109. Section 54-3-31 is amended to read:

4354 **54-3-31. Electric utility service within a provider municipality -- Electrical**
4355 **corporation authorized as continuing provider for service provided on or before June 15,**
4356 **2013 -- Notice of service and agreement -- Transfer of customer.**

4357 (1) This section applies to an electrical corporation that:

4358 (a) provides electric service to a customer on or before June 15, 2013, within the
4359 municipal boundary of a municipality that provides electric service; and

4360 (b) intends to continue providing service to that customer.

4361 (2) Notwithstanding Section 54-3-30, if an electrical corporation provides electric
4362 service to a customer within the municipal boundary of a municipality on or before June 15,
4363 2013, and the municipality provides electric service to another customer within its municipal
4364 boundary, the electrical corporation may continue to provide electric service to the customer
4365 within the municipality's boundary if:

4366 (a) the electrical corporation provides, on or before December 15, 2013, the
4367 municipality with an accurate and complete verified written notice, in accordance with
4368 Subsection (3), identifying each customer within the municipality served by the electrical
4369 corporation on or before June 15, 2013;

4370 (b) the electrical corporation enters into a written agreement with the municipality no
4371 later than June 15, 2014; and

4372 (c) the commission approves the agreement in accordance with Section 54-4-40.

4373 (3) The written notice provided in accordance with Subsection (2)(a) shall include for
4374 each customer:

4375 (a) the customer's meter number;

4376 (b) the location of the customer's meter by street address, global positioning system
4377 coordinates, metes and bounds description, or other similar method of meter location;

4378 (c) the customer's class of service; and

4379 (d) a representation that the customer was receiving service from the electrical
4380 corporation on or before June 15, 2013.

4381 (4) The agreement entered into in accordance with Subsection (2) shall require the
4382 following:

4383 (a) The electrical corporation is the exclusive electric service provider to a customer
4384 identified in the notice described in Subsection (2)(a) unless the municipality and electrical

4385 corporation subsequently agree, in writing, that the municipality may provide electric service to
4386 the identified customer.

4387 (b) If a customer who is located within the municipal boundary and who is not
4388 identified in Subsection (2)(a) requests service after June 15, 2013, from the electrical
4389 corporation, the electrical corporation may not provide that customer electric service unless the
4390 electrical corporation subsequently submits a request to and enters into a written agreement
4391 with the municipality in accordance with Section [~~54-4-30~~] [54-3-30](#).

4392 (5) (a) Unless otherwise agreed in writing by the electrical corporation and the
4393 municipality, the electrical corporation may terminate an agreement entered into in accordance
4394 with Subsection (2)(b) by giving written notice of termination to the municipality:

4395 (i) no earlier than two years before the day of termination; or

4396 (ii) within a period of time shorter than two years if otherwise agreed to with the
4397 municipality.

4398 (b) Upon termination of an agreement in accordance with Subsection (5)(a):

4399 (i) (A) the electrical corporation shall transfer an electric service customer located
4400 within the municipality to the municipality; and

4401 (B) the municipality shall provide electric service to the customer; and

4402 (ii) the electrical corporation shall transfer a facility in accordance with and for the
4403 value as provided in Section [10-2-421](#).

4404 (6) This section may not be construed to modify or terminate any written franchise
4405 agreement or other agreement that expressly provides for electric service by an electrical
4406 corporation to a customer within a municipality that was entered into between an electrical
4407 corporation and a municipality on or before June 15, 2013.

4408 Section 110. Section **57-8-7.5 (Effective 07/01/14)** is amended to read:

4409 **57-8-7.5 (Effective 07/01/14). Reserve analysis -- Reserve fund.**

4410 (1) As used in this section:

4411 (a) "Reserve analysis" means an analysis to determine:

4412 (i) the need for a reserve fund to accumulate money to cover the cost of repairing,
4413 replacing, or restoring common areas and facilities that have a useful life of three years or more
4414 and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from
4415 the general budget or other funds of the association of unit owners; and

- 4416 (ii) the appropriate amount of any reserve fund.
- 4417 (b) "Reserve fund line item" means the line item in an association of unit owners'
- 4418 annual budget that identifies the amount to be placed into a reserve fund.
- 4419 (2) Except as otherwise provided in the declaration, a management committee shall:
- 4420 (a) cause a reserve analysis to be conducted no less frequently than every six years; and
- 4421 (b) review and, if necessary, update a previously conducted reserve analysis no less
- 4422 frequently than every three years.
- 4423 (3) The management committee may conduct a reserve analysis itself or may engage a
- 4424 reliable person or organization, as determined by the management committee, to conduct the
- 4425 reserve analysis.
- 4426 (4) A reserve fund analysis shall include:
- 4427 (a) a list of the components identified in the reserve analysis that will reasonably
- 4428 require reserve funds;
- 4429 (b) a statement of the probable remaining useful life, as of the date of the reserve
- 4430 analysis, of each component identified in the reserve analysis;
- 4431 (c) an estimate of the cost to repair, replace, or restore each component identified in the
- 4432 reserve analysis;
- 4433 (d) an estimate of the total annual contribution to a reserve fund necessary to meet the
- 4434 cost to repair, replace, or restore each component identified in the reserve analysis during the
- 4435 component's useful life and at the end of the component's useful life; and
- 4436 (e) a reserve funding plan that recommends how the association of unit owners may
- 4437 fund the annual contribution described in Subsection (4)(d).
- 4438 (5) An association of unit owners shall:
- 4439 (a) annually provide unit owners a summary of the most recent reserve analysis or
- 4440 update; and
- 4441 (b) provide a copy of the complete reserve analysis or update to a unit owner who
- 4442 requests a copy.
- 4443 (6) In formulating its budget each year, an association of unit owners shall include a
- 4444 reserve fund line item in:
- 4445 (a) an amount the management committee determines, based on the reserve analysis, to
- 4446 be prudent; or

4447 (b) an amount required by the declaration, if the declaration requires an amount higher
4448 than the amount determined under Subsection (6)(a).

4449 (7) (a) Within 45 days after the day on which an association of unit owners adopts its
4450 annual budget, the unit owners may veto the reserve fund line item by a 51% vote of the
4451 allocated voting interests in the association of unit owners at a special meeting called by the
4452 unit owners for the purpose of voting whether to veto a reserve fund line item.

4453 (b) If the unit owners veto a reserve fund line item under Subsection (7)(a) and a
4454 reserve fund line item exists in a previously approved annual budget of the association of unit
4455 owners that was not vetoed, the association of unit owners shall fund the reserve account in
4456 accordance with that prior reserve fund line item.

4457 (8) (a) Subject to Subsection (8)(b), if an association of unit owners does not comply
4458 with the requirements of Subsection (5), (6), or (7) and fails to remedy the noncompliance
4459 within the time specified in Subsection (8)(c), a unit owner may file an action in state court for:

4460 (i) injunctive relief requiring the association of unit owners to comply with the
4461 requirements of Subsection (5), (6), or (7);

4462 (ii) \$500 or actual damages, whichever is greater;

4463 (iii) any other remedy provided by law; and

4464 (iv) reasonable costs and attorney fees.

4465 (b) No fewer than 90 days before the day on which a unit owner files a complaint under
4466 Subsection (8)(a), the unit owner shall deliver written notice described in Subsection (8)(c) to
4467 the association of unit owners.

4468 (c) A notice under Subsection (8)(b) shall state:

4469 (i) the requirement in Subsection (5), (6), or (7) with which the association of unit
4470 owners has failed to comply;

4471 (ii) a demand that the association of unit owners come into compliance with the
4472 requirements; and

4473 (iii) a date, no fewer than 90 days after the day on which the unit owner delivers the
4474 notice, by which the association of unit owners shall remedy its noncompliance.

4475 (d) In a case filed under Subsection (8)(a), a court may order an association of unit
4476 owners to produce the summary of the reserve analysis or the complete reserve analysis on an
4477 expedited basis and at the association of unit owners' expense.

- 4478 (9) (a) A management committee may not use money in a reserve fund:
4479 (i) for daily maintenance expenses, unless a majority of the members of the association
4480 of unit owners vote to approve the use of reserve fund money for that purpose; or
4481 (ii) for any purpose other than the purpose for which the reserve fund was established.
4482 (b) A management committee shall maintain a reserve fund separate from other funds
4483 of the association of unit owners.
4484 (c) This Subsection (9) may not be construed to limit a management committee from
4485 prudently investing money in a reserve fund, subject to any investment constraints imposed by
4486 the declaration.
- 4487 (10) Subsections (2) through (9) do not apply to an association of unit owners during
4488 the period of declarant control described in Subsection 57-8-16.5(1).
- 4489 (11) This section applies to each association of unit owners, regardless of when the
4490 association of unit owners was created.
- 4491 Section 111. Section 57-8-43 is amended to read:
4492 **57-8-43. Insurance.**
4493 (1) As used in this section, "reasonably available" means available using typical
4494 insurance carriers and markets, irrespective of the ability of the association of unit owners to
4495 pay.
- 4496 (2) (a) This section applies to an insurance policy or combination of insurance policies:
4497 (i) issued or renewed on or after July 1, 2011; and
4498 (ii) issued to or renewed by:
4499 (A) a unit owner; or
4500 (B) an association of unit owners, regardless of when the association of unit owners is
4501 formed.
- 4502 (b) Unless otherwise provided in the declaration, this section does not apply to a
4503 commercial condominium project insured under a policy or combination of policies issued or
4504 renewed on or after July 1, [~~2013~~] 2014.
- 4505 (3) Beginning not later than the day on which the first unit is conveyed to a person
4506 other than a declarant, an association of unit owners shall maintain, to the extent reasonably
4507 available:
4508 (a) subject to Subsection (9), blanket property insurance or guaranteed replacement

4509 cost insurance on the physical structures in the condominium project, including common areas
4510 and facilities, limited common areas and facilities, and units, insuring against all risks of direct
4511 physical loss commonly insured against, including fire and extended coverage perils; and

4512 (b) subject to Subsection (10), liability insurance covering all occurrences commonly
4513 insured against for death, bodily injury, and property damage arising out of or in connection
4514 with the use, ownership, or maintenance of the common areas and facilities.

4515 (4) If an association of unit owners becomes aware that property insurance under
4516 Subsection (3)(a) or liability insurance under Subsection (3)(b) is not reasonably available, the
4517 association of unit owners shall, within seven calendar days after becoming aware, give all unit
4518 owners notice, as provided in Section 57-8-42, that the insurance is not reasonably available.

4519 (5) (a) The declaration or bylaws may require the association of unit owners to carry
4520 other types of insurance in addition to those described in Subsection (3).

4521 (b) In addition to any type of insurance coverage or limit of coverage provided in the
4522 declaration or bylaws and subject to the requirements of this section, an association of unit
4523 owners may, as the management committee considers appropriate, obtain:

4524 (i) an additional type of insurance than otherwise required; or

4525 (ii) a policy with greater coverage than otherwise required.

4526 (6) Unless a unit owner is acting within the scope of the unit owner's authority on
4527 behalf of an association of unit owners, a unit owner's act or omission may not:

4528 (a) void a property insurance policy under Subsection (3)(a) or a liability insurance
4529 policy under Subsection (3)(b); or

4530 (b) be a condition to recovery under a policy.

4531 (7) An insurer under a property insurance policy or liability insurance policy obtained
4532 by an association of unit owners under this section waives the insurer's right to subrogation
4533 under the policy against:

4534 (a) any person residing with the unit owner, if the unit owner resides in the unit; and

4535 (b) the unit owner.

4536 (8) (a) An insurance policy issued to an association of unit owners may not be
4537 inconsistent with any provision of this section.

4538 (b) A provision of a declaration, bylaw, rule, or other document governing the
4539 association of unit owners that is contrary to a provision of this section has no effect.

4540 (c) Neither the governing documents nor a property insurance or liability insurance
4541 policy issued to an association of unit owners may prevent a unit owner from obtaining
4542 insurance for the unit owner's own benefit.

4543 (9) (a) This Subsection (9) applies to property insurance required under Subsection
4544 (3)(a).

4545 (b) The total amount of coverage provided by blanket property insurance or guaranteed
4546 replacement cost insurance may not be less than 100% of the full replacement cost of the
4547 insured property at the time the insurance is purchased and at each renewal date, excluding:

4548 (i) items normally excluded from property insurance policies; and

4549 (ii) unless otherwise provided in the declaration, any commercial condominium unit in
4550 a mixed-use condominium project, including any fixture, improvement, or betterment in a
4551 commercial condominium unit in a mixed-use condominium project.

4552 (c) Property insurance shall include coverage for any fixture, improvement, or
4553 betterment installed at any time to a unit or to a limited common area associated with a unit,
4554 whether installed in the original construction or in any remodel or later alteration, including a
4555 floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall
4556 covering, window, and any other item permanently part of or affixed to a unit or to a limited
4557 common element associated with a unit.

4558 (d) Notwithstanding anything in this section and unless otherwise provided in the
4559 declaration, an association of unit owners is not required to obtain property insurance for a loss
4560 to a unit that is not physically attached to:

4561 (i) another unit; or

4562 (ii) a structure that is part of a common area or facility.

4563 (e) Each unit owner is an insured person under a property insurance policy.

4564 (f) If a loss occurs that is covered by a property insurance policy in the name of an
4565 association of unit owners and another property insurance policy in the name of a unit owner:

4566 (i) the association's policy provides primary insurance coverage; and

4567 (ii) notwithstanding Subsection (9)(f)(i) and subject to Subsection (9)(g):

4568 (A) the unit owner is responsible for the deductible of the association of unit owners;

4569 and

4570 (B) building property coverage, often referred to as coverage A, of the unit owner's

4571 policy applies to that portion of the loss attributable to the policy deductible of the association
4572 of unit owners.

4573 (g) (i) As used in this Subsection (9)(g) and Subsection (9)(j):

4574 (A) "Covered loss" means a loss, resulting from a single event or occurrence, that is
4575 covered by a property insurance policy of an association of unit owners.

4576 (B) "Unit damage" means damage to a unit or to a limited common area or facility
4577 appurtenant to that unit, or both.

4578 (C) "Unit damage percentage" means the percentage of total damage resulting in a
4579 covered loss that is attributable to unit damage.

4580 (ii) A unit owner who owns a unit that has suffered unit damage as part of a covered
4581 loss is responsible for an amount calculated by applying the unit damage percentage for that
4582 unit to the amount of the deductible under the property insurance policy of the association of
4583 unit owners.

4584 (iii) If a unit owner does not pay the amount required under Subsection (9)(g)(ii) within
4585 30 days after substantial completion of the repairs to the unit or limited common areas and
4586 facilities appurtenant to that unit, an association of unit owners may levy an assessment against
4587 the unit owner for that amount.

4588 (h) An association of unit owners shall set aside an amount equal to the amount of the
4589 association's property insurance policy deductible or, if the policy deductible exceeds \$10,000,
4590 an amount not less than \$10,000.

4591 (i) (i) An association of unit owners shall provide notice in accordance with Section
4592 [57-8-42](#) to each unit owner of the unit owner's obligation under Subsection (9)(g) for the
4593 association's policy deductible and of any change in the amount of the deductible.

4594 (ii) (A) An association of unit owners that fails to provide notice as provided in
4595 Subsection (9)(i)(i) is responsible for the portion of the deductible that the association of unit
4596 owners could have assessed to a unit owner under Subsection (9)(g), but only to the extent that
4597 the unit owner does not have insurance coverage that would otherwise apply under this
4598 Subsection (9).

4599 (B) Notwithstanding Subsection (9)(i)(ii), an association of unit owners that provides
4600 notice of the association's policy deductible, as required under Subsection (9)(i)(i), but fails to
4601 provide notice of a later increase in the amount of the deductible is responsible only for the

4602 amount of the increase for which notice was not provided.

4603 (iii) The failure of an association of unit owners to provide notice as provided in
4604 Subsection (9)(i)(i) may not be construed to invalidate any other provision of this section.

4605 (j) If, in the exercise of the business judgment rule, the management committee
4606 determines that a covered loss is likely not to exceed the property insurance policy deductible
4607 of the association of unit owners and until it becomes apparent the covered loss exceeds the
4608 deductible of the property insurance of the association of unit owners and a claim is submitted
4609 to the property insurance insurer of the association of unit owners:

4610 (i) a unit owner's policy is considered the policy for primary coverage for a loss
4611 occurring to the unit owner's unit or to a limited common area or facility appurtenant to the
4612 unit;

4613 (ii) the association of unit owners is responsible for any covered loss to any common
4614 areas and facilities;

4615 (iii) a unit owner who does not have a policy to cover the damage to that unit owner's
4616 unit and appurtenant limited common areas and facilities is responsible for that damage, and
4617 the association of unit owners may, as provided in Subsection (9)(g)(iii), recover any payments
4618 the association of unit owners makes to remediate that unit and appurtenant limited common
4619 areas and facilities; and

4620 (iv) the association of unit owners need not tender the claim to the association's
4621 insurer.

4622 (k) (i) An insurer under a property insurance policy issued to an association of unit
4623 owners shall adjust with the association of unit owners a loss covered under the association's
4624 policy.

4625 (ii) Notwithstanding Subsection (9)(k)(i), the insurance proceeds for a loss under a
4626 property insurance policy of an association of unit owners:

4627 (A) are payable to an insurance trustee that the association of unit owners designates
4628 or, if no trustee is designated, to the association of unit owners; and

4629 (B) may not be payable to a holder of a security interest.

4630 (iii) An insurance trustee or an association of unit owners shall hold any insurance
4631 proceeds in trust for the association of unit owners, unit owners, and lien holders.

4632 (iv) (A) If damaged property is to be repaired or restored, insurance proceeds shall be

4633 disbursed first for the repair or restoration of the damaged property.

4634 (B) After the disbursements described in Subsection (9)(k)(iv)(A) are made and the
4635 damaged property has been completely repaired or restored or the project terminated, any
4636 surplus proceeds are payable to the association of unit owners, unit owners, and lien holders, as
4637 provided in the declaration.

4638 (l) An insurer that issues a property insurance policy under this section, or the insurer's
4639 authorized agent, shall issue a certificate or memorandum of insurance to:

4640 (i) the association of unit owners;

4641 (ii) a unit owner, upon the unit owner's written request; and

4642 (iii) a holder of a security interest, upon the holder's written request.

4643 (m) A cancellation or nonrenewal of a property insurance policy under this section is
4644 subject to the procedures stated in Section [31A-21-303](#).

4645 (n) A management committee that acquires from an insurer the property insurance
4646 required in this section is not liable to unit owners if the insurance proceeds are not sufficient
4647 to cover 100% of the full replacement cost of the insured property at the time of the loss.

4648 (o) (i) Unless required in the declaration, property insurance coverage is not required
4649 for fixtures, improvements, or betterments in a commercial unit or limited common areas and
4650 facilities appurtenant to a commercial unit in a mixed-use condominium project.

4651 (ii) Notwithstanding any other provision of this section, an association of unit owners
4652 may obtain property insurance for fixtures, improvements, or betterments in a commercial unit
4653 in a mixed-use condominium project if allowed or required in the declaration.

4654 (p) (i) This Subsection (9) does not prevent a person suffering a loss as a result of
4655 damage to property from asserting a claim, either directly or through subrogation, for the loss
4656 against a person at fault for the loss.

4657 (ii) Subsection (9)(p)(i) does not affect Subsection (7).

4658 (10) (a) This Subsection (10) applies to a liability insurance policy required under
4659 Subsection (3)(b).

4660 (b) A liability insurance policy shall be in an amount determined by the management
4661 committee but not less than an amount specified in the declaration or bylaws.

4662 (c) Each unit owner is an insured person under a liability insurance policy that an
4663 association of unit owners obtains, but only for liability arising from:

- 4664 (i) the unit owner's ownership interest in the common areas and facilities;
 - 4665 (ii) maintenance, repair, or replacement of common areas and facilities; and
 - 4666 (iii) the unit owner's membership in the association of unit owners.
- 4667 Section 112. Section **57-8a-211 (Superseded 07/01/14)** is amended to read:
- 4668 **57-8a-211 (Superseded 07/01/14). Reserve analysis -- Reserve fund.**
- 4669 (1) As used in this section:
- 4670 (a) "Reserve analysis" means an analysis to determine:
- 4671 (i) the need for a reserve fund to accumulate money to cover the cost of repairing,
 - 4672 replacing, or restoring common areas that have a useful life of no fewer than three years but
 - 4673 less than 30 years, when the cost cannot reasonably be funded from the association's general
 - 4674 budget or from other association funds; and
 - 4675 (ii) the appropriate amount of any reserve fund.
- 4676 (b) "Reserve fund line item" means a line item in the annual budget of an association
- 4677 that identifies the amount to be placed into a reserve fund.
- 4678 (2) Except as otherwise provided in the governing documents, a board shall:
- 4679 (a) (i) subject to Subsection (2)(a)(ii), cause a reserve analysis to be conducted no less
- 4680 frequently than every six years; and
- 4681 (ii) if no reserve analysis has been conducted since March 1, 2008, cause a reserve
- 4682 analysis to be conducted before July 1, 2012; and
- 4683 (b) review and, if necessary, update a previously conducted reserve analysis no less
- 4684 frequently than every three years.
- 4685 (3) The board may conduct a reserve analysis itself or may engage a reliable person or
- 4686 organization, as determined by the board, to conduct the reserve analysis.
- 4687 (4) A reserve analysis shall include:
- 4688 (a) a list of the components identified in the reserve analysis that will reasonably
 - 4689 require reserve funds;
 - 4690 (b) a statement of the probable remaining useful life, as of the date of the reserve
 - 4691 analysis, of each component identified in the reserve analysis;
 - 4692 (c) an estimate of the cost to repair, replace, or restore each component identified in the
 - 4693 reserve analysis;
 - 4694 (d) an estimate of the total annual contribution to a reserve fund necessary to meet the

4695 cost to repair, replace, or restore each component identified in the reserve analysis during the
4696 component's useful life and at the end of the component's useful life; and

4697 (e) a reserve funding plan that recommends how the association may fund the annual
4698 contribution described in Subsection (4)(d).

4699 (5) Each year, an association shall provide:

4700 (a) a summary of the most recent reserve analysis, including any updates, to each lot
4701 owner; and

4702 (b) a complete copy of the most recent reserve analysis, including any updates, to a lot
4703 owner upon request.

4704 (6) (a) An association shall include a reserve fund line item in its annual budget.

4705 (b) The amount of the reserve fund line item shall be determined by:

4706 (i) the board, based on the reserve analysis and the amount that the board determines is
4707 prudent under the circumstances; or

4708 (ii) the governing documents, if the governing documents require an amount greater
4709 than the amount determined under Subsection (6)(b)(i).

4710 (c) Within 45 days after the day on which an association adopts its annual budget, the
4711 lot owners may veto the reserve fund line item by a 51% vote of the allocated voting interests
4712 in the association at a special meeting called by the lot owners for the purpose of voting
4713 whether to veto a reserve fund line item.

4714 (d) If the lot owners veto a reserve fund line item under Subsection (6)(c) and a reserve
4715 fund line item exists in a previously approved annual budget of the association that was not
4716 vetoed, the association shall fund the reserve account in accordance with that prior reserve fund
4717 line item.

4718 (7) (a) Subject to Subsection (7)(b), if an association does not comply with the
4719 requirements described in Subsection (5) or (6) and fails to remedy the noncompliance within
4720 the time specified in Subsection (7)(c), a lot owner may file an action in state court for:

4721 (i) injunctive relief requiring the association to comply with the requirements of
4722 Subsection (5) or (6);

4723 (ii) \$500 or the lot owner's actual damages, whichever is greater;

4724 (iii) any other remedy provided by law; and

4725 (iv) reasonable costs and attorney fees.

4726 (b) No fewer than 90 days before the day on which a lot owner files a complaint under
4727 Subsection (7)(a), the lot owner shall deliver written notice described in Subsection (7)(c) to
4728 the association.

4729 (c) A notice described in Subsection (7)(b) shall state:

4730 (i) the requirement in Subsection (5) or (6) with which the association has failed to
4731 comply;

4732 (ii) a demand that the association [~~of unit owners~~] come into compliance with the
4733 requirements; and

4734 (iii) a date, no fewer than 90 days after the day on which a lot owner delivers the
4735 notice, by which the association shall remedy its noncompliance.

4736 (d) In a case filed under Subsection (7)(a), a court may summarily order an association
4737 to produce the summary of the reserve analysis or the complete reserve analysis on an
4738 expedited basis and at the association's expense.

4739 (8) (a) A board may not use money in a reserve fund:

4740 (i) for daily maintenance expenses, unless a majority of association members vote to
4741 approve the use of reserve fund money for that purpose; or

4742 (ii) for any purpose other than the purpose for which the reserve fund was established.

4743 (b) A board shall maintain a reserve fund separate from other association funds.

4744 (c) This Subsection (4) may not be construed to limit a board from prudently investing
4745 money in a reserve fund, subject to any investment constraints imposed by the governing
4746 documents.

4747 (9) Subsections (2), (3), (4), and (6) do not apply to an association during the period of
4748 administrative control.

4749 (10) This section applies to each association, regardless of when the association was
4750 created.

4751 Section 113. Section **58-40-302** is amended to read:

4752 **58-40-302. Qualifications for licensure.**

4753 (1) An applicant for licensure under this chapter shall:

4754 (a) submit an application in a form prescribed by the division;

4755 (b) pay a fee determined by the department under [~~Subsection 63-38-3(2)~~] Section

4756 63J-1-504; and

- 4757 (c) be of good moral character.
- 4758 (2) In addition to the requirements of Subsection (1), an applicant for licensure as a
- 4759 master therapeutic recreation specialist under this chapter shall as defined by division rule:
- 4760 (a) complete an approved graduate degree;
- 4761 (b) complete 4,000 qualifying hours of paid experience as:
- 4762 (i) a licensed therapeutic recreation specialist if completed in the state; or
- 4763 (ii) a certified therapeutic recreation specialist certified by the National Council for
- 4764 Therapeutic Recreation Certification if completed outside of the state; and
- 4765 (c) pass an approved examination.
- 4766 (3) In addition to the requirements of Subsection (1), an applicant for licensure as a
- 4767 therapeutic recreation specialist under this chapter shall, as defined by division rule:
- 4768 (a) complete an approved:
- 4769 (i) bachelor's degree in therapeutic recreation or recreational therapy;
- 4770 (ii) bachelor's degree with an approved emphasis, option, or concentration in
- 4771 therapeutic recreation or recreational therapy; or
- 4772 (iii) graduate degree;
- 4773 (b) complete an approved practicum; and
- 4774 (c) pass an approved examination.
- 4775 (4) In addition to the requirements of Subsection (1), an applicant for licensure as a
- 4776 therapeutic recreation technician under this chapter shall, as defined by division rule:
- 4777 (a) have a high school diploma or GED equivalent;
- 4778 (b) complete an approved:
- 4779 (i) educational course in therapeutic recreation taught by a licensed master therapeutic
- 4780 recreation specialist; or
- 4781 (ii) six semester hours or nine quarter hours in therapeutic recreation or recreational
- 4782 therapy from an accredited college or university;
- 4783 (c) complete an approved practicum under the supervision of:
- 4784 (i) a licensed master therapeutic recreation specialist; or
- 4785 (ii) an on-site, full-time, employed therapeutic recreation specialist; and
- 4786 (d) pass an approved examination.
- 4787 Section 114. Section **58-60-506** is amended to read:

4788 **58-60-506. Qualifications for licensure on and after July 1, 2012.**

4789 (1) An applicant for licensure under this part on and after July 1, 2012, must meet the
4790 following qualifications:

4791 (a) submit an application in a form prescribed by the division;

4792 (b) pay a fee determined by the department under Section [63J-1-504](#);

4793 (c) be of good moral character;

4794 (d) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively; and

4795 (e) except for licensure as a certified substance use disorder counselor intern and a
4796 certified advanced substance use disorder counselor intern, satisfy the examination requirement
4797 established by division rule under Section [58-1-203](#).

4798 (2) In accordance with division rules, an applicant for licensure as an advanced
4799 substance use disorder counselor shall produce:

4800 (a) certified transcripts from an accredited institution of higher education that:

4801 (i) meet division standards;

4802 (ii) verify the satisfactory completion of a baccalaureate or graduate degree; and

4803 (iii) verify the completion of prerequisite courses established by division rules;

4804 (b) documentation of the applicant's completion of a substance use disorder education
4805 program that includes:

4806 (i) at least 300 hours of substance use disorder related education, of which 200 hours
4807 may have been obtained while qualifying for a substance use disorder counselor license; and

4808 (ii) a supervised practicum of at least 350 hours, of which 200 hours may have been
4809 obtained while qualifying for a substance use disorder counselor license; and

4810 (c) documentation of the applicant's completion of at least 4,000 hours of supervised
4811 experience in substance use disorder treatment, of which 2,000 hours may have been obtained
4812 while qualifying for a substance use disorder counselor license, that:

4813 (i) meets division standards; and

4814 (ii) is performed within a four-year period after the applicant's completion of the
4815 substance use disorder education program described in Subsection (2)(b), unless, as determined
4816 by the division after consultation with the board, the time for performance is extended due to
4817 an extenuating circumstance.

4818 (3) An applicant for licensure as a certified advanced substance use disorder counselor

4819 shall meet the requirements in Subsections (2)(a) and (b).

4820 (4) (a) An applicant for licensure as a certified advanced substance use disorder
4821 counselor intern shall meet the requirements in Subsections (2)(a) and (b).

4822 (b) A certified advanced substance use disorder counselor intern license expires at the
4823 earlier of:

4824 (i) the licensee passing the examination required for licensure as a certified advanced
4825 substance use disorder counselor; or

4826 (ii) six months after the certified advanced substance use disorder counselor intern
4827 license is issued.

4828 (5) In accordance with division rules, an applicant for licensure as a substance use
4829 disorder counselor shall produce:

4830 (a) certified transcripts from an accredited institution that:

4831 (i) meet division standards;

4832 (ii) verify satisfactory completion of an associate's degree or equivalent as defined by
4833 the division in rule; and

4834 (iii) verify the completion of prerequisite courses established by division rules;

4835 (b) documentation of the applicant's completion of a substance use disorder education
4836 program that includes:

4837 (i) completion of at least 200 hours of substance use disorder related education; and

4838 (ii) completion of a supervised practicum of at least 200 hours; and

4839 (c) documentation of the applicant's completion of at least 2,000 hours of supervised
4840 experience in substance use disorder treatment that:

4841 (i) meets division standards; and

4842 (ii) is performed within a two-year period after the applicant's completion of the
4843 substance use disorder education program described in Subsection (5)(b), unless, as determined
4844 by the division after consultation with the board, the time for performance is extended due to
4845 an extenuating circumstance.

4846 (6) An applicant for licensure as a certified substance use disorder counselor shall meet
4847 the requirements of Subsections (5)(a) and (b).

4848 (7) (a) An applicant for licensure as a certified substance use disorder counselor intern
4849 shall meet the requirements of Subsections (5)(a) and (b).

4850 (b) A certified substance use disorder counselor intern license expires at the earlier of:
4851 (i) the licensee passing the examination required for licensure as a certified substance
4852 use disorder counselor; or
4853 (ii) six months after the certified substance use disorder counselor intern license is
4854 issued.

4855 Section 115. Section **58-77-601** is amended to read:

4856 **58-77-601. Standards of practice.**

4857 (1) (a) Prior to providing any services, a licensed Direct-entry midwife must obtain an
4858 informed consent from a client.

4859 (b) The consent must include:

4860 (i) the name and license number of the Direct-entry midwife;

4861 (ii) the client's name, address, telephone number, and primary care provider, if the
4862 client has one;

4863 (iii) the fact, if true, that the licensed Direct-entry midwife is not a certified nurse
4864 midwife or a physician;

4865 (iv) a description of the licensed Direct-entry midwife's education, training, continuing
4866 education, and experience in midwifery;

4867 (v) a description of the licensed Direct-entry midwife's peer review process;

4868 (vi) the licensed Direct-entry midwife's philosophy of practice;

4869 (vii) a promise to provide the client, upon request, separate documents describing the
4870 rules governing licensed Direct-entry midwifery practice, including a list of conditions
4871 indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and
4872 the licensed Direct-entry midwife's personal written practice guidelines;

4873 (viii) a medical back-up or transfer plan;

4874 (ix) a description of the services provided to the client by the licensed Direct-entry
4875 midwife;

4876 (x) the licensed Direct-entry midwife's current legal status;

4877 (xi) the availability of a grievance process;

4878 (xii) client and licensed Direct-entry midwife signatures and the date of signing; and

4879 (xiii) whether the licensed Direct-entry midwife is covered by a professional liability
4880 insurance policy.

- 4881 (2) A licensed Direct-entry midwife shall:
- 4882 (a) (i) limit the licensed Direct-entry midwife's practice to a normal pregnancy, labor,
- 4883 postpartum, newborn and interconceptual care, which for purposes of this section means a
- 4884 normal labor:
- 4885 (A) that is not pharmacologically induced;
- 4886 (B) that is low risk at the start of labor;
- 4887 (C) that remains low risk through out the course of labor and delivery;
- 4888 (D) in which the infant is born spontaneously in the vertex position between 37 and 43
- 4889 completed weeks of pregnancy; and
- 4890 (E) except as provided in Subsection (2)(a)(ii), in which after delivery, the mother and
- 4891 infant remain low risk; and
- 4892 (ii) the limitation of Subsection (2)(a)(i) does not prohibit a licensed Direct-entry
- 4893 midwife from delivering an infant when there is:
- 4894 (A) intrauterine fetal demise; or
- 4895 (B) a fetal anomaly incompatible with life; and
- 4896 (b) appropriately recommend and facilitate consultation with, collaboration with,
- 4897 referral to, or transfer or mandatory transfer of care to a licensed health care professional when
- 4898 the circumstances require that action in accordance with this section and standards established
- 4899 by division rule.
- 4900 (3) If after a client has been informed that she has or may have a condition indicating
- 4901 the need for medical consultation, collaboration, referral, or transfer and the client chooses to
- 4902 decline, then the licensed Direct-entry midwife shall:
- 4903 (a) terminate care in accordance with procedures established by division rule; or
- 4904 (b) continue to provide care for the client if the client signs a waiver of medical
- 4905 consultation, collaboration, referral, or transfer.
- 4906 (4) If after a client has been informed that she has or may have a condition indicating
- 4907 the need for mandatory transfer, the licensed Direct-entry midwife shall, in accordance with
- 4908 procedures established by division rule, terminate the care or initiate transfer by:
- 4909 (a) calling 911 and reporting the need for immediate transfer;
- 4910 (b) immediately transporting the client by private vehicle to the receiving provider; or
- 4911 (c) contacting the physician to whom the client will be transferred and following that

4912 physician's orders.

4913 (5) The standards for consultation and transfer [~~under Subsection 58-77-204(4)~~] are the
4914 minimum standards that a licensed Direct-entry midwife must follow. A licensed Direct-entry
4915 midwife shall initiate consultation, collaboration, referral, or transfer of a patient sooner than
4916 required by [~~Subsection 58-77-204(4) or~~] administrative rule if in the opinion and experience
4917 of the licensed Direct-entry midwife, the condition of the client or infant warrant a
4918 consultation, collaboration, referral, or transfer.

4919 (6) For the period from 2006 through 2011, a licensed Direct-entry midwife must
4920 submit outcome data to the Midwives' Alliance of North America's Division of Research on the
4921 form and in the manner prescribed by rule.

4922 (7) This chapter does not mandate health insurance coverage for midwifery services.

4923 Section 116. Section **59-14-302** is amended to read:

4924 **59-14-302. Tax basis -- Rates.**

4925 (1) As used in this section:

4926 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
4927 product charges after subtracting a discount.

4928 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
4929 regardless of:

4930 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

4931 (ii) who pays the original Utah destination freight charge.

4932 (2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

4933 (3) (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid
4934 by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

4935 (b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling
4936 machine shall be paid by the cigarette rolling machine operator.

4937 (4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced
4938 from a cigarette rolling machine, the rate of the tax under this section is .86 multiplied by the
4939 manufacturer's sales price.

4940 (5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is
4941 imposed:

4942 (i) at a rate of \$1.83 per ounce; and

4943 (ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

4944 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,
4945 a proportionate amount of the tax described in Subsection (5)(a) is imposed:

4946 (i) on that fractional part of one ounce; and

4947 (ii) in accordance with rules made by the commission in accordance with Title 63G,
4948 Chapter 3, Utah Administrative Rulemaking Act.

4949 (6) (a) A little cigar is taxed at the same tax rates [~~manner~~] as a cigarette is taxed under
4950 Subsection 59-14-204(2).

4951 (b) (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling
4952 machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

4953 (ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced
4954 from the cigarette rolling machine.

4955 (7) (a) Moisture content of a tobacco product is determined at the time of packaging.

4956 (b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

4957 (i) for a period of three years after the last day on which the manufacturer distributes
4958 the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of
4959 the tobacco product available for review by the commission, upon demand; and

4960 (ii) provide a document, to the person described in Subsection (3) to whom the
4961 manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco
4962 product, as verified by the scientific evidence described in Subsection (7)(b)(i).

4963 (c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is
4964 liable for the nonpayment or underpayment of taxes on the tobacco product by a person who
4965 relies, in good faith, on the document described in Subsection (7)(b)(ii).

4966 (d) A person described in Subsection (3) who is required to pay tax on a tobacco
4967 product:

4968 (i) shall, for a period of three years after the last day on which the person pays the tax
4969 on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for
4970 review by the commission, upon demand; and

4971 (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due
4972 to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

4973 Section 117. Section 63C-13-107 is amended to read:

4974 **63C-13-107. Compensation and expenses of authority members.**

4975 (1) Salaries and expenses of authority members who are legislators shall be paid in
4976 accordance with Section [36-2-2](#) and Legislative Joint Rules, Title 5, Chapter 3, [~~Expense and~~
4977 ~~Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto~~
4978 ~~Override Sessions~~] Legislator Compensation.

4979 (2) An authority member who is not a legislator may not receive compensation or
4980 benefits for the member's service on the authority, but may receive per diem and
4981 reimbursement for travel expenses incurred as an authority member at the rates established by
4982 the Division of Finance under:

4983 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

4984 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
4985 [63A-3-107](#).

4986 Section 118. Section **63G-12-306** is amended to read:

4987 **63G-12-306. Penalties.**

4988 (1) As used in this section:

4989 (a) "Applicable license" means a license issued under:

4990 (i) Title 32B, Alcoholic Beverage Control Act;

4991 (ii) Title 58, Occupations and Professions; or

4992 (iii) Title 61, Securities Division - Real Estate Division.

4993 (b) "First violation" means the first time the department imposes a penalty under this
4994 section, regardless of the number of individuals the private employer hired in violation of
4995 Subsection [63G-12-301\(1\)](#).

4996 (c) "Second violation" means the second time the department imposes a penalty under
4997 this section, regardless of the number of individuals the private employer hired in violation of
4998 Subsection [63G-12-301\(1\)](#).

4999 (d) "Third or subsequent violation" means a violation of Subsection [63G-12-301\(1\)](#)
5000 committed after a second violation.

5001 (2) (a) On or after the program start date, a private employer who violates Subsection
5002 [63G-12-301\(1\)](#) is subject to a penalty provided in this section under an action brought by the
5003 department in accordance with Section [~~63B-12-305~~] [63G-12-305](#).

5004 (b) For a first violation of Subsection [63G-12-301\(1\)](#), the department shall impose a

5005 civil penalty on the private employer not to exceed \$100 for each individual employed by the
5006 private employer during the time period specified in the notice of agency action who is an
5007 unauthorized alien who does not hold a valid permit.

5008 (c) For a second violation of Subsection ~~63G-12-301~~(1), the department shall impose a
5009 civil penalty on the private employer not to exceed \$500 for each individual employed by the
5010 private employer during the time period specified in the notice of agency action who is an
5011 unauthorized alien who does not hold a valid permit.

5012 (d) For a third or subsequent violation of Subsection [~~63-12-301~~] 63G-12-301(1), the
5013 department shall:

5014 (i) order the revocation of the one or more applicable licenses that are issued to an
5015 owner, officer, director, manager, or other individual in a similar position for the private
5016 employer for a period not to exceed one year; or

5017 (ii) if no individual described in Subsection (2)(d)(i) holds an applicable license,
5018 impose a civil penalty on the private employer not to exceed \$10,000.

5019 (3) (a) If the department finds a third or subsequent violation, the department shall
5020 notify the Department of Commerce and the Department of Alcoholic Beverage Control once
5021 the department's order:

5022 (i) is not appealed, and the time to appeal has expired; or

5023 (ii) is appealed, and is affirmed, in whole or in part on appeal.

5024 (b) The notice required under Subsection (3)(a) shall state:

5025 (i) that the department has found a third or subsequent violation;

5026 (ii) that any applicable license held by an individual described in Subsection (2)(d)(i) is
5027 to be revoked; and

5028 (iii) the time period for the revocation, not to exceed one year.

5029 (c) The department shall base its determination of the length of revocation under this
5030 section on evidence or information submitted to the department during the action under which
5031 a third or subsequent violation is found, and shall consider the following factors, if relevant:

5032 (i) the number of unauthorized aliens who do not hold a permit that are employed by
5033 the private employer;

5034 (ii) prior misconduct by the private employer;

5035 (iii) the degree of harm resulting from the violation;

5036 (iv) whether the private employer made good faith efforts to comply with any
5037 applicable requirements;

5038 (v) the duration of the violation;

5039 (vi) the role of the individuals described in Subsection (2)(d)(i) in the violation; and

5040 (vii) any other factor the department considers appropriate.

5041 (4) Within 10 business days of receipt of notice under Subsection (3), the Department
5042 of Commerce and the Department of Alcoholic Beverage Control shall:

5043 (a) (i) if the Department of Commerce or Alcoholic Beverage Control Commission has
5044 issued an applicable license to an individual described in Subsection (2)(d)(i), notwithstanding
5045 any other law, revoke the applicable license; and

5046 (ii) notify the department that the applicable license is revoked; or

5047 (b) if the Department of Commerce or Alcoholic Beverage Control Commission has
5048 not issued an applicable license to an individual described in Subsection (2)(d)(i), notify the
5049 department that an applicable license has not been issued to an individual described in
5050 Subsection (2)(d)(i).

5051 (5) If an individual described in Subsection (2)(d)(i) is licensed to practice law in the
5052 state and the department finds a third or subsequent violation of Subsection [63G-12-301](#)(1), the
5053 department shall notify the Utah State Bar of the third and subsequent violation.

5054 Section 119. Section [63I-1-253](#) is amended to read:

5055 **[63I-1-253](#). Repeal dates, Titles 53, 53A, and 53B.**

5056 The following provisions are repealed on the following dates:

5057 (1) Section [53-3-232](#), Conditional [~~licenses~~] license, is repealed July 1, 2015.

5058 (2) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program₂ is
5059 repealed July 1, 2020.

5060 (3) The State Instructional Materials Commission, created in Section [53A-14-101](#), is
5061 repealed July 1, 2016.

5062 (4) Subsections [53A-16-113](#)(3) and (4) are repealed December 31, 2016.

5063 (5) Section [53A-16-114](#) is repealed December 31, 2016.

5064 (6) Section [53A-17a-163](#), Performance-based Compensation Pilot Program₂ is repealed
5065 July 1, 2016.

5066 (7) Section [53B-24-402](#), Rural residency training program, is repealed July 1, 2015.

5067 ~~[(7)]~~ (8) Subsection [53C-3-203](#)(4)(b)(vii), which provides for the distribution of money
5068 from the Land Exchange Distribution Account to the Geological Survey for test wells, other
5069 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

5070 Section 120. Section **63I-1-263** is amended to read:

5071 **63I-1-263. Repeal dates, Titles 63A to 63M.**

5072 (1) Section [63A-4-204](#), authorizing the Risk Management Fund to provide coverage to
5073 any public school district which chooses to participate, is repealed July 1, 2016.

5074 (2) Subsections [63A-5-104](#)(4)(d) and (e) are repealed on July 1, 2014.

5075 (3) Section [63A-5-603](#), State Facility Energy Efficiency Fund, is repealed July 1, 2016.

5076 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
5077 1, 2018.

5078 ~~[(5) Section [53B-24-402](#), rural residency training program, is repealed July 1, 2015.]~~

5079 ~~[(6)]~~ (5) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is
5080 repealed July 1, 2014.

5081 ~~[(7)]~~ (6) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

5082 ~~[(8)]~~ (7) Subsection [63G-6a-1402](#)(7) authorizing certain transportation agencies to
5083 award a contract for a design-build transportation project in certain circumstances, is repealed
5084 July 1, 2015.

5085 ~~[(9)]~~ (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed
5086 July 1, 2020.

5087 ~~[(10)]~~ (9) The Resource Development Coordinating Committee, created in Section
5088 [63J-4-501](#), is repealed July 1, 2015.

5089 ~~[(11)]~~ (10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

5090 ~~[(12)]~~ (11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone
5091 Act, is repealed January 1, 2021.

5092 (b) Subject to Subsection ~~[(12)]~~ (11)(c), Sections [59-7-610](#) and [59-10-1007](#) regarding
5093 tax credits for certain persons in recycling market development zones, are repealed for taxable
5094 years beginning on or after January 1, 2021.

5095 (c) A person may not claim a tax credit under Section [59-7-610](#) or [59-10-1007](#):

5096 (i) for the purchase price of machinery or equipment described in Section [59-7-610](#) or
5097 [59-10-1007](#), if the machinery or equipment is purchased on or after January 1, 2021; or

5098 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
5099 the expenditure is made on or after January 1, 2021.

5100 (d) Notwithstanding Subsections ~~[(12)]~~ (11)(b) and (c), a person may carry forward a
5101 tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

5102 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

5103 (ii) (A) for the purchase price of machinery or equipment described in Section
5104 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
5105 2020; or

5106 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
5107 expenditure is made on or before December 31, 2020.

5108 ~~[(13)]~~ (12) (a) Section 63M-1-2507, Health Care Compact, is repealed on July 1, 2014.

5109 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

5110 (A) direct the Health System Reform Task Force to evaluate the issues listed in
5111 Subsection ~~[(13)]~~ (12)(b)(ii), and by January 1, 2013, develop and recommend criteria for the
5112 Legislature to use to negotiate the terms of the Health Care Compact; and

5113 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the
5114 member states that the Legislature determines are appropriate after considering the
5115 recommendations of the Health System Reform Task Force.

5116 (ii) The Health System Reform Task Force shall evaluate and develop criteria for the
5117 Legislature regarding:

5118 (A) the impact of the Supreme Court ruling on the Affordable Care Act;

5119 (B) whether Utah is likely to be required to implement any part of the Affordable Care
5120 Act prior to negotiating the compact with the federal government, such as Medicaid expansion
5121 in 2014;

5122 (C) whether the compact's current funding formula, based on adjusted 2010 state
5123 expenditures, is the best formula for Utah and other state compact members to use for
5124 establishing the block grants from the federal government;

5125 (D) whether the compact's calculation of current year inflation adjustment factor,
5126 without consideration of the regional medical inflation rate in the current year, is adequate to
5127 protect the state from increased costs associated with administering a state based Medicaid and
5128 a state based Medicare program;

5129 (E) whether the state has the flexibility it needs under the compact to implement and
5130 fund state based initiatives, or whether the compact requires uniformity across member states
5131 that does not benefit Utah;

5132 (F) whether the state has the option under the compact to refuse to take over the federal
5133 Medicare program;

5134 (G) whether a state based Medicare program would provide better benefits to the
5135 elderly and disabled citizens of the state than a federally run Medicare program;

5136 (H) whether the state has the infrastructure necessary to implement and administer a
5137 better state based Medicare program;

5138 (I) whether the compact appropriately delegates policy decisions between the
5139 legislative and executive branches of government regarding the development and
5140 implementation of the compact with other states and the federal government; and

5141 (J) the impact on public health activities, including communicable disease surveillance
5142 and epidemiology.

5143 ~~[(14)]~~ (13) The Crime Victim Reparations and Assistance Board, created in Section
5144 63M-7-504, is repealed July 1, 2017.

5145 ~~[(15)]~~ (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
5146 2017.

5147 Section 121. Section 63I-2-217 is amended to read:

5148 **63I-2-217. Repeal dates -- Title 17.**

5149 (1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and"
5150 and ", as applicable," is repealed January 1, 2015.

5151 (2) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

5152 (3) Subsection 17-24-1(4)(b), the language that states ", as applicable, Sections
5153 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

5154 (4) Subsection 17-24-4(2), the language that states ", as applicable, Subsection
5155 17-19-3(3)(b) or" is repealed January 1, 2015.

5156 ~~[(5) Subsection 17-27a-305(2) is repealed July 1, 2013.]~~

5157 ~~[(6)]~~ (5) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the
5158 second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive
5159 as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

5160 (b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is
5161 repealed January 1, 2015.

5162 (c) Subsection 17-36-3(7), the language that states "17-19-3," and ", or [~~17-24-1.1~~]
5163 17-24-4, as applicable" is repealed January 1, 2015.

5164 [~~7~~] (6) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as
5165 applicable, or" is repealed January 1, 2015.

5166 [~~8~~] (7) Subsection 17-36-10(1), the language that states the following is repealed
5167 January 1, 2015:

5168 "(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
5169 sixth class is not subject to the provisions of this section; and

5170 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
5171 is subject to the provisions of this section."

5172 [~~9~~] (8) Section 17-36-10.1 is repealed January 1, 2015.

5173 [~~10~~] (9) Subsection 17-36-11(1), the language that states the following is repealed
5174 January 1, 2015:

5175 "(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
5176 sixth class is not subject to the provisions of this section; and

5177 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
5178 is subject to the provisions of this section."

5179 [~~11~~] (10) Section 17-36-11.1 is repealed January 1, 2015.

5180 [~~12~~] (11) Subsection 17-36-15(1), the language that states the following is repealed
5181 January 1, 2015:

5182 "(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
5183 sixth class is not subject to the provisions of this section; and

5184 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
5185 is subject to the provisions of this section."

5186 [~~13~~] (12) Section 17-36-15.1 is repealed January 1, 2015.

5187 [~~14~~] (13) Subsection 17-36-20(1), the language that states the following is repealed
5188 January 1, 2015:

5189 "(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
5190 sixth class is not subject to the provisions of this section; and

5191 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
5192 is subject to the provisions of this section."

5193 [~~(15)~~] (14) Section 17-36-20.1 is repealed January 1, 2015.

5194 [~~(16)~~] (15) Subsection 17-36-32(4), the language that states "or 17-36-20.1, as
5195 applicable, and" is repealed January 1, 2015.

5196 [~~(17)~~] (16) Subsection 17-36-43(1), the language that states the following is repealed
5197 January 1, 2015:

5198 "(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
5199 sixth class is not subject to the provisions of this section; and

5200 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
5201 is subject to the provisions of this section."

5202 [~~(18)~~] (17) Section 17-36-43.1 is repealed January 1, 2015.

5203 [~~(19)~~] (18) Section 17-36-44, the language that states "or 17-36-43.1, as applicable" is
5204 repealed January 1, 2015.

5205 [~~(20)~~] (19) Subsection 17-50-401(1), the language that states the following is repealed
5206 January 1, 2015:

5207 "(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
5208 sixth class is not subject to the provisions of this section; and

5209 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
5210 is subject to the provisions of this section."

5211 [~~(21)~~] (20) Section 17-50-401.1 is repealed January 1, 2015.

5212 [~~(22)~~] (21) Subsection 17-52-101(2), the language that states "or 17-52-401.1, as
5213 applicable" is repealed January 1, 2015.

5214 [~~(23)~~] (22) Subsection 17-52-401(1), the language that states the following is repealed
5215 January 1, 2015:

5216 "(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or
5217 sixth class is not subject to the provisions of this section; and

5218 (b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class
5219 is subject to the provisions of this section."

5220 [~~(24)~~] (23) Section 17-52-401.1 is repealed January 1, 2015.

5221 [~~(25)~~] (24) Subsection 17-52-403(1)(a), the language that states "or 17-52-401.1(2)(c),

5222 as applicable" is repealed January 1, 2015.

5223 ~~[(26)]~~ (25) On January 1, 2015, when making the changes in this section, the Office of
5224 Legislative Research and General Counsel shall:

5225 (a) in addition to its authority under Subsection ~~36-12-12~~(3), make corrections
5226 necessary to ensure that sections and subsections identified in this section are complete
5227 sentences and accurately reflect the office's perception of the Legislature's intent; and

5228 (b) identify the text of the affected sections and subsections based upon the section and
5229 subsection numbers used in Laws of Utah 2012, Chapter 17.

5230 Section 122. Section ~~63I-2-236~~ is amended to read:

5231 **63I-2-236. Repeal dates -- Title 36.**

5232 ~~[(1)]~~ Section ~~36-12-15.1~~ is repealed July 1, 2015.

5233 ~~[(2) Sections 36-16a-101 through 36-16a-108 are repealed January 1, 2013.]~~

5234 Section 123. Section ~~63I-2-253~~ is amended to read:

5235 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

5236 (1) Section ~~53A-1-402.7~~ is repealed July 1, 2014.

5237 (2) Section ~~53A-1-403.5~~ is repealed July 1, 2017.

5238 (3) Section ~~53A-1-411~~ is repealed July 1, 2016.

5239 ~~[(4) Section 53A-1-412 is repealed July 1, 2013.]~~

5240 ~~[(5)]~~ (4) Section ~~53A-1a-513.5~~ is repealed July 1, 2017.

5241 ~~[(6)]~~ (5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2014.

5242 ~~[(7)]~~ (6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is
5243 repealed July 1, 2017.

5244 ~~[(8) Subsection 53A-13-110(4) is repealed July 1, 2013.]~~

5245 ~~[(9)]~~ (7) Section ~~53A-17a-169~~ is repealed July 1, 2016.

5246 Section 124. Section ~~63I-2-277~~ is amended to read:

5247 **63I-2-277. Repeal dates, Title 77.**

5248 ~~[(1) Section 77-2a-3.1 is repealed June 30, 2008.]~~

5249 ~~[(2)]~~ Subsection ~~77-32-304.5~~(2)(d)(i), the language that states "or ~~17-50-401.1~~, as
5250 applicable" is repealed January 1, 2015.

5251 Section 125. Section ~~63I-4a-202~~ is amended to read:

5252 **63I-4a-202. Free Market Protection and Privatization Board -- Created --**

5253 **Membership -- Operations -- Expenses.**

5254 (1) (a) There is created [a] the Free Market Protection and Privatization [Policy] Board
5255 composed of 17 members.

5256 (b) The governor shall appoint board members as follows:

5257 (i) two senators, one each from the majority and minority political parties, from names
5258 recommended by the president of the Senate;

5259 (ii) two representatives, one each from the majority and minority political parties, from
5260 names recommended by the speaker of the House of Representatives;

5261 (iii) two members representing public employees, from names recommended by the
5262 largest public employees' association;

5263 (iv) one member from state management;

5264 (v) seven members from the private business community;

5265 (vi) one member representing the Utah League of Cities and Towns from names
5266 recommended by the Utah League of Cities and Towns;

5267 (vii) one member representing the Utah Association of Counties from names
5268 recommended by the Utah Association of Counties; and

5269 (viii) one member representing the Utah Association of Special Districts, from names
5270 recommended by the Utah Association of Special Districts.

5271 (2) (a) Except as provided in Subsection (2)(b), a board member shall serve a two-year
5272 term.

5273 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
5274 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
5275 board members are staggered so that approximately half of the board is appointed every [~~two~~
5276 years] year.

5277 (3) (a) A board member shall hold office until the board member's successor is
5278 appointed and qualified.

5279 (b) When a vacancy occurs in the membership for any reason, a replacement shall be
5280 appointed for the unexpired term.

5281 (c) Nine members of the board constitute a quorum.

5282 (d) The vote of a majority of board members voting when a quorum is present is
5283 necessary for the board to act.

5284 (4) (a) The board shall select one of the members to serve as chair of the board.

5285 (b) A chair shall serve as chair for a term of one-year, and may be selected as chair for
5286 more than one term.

5287 (5) The Governor's Office of Management and Budget shall staff the board. The board
5288 may contract for additional staff from the private sector under Section 63I-4a-204.

5289 (6) The board shall meet:

5290 (a) at least quarterly; and

5291 (b) as necessary to conduct its business, as called by the chair.

5292 (7) A member may not receive compensation or benefits for the member's service, but
5293 may receive per diem and travel expenses in accordance with:

5294 (a) Section 63A-3-106;

5295 (b) Section 63A-3-107; and

5296 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5297 63A-3-107.

5298 Section 126. Section 63J-1-206 is amended to read:

5299 **63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**

5300 **Transfer of funds -- Exclusion.**

5301 (1) As used in this section, "work program" means a budget that contains revenues and
5302 expenditures for specific purposes or functions within an item of appropriation.

5303 (2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in
5304 the appropriating act:

5305 (i) all money appropriated by the Legislature is appropriated upon the terms and
5306 conditions set forth in this chapter; and

5307 (ii) any department, agency, or institution that accepts money appropriated by the
5308 Legislature does so subject to the requirements of this chapter.

5309 (b) This section does not apply to:

5310 (i) the Legislature and its committees; and

5311 (ii) the Investigation Account of the Water Resources Construction Fund, which is
5312 governed by Section 73-10-8.

5313 (3) (a) Each appropriation item is to be expended subject to any schedule of programs
5314 and any restriction attached to the appropriation item, as designated by the Legislature.

- 5315 (b) Each schedule of programs or restriction attached to an appropriation item:
5316 (i) is a restriction or limitation upon the expenditure of the respective appropriation
5317 made;
5318 (ii) does not itself appropriate any money; and
5319 (iii) is not itself an item of appropriation.
- 5320 (c) An appropriation or any surplus of any appropriation may not be diverted from any
5321 department, agency, institution, or division to any other department, agency, institution, or
5322 division.
- 5323 (d) The money appropriated subject to a schedule or programs or restriction may be
5324 used only for the purposes authorized.
- 5325 (e) In order for a department, agency, or institution to transfer money appropriated to it
5326 from one program to another program within an item of appropriation, the following procedure
5327 shall be followed:
- 5328 (i) The department, agency, or institution seeking to make the transfer shall prepare:
5329 (A) a new work program for the fiscal year involved that consists of the currently
5330 approved work program and the transfer sought to be made; and
5331 (B) a written justification for the new work program that sets forth the purpose and
5332 necessity for the transfer.
- 5333 (ii) The Division of Finance shall process the new work program with written
5334 justification and make this information available to the Governor's Office of Management and
5335 Budget and the legislative fiscal analyst.
- 5336 (f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from
5337 one item of appropriation to any other item of appropriation.
- 5338 (ii) The state superintendent may transfer money appropriated for the Minimum School
5339 Program between line items of appropriation in accordance with Section [53A-17a-105](#).
- 5340 (g) (i) The procedures for transferring money between programs within an item of
5341 appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State
5342 Board of Education for the Minimum School Program or capital outlay programs created in
5343 Title 53A, Chapter 21, Public Education Capital Outlay Act.
- 5344 (ii) The state superintendent may transfer money appropriated for the programs
5345 specified in Subsection (3)(g)(i) only as provided by Section [53A-17a-105](#).

5346 Section 127. Section **63J-1-505** is amended to read:

5347 **63J-1-505. Payment of fees prerequisite to service -- Exception.**

5348 (1) (a) State and county officers required by law to charge fees may not perform any
5349 official service unless the fees prescribed for that service are paid in advance.

5350 (b) When the fee is paid, the officer shall perform the services required.

5351 (c) An officer is liable upon the officer's official bond for every failure or refusal to
5352 perform an official duty when the fees are tendered.

5353 (2) (a) Except as provided in Subsection (2)(b), no fees may be charged:

5354 (i) to the officer's state, or any county or subdivision of the state;

5355 (ii) to any public officer acting for the state, county, or subdivision;

5356 (iii) in cases of habeas corpus;

5357 (iv) in criminal causes before final judgment;

5358 (v) for administering and certifying the oath of office;

5359 (vi) for swearing pensioners and their witnesses; or

5360 (vii) for filing and recording bonds of public officers.

5361 (b) Fees may be charged for payment:

5362 (i) of recording fees for assessment area recordings in compliance with Section
5363 [11-42-205](#);

5364 (ii) of recording fees for judgments recorded in compliance with Sections [57-3-106](#) and
5365 [\[78A-7-117\] 78A-7-105](#); and

5366 (iii) to the state engineer under Section [73-2-14](#).

5367 Section 128. Section **63J-1-602.3** is amended to read:

5368 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

5369 (1) Funding for the Search and Rescue Financial Assistance Program, as provided in
5370 Section [\[53-2a-1101\] 53-2a-1102](#).

5371 (2) Appropriations made to the Division of Emergency Management from the State
5372 Disaster Recovery Restricted Account, as provided in Section [53-2a-603](#).

5373 (3) Appropriations made to the Department of Public Safety from the Department of
5374 Public Safety Restricted Account, as provided in Section [53-3-106](#).

5375 (4) Appropriations to the Motorcycle Rider Education Program, as provided in Section
5376 [53-3-905](#).

- 5377 (5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account
5378 created in Section [53-8-303](#).
- 5379 (6) Appropriations from the DNA Specimen Restricted Account created in Section
5380 [53-10-407](#).
- 5381 (7) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 5382 (8) Appropriations to the State Board of Education, as provided in Section
5383 [53A-17a-105](#).
- 5384 (9) Money received by the State Office of Rehabilitation for the sale of certain products
5385 or services, as provided in Section [53A-24-105](#).
- 5386 (10) Certain funds appropriated from the General Fund to the State Board of Regents
5387 for teacher preparation programs, as provided in Section [53B-6-104](#).
- 5388 (11) Funding for the Medical Education Program administered by the Medical
5389 Education Council, as provided in Section [53B-24-202](#).
- 5390 [~~(11)~~] (12) A certain portion of money collected for administrative costs under the
5391 School Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 5392 [~~(12)~~] (13) Certain surcharges on residential and business telephone numbers imposed
5393 by the Public Service Commission, as provided in Section [54-8b-10](#).
- 5394 [~~(13)~~] (14) Certain fines collected by the Division of Occupational and Professional
5395 Licensing for violation of unlawful or unprofessional conduct that are used for education and
5396 enforcement purposes, as provided in Section [58-17b-505](#).
- 5397 [~~(14)~~] (15) Certain fines collected by the Division of Occupational and Professional
5398 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
5399 provided in Section [58-63-103](#).
- 5400 [~~(15)~~] (16) Appropriations from the Relative Value Study Restricted Account created
5401 in Section [59-9-105](#).
- 5402 [~~(16)~~] (17) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
- 5403 Section 129. Section **63J-1-602.4** is amended to read:
- 5404 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63M.**
- 5405 (1) Funds paid to the Division of Real Estate for the cost of a criminal background
5406 check for a mortgage loan license, as provided in Section [61-2c-202](#).
- 5407 (2) Funds paid to the Division of Real Estate for the cost of a criminal background

5408 check for principal broker, associate broker, and sales agent licenses, as provided in Section
5409 61-2f-204.

5410 (3) Certain funds donated to the Department of Human Services, as provided in
5411 Section 62A-1-111.

5412 (4) Certain funds donated to the Division of Child and Family Services, as provided in
5413 Section 62A-4a-110.

5414 (5) Appropriations from the Choose Life Adoption Support Restricted Account created
5415 in Section 62A-4a-608.

5416 (6) Appropriations to the Division of Services for People with Disabilities, as provided
5417 in Section 62A-5-102.

5418 (7) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
5419 provided in Section 63C-6-104.

5420 [~~(8)~~] Funding for the Medical Education Program administered by the Medical
5421 Education Council, as provided in Section 53B-24-202.;

5422 [~~(9)~~] (8) Certain money payable for commission expenses of the Pete Suazo Utah
5423 Athletic Commission, as provided under Section 63C-11-301.

5424 [~~(10)~~] (9) Funds appropriated or collected for publishing the Division of
5425 Administrative Rules' publications, as provided in Section 63G-3-402.

5426 [~~(11)~~] (10) The Immigration Act Restricted Account created in Section 63G-12-103.

5427 [~~(12)~~] (11) Money received by the military installation development authority, as
5428 provided in Section 63H-1-504.

5429 [~~(13)~~ The appropriation] (12) Appropriations to fund the Governor's Office of
5430 Economic Development's Enterprise Zone Act, as provided in [Section 63M-1-416] Title 63M,
5431 Chapter 1, Part 4, Enterprise Zone Act.

5432 [~~(14)~~] (13) The Motion Picture Incentive Account created in Section 63M-1-1803.

5433 [~~(15)~~] (14) Appropriations to the Utah Science Technology and Research Governing
5434 Authority, created under Section 63M-2-301, as provided under Section 63M-2-302.

5435 Section 130. Section 63M-1-3203 is amended to read:

5436 **63M-1-3203. STEM Action Center Board -- Duties.**

5437 (1) The board shall:

5438 (a) establish a STEM Action Center [program] to:

- 5439 (i) coordinate STEM activities in the state among the following stakeholders:
- 5440 (A) the State Board of Education;
- 5441 (B) school districts and charter schools;
- 5442 (C) the State Board of Regents;
- 5443 (D) institutions of higher education;
- 5444 (E) parents of home-schooled students; and
- 5445 (F) other state agencies;
- 5446 (ii) align public education STEM activities with higher education STEM activities; and
- 5447 (iii) create and coordinate best practices among public education and higher education;
- 5448 (b) with the consent of the Senate, appoint an executive director to oversee the
- 5449 administration of the STEM Action Center;
- 5450 (c) select a physical location for the STEM Action Center;
- 5451 (d) strategically engage industry and business entities to cooperate with the board:
- 5452 (i) to support professional development and provide other assistance for educators and
- 5453 students; and
- 5454 (ii) to provide private funding and support for the STEM Action Center;
- 5455 (e) give direction to the STEM Action Center and the providers selected through a
- 5456 request for proposals process pursuant to this part; and
- 5457 (f) work to meet the following expectations:
- 5458 (i) that at least 50 educators are implementing best practice learning tools in
- 5459 classrooms per each product specialist or manager working with the STEM Action Center;
- 5460 (ii) performance change in student achievement in each classroom working with a
- 5461 STEM Action Center product specialist or manager; and
- 5462 (iii) that students from at least 50 high schools participate in the STEM competitions,
- 5463 fairs, and camps described in Subsection [63M-1-3204\(2\)\(d\)](#).
- 5464 (2) The board may:
- 5465 (a) enter into contracts for the purposes of this part;
- 5466 (b) apply for, receive, and disburse funds, contributions, or grants from any source for
- 5467 the purposes set forth in this part;
- 5468 (c) employ, compensate, and prescribe the duties and powers of individuals necessary
- 5469 to execute the duties and powers of the board;

5470 (d) prescribe the duties and powers of the STEM Action Center providers; and
5471 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5472 make rules to administer this part.

5473 Section 131. Section **70A-2a-533** is amended to read:

5474 **70A-2a-533. Effective date.**

5475 (1) Except as provided in Subsection (2), this act takes effect on July 1, 1990 and shall
5476 apply to all lease contracts that are first made or that first become effective between the parties
5477 on or after that date, but shall not apply to lease contracts first made or that first became
5478 effective prior to that date unless the parties thereto specifically agree in writing that the lease
5479 contract as extended, amended, modified, renewed or supplemented, shall be governed by
5480 applicable law as supplemented or amended by this act. Absent such specific agreement
5481 transactions validly entered into before that date and the rights, duties, and interests flowing
5482 from them remain valid thereafter and may be terminated, completed, consummated or
5483 enforced as though this act had not taken effect.

5484 (2) The amendments to former Sections [70A-1-201](#), [70A-9-113](#), [70A-9-306](#), and
5485 [70A-9-318](#) take effect on July 1, 1990.

5486 Section 132. Section **76-1-501** is amended to read:

5487 **76-1-501. Presumption of innocence -- "Element of the offense" defined.**

5488 (1) A defendant in a criminal proceeding is presumed to be innocent until each element
5489 of the offense charged against him is proved beyond a reasonable doubt. In the absence of this
5490 proof, the defendant shall be acquitted.

5491 (2) As used in this part [~~the words~~], "element of the offense" [~~mean~~] means:

5492 (a) the conduct, attendant circumstances, or results of conduct proscribed, prohibited,
5493 or forbidden in the definition of the offense; and

5494 (b) the culpable mental state required.

5495 (3) The existence of jurisdiction and venue are not elements of the offense but shall be
5496 established by a preponderance of the evidence.

5497 Section 133. Section **76-5-102.4** is amended to read:

5498 **76-5-102.4. Assault against peace officer or a military servicemember in uniform**
5499 **-- Penalties.**

5500 (1) As used in this section:

- 5501 (a) "Military servicemember in uniform" means:
- 5502 (i) a member of any branch of the United States military who is wearing a uniform as
- 5503 authorized by the member's branch of service; or
- 5504 (ii) a member of the National Guard serving as provided in Section 39-1-5 or 39-1-9.
- 5505 (b) "Peace officer" means a law enforcement officer certified under Section 53-13-103.
- 5506 (2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3)
- 5507 and (4), who:
- 5508 (a) assaults a peace officer, with knowledge that the person is a peace officer, and when
- 5509 the peace officer is acting within the scope of authority as a peace officer; or
- 5510 (b) assaults a military servicemember in uniform when that servicemember is on orders
- 5511 and acting within the scope of authority granted to the military servicemember in uniform.
- 5512 (3) A person who violates Subsection (2) is guilty of a third degree felony if the
- 5513 person:
- 5514 (a) has been previously convicted of a [~~violation of a~~] class A misdemeanor or a felony
- 5515 violation of this section; or
- 5516 (b) the person causes substantial bodily injury.
- 5517 (4) A person who violates Subsection (2) is guilty of a second degree felony if the
- 5518 person uses:
- 5519 (a) a dangerous weapon as defined in Section 76-1-601; or
- 5520 (b) other means or force likely to produce death or serious bodily injury.
- 5521 (5) A person who violates this section shall serve, in jail or another correctional
- 5522 facility, a minimum of:
- 5523 (a) 90 consecutive days for a second offense; and
- 5524 (b) 180 consecutive days for each subsequent offense.
- 5525 (6) The court may suspend the imposition or execution of the sentence required under
- 5526 Subsection (5) if the court finds that the interests of justice would be best served by the
- 5527 suspension and the court makes specific findings concerning the disposition on the record.
- 5528 (7) This section does not affect or limit any individual's constitutional right to the
- 5529 lawful expression of free speech, the right of assembly, or any other recognized rights secured
- 5530 by the Constitution or laws of Utah or by the Constitution or laws of the United States.
- 5531 Section 134. Section **78A-2-301** is amended to read:

5532 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

5533 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
5534 court of record not governed by another subsection is \$360.

5535 (b) The fee for filing a complaint or petition is:

5536 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,
5537 interest, and attorney fees is \$2,000 or less;

5538 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
5539 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

5540 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

5541 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
5542 4, Separate Maintenance;

5543 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5; and

5544 (vi) \$125 if the petition is for removal from the Sex Offender and Kidnap Offender
5545 Registry under [~~Subsection 77-27-21.5(32)~~] Section 77-41-112.

5546 (c) The fee for filing a small claims affidavit is:

5547 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
5548 interest, and attorney fees is \$2,000 or less;

5549 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
5550 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

5551 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
5552 interest, and attorney fees is \$7,500 or more.

5553 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
5554 complaint, or other claim for relief against an existing or joined party other than the original
5555 complaint or petition is:

5556 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
5557 \$2,000 or less;

5558 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is
5559 greater than \$2,000 and less than \$10,000;

5560 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is
5561 \$10,000 or more, or the party seeks relief other than monetary damages; and

5562 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,

5563 Chapter 4, Separate Maintenance.

5564 (e) The fee for filing a small claims counter affidavit is:

5565 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
5566 \$2,000 or less;

5567 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
5568 greater than \$2,000, but less than \$7,500; and

5569 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
5570 \$7,500 or more.

5571 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
5572 action already before the court is determined under Subsection (1)(b) based on the amount
5573 deposited.

5574 (g) The fee for filing a petition is:

5575 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims
5576 department; and

5577 (ii) \$65 for an appeal of a municipal administrative determination in accordance with
5578 Section 10-3-703.7.

5579 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
5580 petition for writ of certiorari is \$225.

5581 (i) The fee for filing a petition for expungement is \$135.

5582 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
5583 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
5584 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
5585 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
5586 Act.

5587 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
5588 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
5589 Defense Account, as provided in Section 51-9-408.

5590 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
5591 and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided
5592 in Section 78B-6-209.

5593 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),

5594 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
5595 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

5596 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
5597 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
5598 Security Account, as provided in Section 78A-2-602.

5599 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
5600 United States is \$35.

5601 (l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is
5602 50% of the fee for filing an original action seeking the same relief.

5603 (m) The fee for filing probate or child custody documents from another state is \$35.

5604 (n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
5605 Utah State Tax Commission is \$30.

5606 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
5607 or a judgment, order, or decree of an administrative agency, commission, board, council, or
5608 hearing officer of this state or of its political subdivisions other than the Utah State Tax
5609 Commission, is \$50.

5610 (o) The fee for filing a judgment by confession without action under Section
5611 78B-5-205 is \$35.

5612 (p) The fee for filing an award of arbitration for confirmation, modification, or
5613 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
5614 action before the court is \$35.

5615 (q) The fee for filing a petition or counter-petition to modify a decree of divorce is
5616 \$100.

5617 (r) The fee for filing any accounting required by law is:

5618 (i) \$15 for an estate valued at \$50,000 or less;

5619 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

5620 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

5621 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

5622 (v) \$175 for an estate valued at more than \$168,000.

5623 (s) The fee for filing a demand for a civil jury is \$250.

5624 (t) The fee for filing a notice of deposition in this state concerning an action pending in

5625 another state under Utah Rule of Civil Procedure 26 is \$35.

5626 (u) The fee for filing documents that require judicial approval but are not part of an
5627 action before the court is \$35.

5628 (v) The fee for a petition to open a sealed record is \$35.

5629 (w) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
5630 addition to any fee for a complaint or petition.

5631 (x) (i) The fee for a petition for authorization for a minor to marry required by Section
5632 30-1-9 is \$5.

5633 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,
5634 Part 8, Emancipation, is \$50.

5635 (y) The fee for a certificate issued under Section 26-2-25 is \$8.

5636 (z) The fee for a certified copy of a document is \$4 per document plus 50 cents per
5637 page.

5638 (aa) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
5639 per page.

5640 (bb) The Judicial Council shall by rule establish a schedule of fees for copies of
5641 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
5642 Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall
5643 be credited to the court as a reimbursement of expenditures.

5644 (cc) There is no fee for services or the filing of documents not listed in this section or
5645 otherwise provided by law.

5646 (dd) Except as provided in this section, all fees collected under this section are paid to
5647 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
5648 accepts the pleading for filing or performs the requested service.

5649 (ee) The filing fees under this section may not be charged to the state, its agencies, or
5650 political subdivisions filing or defending any action. In judgments awarded in favor of the
5651 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
5652 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
5653 collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment,
5654 order, fine, tax, lien, or other penalty and costs permitted by law.

5655 (2) (a) (i) From March 17, 1994₂ until June 30, 1998, the administrator of the courts

5656 shall transfer all revenues representing the difference between the fees in effect after May 2,
5657 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
5658 Facilities Construction and Management Capital Projects Fund.

5659 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
5660 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
5661 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
5662 initiate the development of a courts complex in Salt Lake City.

5663 (B) If the Legislature approves funding for construction of a courts complex in Salt
5664 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
5665 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
5666 (2)(a)(ii) to construct a courts complex in Salt Lake City.

5667 (C) After the courts complex is completed and all bills connected with its construction
5668 have been paid, the Division of Facilities Construction and Management shall use any money
5669 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
5670 District Court building.

5671 (iii) The Division of Facilities Construction and Management may enter into
5672 agreements and make expenditures related to this project before the receipt of revenues
5673 provided for under this Subsection (2)(a)(iii).

5674 (iv) The Division of Facilities Construction and Management shall:

5675 (A) make those expenditures from unexpended and unencumbered building funds
5676 already appropriated to the Capital Projects Fund; and

5677 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
5678 under this Subsection (2).

5679 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
5680 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
5681 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
5682 account.

5683 (c) The Division of Finance shall deposit all revenues received from the court
5684 administrator into the restricted account created by this section.

5685 (d) (i) From May 1, 1995₂, until June 30, 1998, the administrator of the courts shall
5686 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor

5687 Vehicles, in a court of record to the Division of Facilities Construction and Management
5688 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
5689 calculated on the balance of the fine or bail forfeiture paid.

5690 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
5691 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
5692 a court of record to the Division of Finance for deposit in the restricted account created by this
5693 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
5694 balance of the fine or bail forfeiture paid.

5695 (3) (a) There is created within the General Fund a restricted account known as the State
5696 Courts Complex Account.

5697 (b) The Legislature may appropriate money from the restricted account to the
5698 administrator of the courts for the following purposes only:

5699 (i) to repay costs associated with the construction of the court complex that were
5700 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

5701 (ii) to cover operations and maintenance costs on the court complex.

5702 Section 135. Section 78A-7-301 is amended to read:

5703 **78A-7-301. Justice Court Technology, Security, and Training Account**
5704 **established -- Funding -- Uses.**

5705 There is created a restricted account in the General Fund known as the Justice Court
5706 Technology, Security, and Training Account.

5707 (1) The state treasurer shall deposit in the account money collected from the surcharge
5708 established in Subsection [~~78A-6-122(3)~~] 78A-7-122(4)(b)(iii).

5709 (2) Money shall be appropriated from the account to the Administrative Office of the
5710 Courts to be used for audit, technology, security, and training needs in justice courts throughout
5711 the state.

5712 Section 136. Section 78B-3-421 is amended to read:

5713 **78B-3-421. Arbitration agreements.**

5714 (1) After May 2, 1999, for a binding arbitration agreement between a patient and a
5715 health care provider to be validly executed or, if the requirements of this Subsection (1) have
5716 not been previously met on at least one occasion, renewed:

5717 (a) the patient shall be given, in writing, the following information on:

- 5718 (i) the requirement that the patient must arbitrate a claim instead of having the claim
5719 heard by a judge or jury;
- 5720 (ii) the role of an arbitrator and the manner in which arbitrators are selected under the
5721 agreement;
- 5722 (iii) the patient's responsibility, if any, for arbitration-related costs under the agreement;
- 5723 (iv) the right of the patient to decline to enter into the agreement and still receive health
5724 care if Subsection (3) applies;
- 5725 (v) the automatic renewal of the agreement each year unless the agreement is canceled
5726 in writing before the renewal date;
- 5727 (vi) the right of the patient to have questions about the arbitration agreement answered;
- 5728 (vii) the right of the patient to rescind the agreement within 10 days of signing the
5729 agreement; and
- 5730 (viii) the right of the patient to require mediation of the dispute prior to the arbitration
5731 of the dispute;
- 5732 (b) the agreement shall require that:
- 5733 (i) except as provided in Subsection (1)(b)(ii), a panel of three arbitrators shall be
5734 selected as follows:
- 5735 (A) one arbitrator collectively selected by all persons claiming damages;
- 5736 (B) one arbitrator selected by the health care provider; and
- 5737 (C) a third arbitrator:
- 5738 (I) jointly selected by all persons claiming damages and the health care provider; or
- 5739 (II) if both parties cannot agree on the selection of the third arbitrator, the other two
5740 arbitrators shall appoint the third arbitrator from a list of individuals approved as arbitrators by
5741 the state or federal courts of Utah; or
- 5742 (ii) if both parties agree, a single arbitrator may be selected;
- 5743 (iii) all parties waive the requirement of Section [78B-3-416](#) to appear before a hearing
5744 panel in a malpractice action against a health care provider;
- 5745 (iv) the patient be given the right to rescind the agreement within 10 days of signing
5746 the agreement;
- 5747 (v) the term of the agreement be for one year and that the agreement be automatically
5748 renewed each year unless the agreement is canceled in writing by the patient or health care

5749 provider before the renewal date;

5750 (vi) the patient has the right to retain legal counsel;

5751 (vii) the agreement only apply to:

5752 (A) an error or omission that occurred after the agreement was signed, provided that

5753 the agreement may allow a person who would be a proper party in court to participate in an

5754 arbitration proceeding;

5755 (B) the claim of:

5756 (I) a person who signed the agreement;

5757 (II) a person on whose behalf the agreement was signed under Subsection (6); and

5758 (III) the unborn child of the person described in this Subsection (1)(b)(vii)(B), for 12

5759 months from the date the agreement is signed; and

5760 (C) the claim of a person who is not a party to the contract if the sole basis for the

5761 claim is an injury sustained by a person described in Subsection (1)(b)(vii)(B); and

5762 (c) the patient shall be verbally encouraged to:

5763 (i) read the written information required by Subsection (1)(a) and the arbitration

5764 agreement; and

5765 (ii) ask any questions.

5766 (2) When a medical malpractice action is arbitrated, the action shall:

5767 (a) be subject to Chapter ~~[31a]~~ 11, Utah Uniform Arbitration Act; and

5768 (b) include any one or more of the following when requested by the patient before an

5769 arbitration hearing is commenced:

5770 (i) mandatory mediation;

5771 (ii) retention of the jointly selected arbitrator for both the liability and damages stages

5772 of an arbitration proceeding if the arbitration is bifurcated; and

5773 (iii) the filing of the panel's award of damages as a judgement against the provider in

5774 the appropriate district court.

5775 (3) Notwithstanding Subsection (1), a patient may not be denied health care on the sole

5776 basis that the patient or a person described in Subsection (6) refused to enter into a binding

5777 arbitration agreement with a health care provider.

5778 (4) A written acknowledgment of having received a written explanation of a binding

5779 arbitration agreement signed by or on behalf of the patient shall be a defense to a claim that the

5780 patient did not receive a written explanation of the agreement as required by Subsection (1)
5781 unless the patient:

5782 (a) proves that the person who signed the agreement lacked the capacity to do so; or

5783 (b) shows by clear and convincing evidence that the execution of the agreement was
5784 induced by the health care provider's affirmative acts of fraudulent misrepresentation or
5785 fraudulent omission to state material facts.

5786 (5) The requirements of Subsection (1) do not apply to a claim governed by a binding
5787 arbitration agreement that was executed or renewed before May 3, 1999.

5788 (6) A legal guardian or a person described in Subsection 78B-3-406(6), except a person
5789 temporarily standing in loco parentis, may execute or rescind a binding arbitration agreement
5790 on behalf of a patient.

5791 (7) This section does not apply to any arbitration agreement that is subject to the
5792 Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq.

5793 Section 137. **Repealer.**

5794 This bill repeals:

5795 Section 63G-13-203, **Collaboration on integration of immigrants.**

5796 Section 138. **Effective date.**

5797 This bill takes effect on May 13, 2014, except that the amendments in this bill to
5798 Section 57-8-7.5 (Effective 07/01/14) take effect on July 1, 2014.

Legislative Review Note
as of 1-29-14 8:42 AM

Office of Legislative Research and General Counsel