

**Technical Code Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karen Kwan**

House Sponsor: Melissa G. Ballard

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**LONG TITLE****General Description:**

This bill amends provisions to modify gender-specific language.

**Highlighted Provisions:**

This bill:

- amends provisions to modify gender-specific language;
- enacts changes to conform with legislative drafting standards; and
- makes other technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

## AMENDS:

**7-1-208.2**, as enacted by Laws of Utah 1989, Chapter 267

**7-1-302**, as enacted by Laws of Utah 1981, Chapter 16

**7-1-308**, as last amended by Laws of Utah 1993, Chapter 38

**7-1-310**, as enacted by Laws of Utah 1981, Chapter 16

**7-1-312**, as enacted by Laws of Utah 1981, Chapter 16

**7-1-313**, as last amended by Laws of Utah 1989, Chapter 267

**7-1-314**, as enacted by Laws of Utah 1981, Chapter 16

**7-1-315**, as enacted by Laws of Utah 1981, Chapter 16

**7-1-316**, as enacted by Laws of Utah 1981, Chapter 16

**7-1-319**, as last amended by Laws of Utah 1993, Chapter 38

**7-1-320**, as last amended by Laws of Utah 1991, Chapter 133

**7-1-510**, as last amended by Laws of Utah 1987, Chapter 161

**7-1-601**, as enacted by Laws of Utah 1981, Chapter 16

**7-1-604**, as enacted by Laws of Utah 1981, Chapter 16

- 31 **7-1-610**, as enacted by Laws of Utah 1981, Chapter 16  
32 **7-1-613**, as enacted by Laws of Utah 1981, Chapter 16  
33 **7-1-803**, as last amended by Laws of Utah 1994, Chapter 200  
34 **7-2-3**, as last amended by Laws of Utah 1994, Chapter 200  
35 **7-2-4**, as last amended by Laws of Utah 1983, Chapter 8  
36 **7-2-8**, as enacted by Laws of Utah 1983, Chapter 8  
37 **7-2-11**, as enacted by Laws of Utah 1983, Chapter 8  
38 **7-2-13**, as enacted by Laws of Utah 1981, Chapter 16  
39 **7-2-14**, as last amended by Laws of Utah 1983, Chapter 8  
40 **7-2-15**, as last amended by Laws of Utah 1995, Chapter 49  
41 **7-2-16**, as last amended by Laws of Utah 1989, Chapter 267  
42 **7-2-18**, as last amended by Laws of Utah 1986, Fourth Special Session, Chapter 1  
43 **7-2-19**, as enacted by Laws of Utah 1981, Chapter 16  
44 **7-3-3.2**, as last amended by Laws of Utah 2000, Chapter 75  
45 **7-3-35**, as enacted by Laws of Utah 1981, Chapter 16  
46 **7-5-3**, as last amended by Laws of Utah 1994, Chapter 200  
47 **7-5-12**, as last amended by Laws of Utah 1983, Chapter 9  
48 **7-9-18**, as last amended by Laws of Utah 1996, Chapter 182  
49 **7-9-31**, as last amended by Laws of Utah 1996, Chapter 182  
50 **7-9-49**, as last amended by Laws of Utah 1994, Chapter 200  
51 **7-9-50**, as enacted by Laws of Utah 1994, Chapter 200  
52 **7-17-5**, as enacted by Laws of Utah 1979, Chapter 124  
53 **7-19-3**, as last amended by Laws of Utah 1986, Chapter 1  
54 **7-19-5**, as last amended by Laws of Utah 1986, Chapter 1  
55 **7-19-9**, as enacted by Laws of Utah 1984, Second Special Session, Chapter 5  
56 **8-2-2**, as last amended by Laws of Utah 1992, Chapter 30  
57 **9-8-804**, as renumbered and amended by Laws of Utah 1992, Chapter 241  
58 **9-8-806**, as renumbered and amended by Laws of Utah 1992, Chapter 241  
59 **9-9-203**, as renumbered and amended by Laws of Utah 1992, Chapter 241  
60 **10-3-202**, as last amended by Laws of Utah 1990, Chapter 32  
61 **10-3-705**, as last amended by Laws of Utah 1979, Chapter 38  
62 **10-3-829**, as enacted by Laws of Utah 1977, Chapter 48  
63 **10-3-904**, as enacted by Laws of Utah 1977, Chapter 48  
64 **10-3-906**, as enacted by Laws of Utah 1977, Chapter 48

65       **10-3-915**, as enacted by Laws of Utah 1977, Chapter 48  
66       **10-8-50**, as last amended by Laws of Utah 1995, Chapter 131  
67       **11-3-4**, as last amended by Laws of Utah 1993, Chapter 234  
68       **11-30-6**, as enacted by Laws of Utah 1987, Chapter 197  
69       **13-1-5**, as enacted by Laws of Utah 1983, Chapter 322  
70       **13-7-4**, as last amended by Laws of Utah 1997, Chapter 10  
71       **13-11-9**, as enacted by Laws of Utah 1973, Chapter 188  
72       **13-11-16**, as last amended by Laws of Utah 1997, Chapter 296  
73       **13-14a-5**, as enacted by Laws of Utah 1989, Chapter 63  
74       **13-20-4**, as last amended by Laws of Utah 1990, Chapter 249  
75       **13-21-4**, as last amended by Laws of Utah 1994, Chapter 186  
76       **13-28-7**, as enacted by Laws of Utah 1995, Chapter 196  
77       **15-8-11**, as enacted by Laws of Utah 1993, Chapter 251  
78       **16-7-2**, as last amended by Laws of Utah 1985, Chapter 178  
79       **16-10a-129**, as enacted by Laws of Utah 1992, Chapter 277  
80       **16-10a-824**, as last amended by Laws of Utah 1993, Chapter 184  
81       **16-10a-841**, as last amended by Laws of Utah 1994, Chapter 200  
82       **16-10a-853**, as enacted by Laws of Utah 1992, Chapter 277  
83       **16-10a-902**, as enacted by Laws of Utah 1992, Chapter 277  
84       **16-10a-903**, as enacted by Laws of Utah 1992, Chapter 277  
85       **16-10a-908**, as enacted by Laws of Utah 1992, Chapter 277  
86       **16-10a-1302**, as enacted by Laws of Utah 1992, Chapter 277  
87       **16-10a-1327**, as enacted by Laws of Utah 1992, Chapter 277  
88       **16-10a-1328**, as enacted by Laws of Utah 1992, Chapter 277  
89       **16-10a-1408**, as last amended by Laws of Utah 1996, Chapter 79  
90       **16-10a-1602**, as enacted by Laws of Utah 1992, Chapter 277  
91       **16-10a-1603**, as enacted by Laws of Utah 1992, Chapter 277  
92       **16-10a-1605**, as enacted by Laws of Utah 1992, Chapter 277  
93       **16-10a-1606**, as enacted by Laws of Utah 1992, Chapter 277  
94       **16-10a-1608**, as enacted by Laws of Utah 1992, Chapter 277  
95       **19-1-302**, as enacted by Laws of Utah 1991, Chapter 112  
96       **19-6-304**, as renumbered and amended by Laws of Utah 1991, Chapter 112  
97       **19-6-309**, as last amended by Laws of Utah 2024, Chapter 158  
98       **19-6-312**, as renumbered and amended by Laws of Utah 1991, Chapter 112

99       **19-6-314**, as renumbered and amended by Laws of Utah 1991, Chapter 112  
100       **19-6-315**, as renumbered and amended by Laws of Utah 1991, Chapter 112  
101       **19-6-317**, as renumbered and amended by Laws of Utah 1991, Chapter 112  
102       **19-6-422**, as last amended by Laws of Utah 1992, Chapter 214  
103       **19-8-110**, as enacted by Laws of Utah 1997, Chapter 247  
104       **31A-2-105**, as last amended by Laws of Utah 1993, Chapter 305  
105       **31A-2-106**, as last amended by Laws of Utah 1987, Chapter 91  
106       **31A-2-111**, as enacted by Laws of Utah 1985, Chapter 242  
107       **31A-2-112**, as enacted by Laws of Utah 1985, Chapter 242  
108       **31A-2-311**, as enacted by Laws of Utah 1985, Chapter 242  
109       **31A-5-103**, as last amended by Laws of Utah 2000, Chapter 1  
110       **31A-5-206**, as last amended by Laws of Utah 1987, Chapter 95  
111       **31A-5-209**, as enacted by Laws of Utah 1985, Chapter 242  
112       **31A-5-213**, as last amended by Laws of Utah 1987, Chapter 95  
113       **31A-5-216**, as enacted by Laws of Utah 1985, Chapter 242  
114       **31A-5-303**, as enacted by Laws of Utah 1985, Chapter 242  
115       **31A-5-304**, as enacted by Laws of Utah 1985, Chapter 242  
116       **31A-5-307**, as last amended by Laws of Utah 1992, Chapter 277  
117       **31A-5-408**, as last amended by Laws of Utah 1992, Chapter 277  
118       **31A-5-507**, as enacted by Laws of Utah 1985, Chapter 242  
119       **31A-5-509**, as last amended by Laws of Utah 1986, Chapter 204  
120       **31A-5-601**, as enacted by Laws of Utah 1985, Chapter 242  
121       **31A-7-303**, as last amended by Laws of Utah 2000, Chapter 300  
122       **31A-7-403**, as last amended by Laws of Utah 1987, Chapter 161  
123       **31A-9-103**, as last amended by Laws of Utah 1986, Chapter 204  
124       **31A-11-106**, as last amended by Laws of Utah 1988, Second Special Session, Chapter 10  
125       **31A-11-108**, as enacted by Laws of Utah 1985, Chapter 242  
126       **31A-11-110**, as enacted by Laws of Utah 1985, Chapter 242  
127       **31A-11-112**, as last amended by Laws of Utah 1997, Chapters 10, 215  
128       **31A-14-202**, as last amended by Laws of Utah 1986, Chapter 204  
129       **31A-14-216**, as enacted by Laws of Utah 1985, Chapter 242  
130       **31A-15-107**, as enacted by Laws of Utah 1985, Chapter 242  
131       **31A-21-310**, as enacted by Laws of Utah 1985, Chapter 242  
132       **31A-22-105**, as enacted by Laws of Utah 1985, Chapter 242

133       **31A-22-308**, as last amended by Laws of Utah 1990, Chapter 327  
134       **31A-22-311**, as last amended by Laws of Utah 1994, Chapter 316  
135       **31A-22-312**, as enacted by Laws of Utah 1989, Chapter 251  
136       **31A-22-401**, as last amended by Laws of Utah 2024, Chapter 120  
137       **31A-22-512**, as enacted by Laws of Utah 1985, Chapter 242  
138       **31A-22-514**, as enacted by Laws of Utah 1985, Chapter 242  
139       **31A-22-1005**, as enacted by Laws of Utah 1985, Chapter 242  
140       **31A-22-1007**, as enacted by Laws of Utah 1985, Chapter 242  
141       **31A-22-1102**, as last amended by Laws of Utah 1989, Chapter 261  
142       **31A-22-1305**, as last amended by Laws of Utah 2000, Chapter 300  
143       **31A-25-201**, as last amended by Laws of Utah 1989, Chapter 261  
144       **31A-26-211**, as last amended by Laws of Utah 1986, Chapter 204  
145       **31A-26-212**, as enacted by Laws of Utah 1985, Chapter 242  
146       **31A-28-217**, as last amended by Laws of Utah 1988, Chapter 97  
147       **34-23-303**, as enacted by Laws of Utah 1990, Chapter 8  
148       **34-26-1**, as last amended by Laws of Utah 1987, Chapter 206  
149       **34-38-4**, as enacted by Laws of Utah 1987, Chapter 234  
150       **34-38-7**, as enacted by Laws of Utah 1987, Chapter 234  
151       **34-39-2**, as enacted by Laws of Utah 1989, Chapter 217  
152       **34-39-3**, as enacted by Laws of Utah 1989, Chapter 217  
153       **34-40-205**, as enacted by Laws of Utah 1990, Chapter 8  
154       **34A-2-207**, as last amended by Laws of Utah 1998, Chapter 13  
155       **35A-4-102**, as renumbered and amended by Laws of Utah 1996, Chapter 240  
156       **35A-4-105**, as renumbered and amended by Laws of Utah 1996, Chapter 240  
157       **35A-4-207**, as renumbered and amended by Laws of Utah 1996, Chapter 240  
158       **35A-4-402**, as renumbered and amended by Laws of Utah 1996, Chapter 240  
159       **35A-4-406**, as renumbered and amended by Laws of Utah 1996, Chapter 240  
160       **36-19-1**, as enacted by Laws of Utah 1992, Chapter 100  
161       **38-2-4**, as last amended by Laws of Utah 2024, Chapter 158  
162       **38-3-5**, as last amended by Laws of Utah 1977, Chapter 272  
163       **38-7-2**, as last amended by Laws of Utah 1996, Chapter 167  
164       **38-10-102.1**, as enacted by Laws of Utah 1990, Chapter 203  
165       **38-10-108**, as enacted by Laws of Utah 1987, Chapter 170  
166       **38-10-109**, as enacted by Laws of Utah 1987, Chapter 170

167       **40-1-6**, as last amended by Laws of Utah 1999, Chapter 85  
168       **40-8-19**, as enacted by Laws of Utah 1975, Chapter 130  
169       **40-8-23**, as last amended by Laws of Utah 1995, Chapter 20  
170       **40-10-5**, as last amended by Laws of Utah 1991, Chapter 225  
171       **40-10-19**, as last amended by Laws of Utah 1994, Chapter 219  
172       **40-10-20**, as last amended by Laws of Utah 2024, Chapter 158  
173       **40-10-29**, as enacted by Laws of Utah 1979, Chapter 145  
174       **41-1a-224**, as renumbered and amended by Laws of Utah 1992, Chapter 1  
175       **41-1a-607**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and  
176       amended by Laws of Utah 1992, Chapter 1  
177       **41-1a-608**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and  
178       amended by Laws of Utah 1992, Chapter 1  
179       **41-1a-708**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and  
180       amended by Laws of Utah 1992, Chapter 1  
181       **41-1a-801**, as renumbered and amended by Laws of Utah 1992, Chapter 1  
182       **41-1a-1301**, as renumbered and amended by Laws of Utah 1992, Chapter 1  
183       **41-1a-1313**, as renumbered and amended by Laws of Utah 1992, Chapter 1  
184       **41-1a-1316**, as renumbered and amended by Laws of Utah 1992, Chapter 1  
185       **41-1a-1317**, as renumbered and amended by Laws of Utah 1992, Chapter 1  
186       **41-3-207**, as renumbered and amended by Laws of Utah 1992, Chapter 234  
187       **41-3-208**, as renumbered and amended by Laws of Utah 1992, Chapter 234  
188       **41-3-505**, as renumbered and amended by Laws of Utah 1992, Chapter 234  
189       **41-3-506**, as renumbered and amended by Laws of Utah 1992, Chapter 234  
190       **41-3-508**, as last amended by Laws of Utah 1992, Chapter 1 and renumbered and  
191       amended by Laws of Utah 1992, Chapter 234  
192       **41-3-803**, as last amended by Laws of Utah 2000, Chapter 86  
193       **41-12a-104**, as last amended by Laws of Utah 1986, Chapter 204  
194       **41-12a-411**, as last amended by Laws of Utah 1999, Chapter 216  
195       **41-12a-503**, as enacted by Laws of Utah 1985, Chapter 242  
196       **41-12a-506**, as enacted by Laws of Utah 1985, Chapter 242  
197       **41-12a-507**, as enacted by Laws of Utah 1985, Chapter 242  
198       **41-12a-509**, as enacted by Laws of Utah 1985, Chapter 242  
199       **41-12a-511**, as enacted by Laws of Utah 1985, Chapter 242  
200       **41-12a-604**, as last amended by Laws of Utah 1999, Chapter 216

201        **42-3-1**, as last amended by Laws of Utah 1997, Chapter 82  
202        **45-2-2**, as last amended by Laws of Utah 1975, Chapter 134  
203        **45-2-7**, as last amended by Laws of Utah 1975, Chapter 134  
204        **47-1-5**, as last amended by Laws of Utah 1993, Chapter 4  
205        **47-2-6**, as last amended by Laws of Utah 1994, Chapter 146  
206        **51-7-9**, as last amended by Laws of Utah 1984, Chapter 44  
207        **51-7-18.1**, as last amended by Laws of Utah 1990, Chapter 229  
208        **53-7-211**, as renumbered and amended by Laws of Utah 1993, Chapters 38, 234  
209        **53-7-212**, as renumbered and amended by Laws of Utah 1993, Chapter 234  
210        **53-7-213**, as renumbered and amended by Laws of Utah 1993, Chapters 38, 234  
211        **53-7-214**, as renumbered and amended by Laws of Utah 1993, Chapter 234  
212        **53-9-112**, as last amended by Laws of Utah 1998, Chapter 212  
213        **53-9-116**, as last amended by Laws of Utah 1998, Chapter 212  
214        **53-10-206**, as last amended by Laws of Utah 1998, Chapter 282 and renumbered and  
215        amended by Laws of Utah 1998, Chapter 263  
216        **53-10-207**, as renumbered and amended by Laws of Utah 1998, Chapter 263  
217        **53-11-107**, as enacted by Laws of Utah 1998, Chapter 257  
218        **53-11-108**, as last amended by Laws of Utah 1999, Chapter 21  
219        **53-11-111**, as enacted by Laws of Utah 1998, Chapter 257  
220        **53-11-116**, as last amended by Laws of Utah 1999, Chapter 266  
221        **53-11-122**, as enacted by Laws of Utah 1998, Chapter 257  
222        **53-11-123**, as last amended by Laws of Utah 1999, Chapter 266  
223        **53-13-113**, as enacted by Laws of Utah 2000, Chapter 127  
224        **53B-13-102**, as enacted by Laws of Utah 1987, Chapter 167  
225        **53B-13-110**, as enacted by Laws of Utah 1987, Chapter 167  
226        **53B-13-114**, as enacted by Laws of Utah 1987, Chapter 167  
227        **53C-1-301**, as last amended by Laws of Utah 1996, Chapter 337  
228        **53C-2-412**, as enacted by Laws of Utah 1994, Chapter 294  
229        **53C-5-101**, as last amended by Laws of Utah 2000, Chapter 237  
230        **54-7-3**, as last amended by Laws of Utah 1987, Chapter 161  
231        **54-7-25**, as last amended by Laws of Utah 1989, Chapter 131  
232        **56-1-21.5**, as last amended by Laws of Utah 1998, Chapter 282  
233        **57-1-14**, as last amended by Laws of Utah 2000, Chapter 75  
234        **57-1-19**, as last amended by Laws of Utah 1988, Chapter 155

235 **57-1-37**, as last amended by Laws of Utah 1991, Chapter 5  
236 **57-2-13**, as last amended by Laws of Utah 2000, Chapter 75  
237 **57-2a-2**, as enacted by Laws of Utah 1988, Chapter 155  
238 **57-2a-3**, as last amended by Laws of Utah 1989, Chapter 88  
239 **57-3-102**, as last amended by Laws of Utah 2000, Chapter 252  
240 **57-4a-4**, as last amended by Laws of Utah 1989, Chapter 88  
241 **57-8-6**, as last amended by Laws of Utah 1975, Chapter 173  
242 **57-8-8**, as last amended by Laws of Utah 2000, Chapter 132  
243 **57-8-13.14**, as enacted by Laws of Utah 1975, Chapter 173  
244 **57-8-32.5**, as enacted by Laws of Utah 1975, Chapter 173  
245 **57-12-6**, as enacted by Laws of Utah 1972, Chapter 24  
246 **57-12-7**, as last amended by Laws of Utah 1998, Chapter 321  
247 **57-19-17**, as last amended by Laws of Utah 1989, Chapter 225  
248 **57-19-18**, as enacted by Laws of Utah 1987, Chapter 73  
249 **57-19-23**, as enacted by Laws of Utah 1987, Chapter 73  
250 **57-22-3**, as enacted by Laws of Utah 1990, Chapter 314  
251 **58-1-105**, as renumbered and amended by Laws of Utah 1993, Chapter 297  
252 **58-3a-603**, as enacted by Laws of Utah 1996, Chapter 260  
253 **58-16a-201**, as renumbered and amended by Laws of Utah 1997, Chapter 13  
254 **58-16a-701**, as enacted by Laws of Utah 1997, Chapter 13  
255 **58-22-603**, as enacted by Laws of Utah 1996, Chapter 259  
256 **58-31b-801**, as enacted by Laws of Utah 1998, Chapter 288  
257 **58-37-15**, as enacted by Laws of Utah 1971, Chapter 145  
258 **58-41-16**, as last amended by Laws of Utah 1989, Chapter 207  
259 **58-49-7**, as enacted by Laws of Utah 1986, Chapter 192  
260 **58-50-5**, as last amended by Laws of Utah 1991, Chapter 120  
261 **58-55-601**, as renumbered and amended by Laws of Utah 1994, Chapter 181  
262 **58-55-603**, as renumbered and amended by Laws of Utah 1994, Chapter 181  
263 **58-67-802**, as enacted by Laws of Utah 1996, Chapter 248  
264 **58-69-804**, as enacted by Laws of Utah 1996, Chapter 116  
265 **59-1-701**, as renumbered and amended by Laws of Utah 1987, Chapter 3  
266 **59-1-707**, as renumbered and amended by Laws of Utah 1987, Chapter 3  
267 **59-1-1002**, as enacted by Laws of Utah 1991, Chapter 35  
268 **59-1-1004**, as enacted by Laws of Utah 1991, Chapter 35



269 **59-2-326**, as last amended by Laws of Utah 2000, Chapter 86  
270 **59-10-512**, as last amended by Laws of Utah 1993, Chapter 4  
271 **59-12-112**, as renumbered and amended by Laws of Utah 1987, Chapter 5  
272 **59-18-104**, as renumbered and amended by Laws of Utah 1987, Chapter 2  
273 **59-18-105**, as renumbered and amended by Laws of Utah 1987, Chapter 2  
274 **59-18-108**, as renumbered and amended by Laws of Utah 1987, Chapter 2  
275 **63B-2-117**, as enacted by Laws of Utah 1993, Chapter 304  
276 **63B-2-217**, as enacted by Laws of Utah 1993, Chapter 304  
277 **63B-3-117**, as enacted by Laws of Utah 1994, Chapter 300  
278 **63B-3-217**, as enacted by Laws of Utah 1994, Chapter 300  
279 **63B-4-117**, as enacted by Laws of Utah 1995, Chapter 329  
280 **63B-5-117**, as enacted by Laws of Utah 1996, Chapter 335  
281 **63B-6-117**, as enacted by Laws of Utah 1997, Chapter 391  
282 **63B-6-217**, as enacted by Laws of Utah 1997, Chapter 270  
283 **63B-6-302**, as enacted by Laws of Utah 1997, Chapter 270  
284 **63B-6-417**, as enacted by Laws of Utah 1997, Chapter 391  
285 **63B-7-117**, as enacted by Laws of Utah 1998, Chapter 67  
286 **63B-7-217**, as enacted by Laws of Utah 1998, Chapter 316  
287 **63B-7-302**, as enacted by Laws of Utah 1998, Chapter 316  
288 **63B-7-417**, as enacted by Laws of Utah 1998, Chapter 67  
289 **63B-8-117**, as enacted by Laws of Utah 1999, Chapter 309  
290 **63B-8-217**, as enacted by Laws of Utah 1999, Chapter 331  
291 **63B-8-302**, as enacted by Laws of Utah 1999, Chapter 331  
292 **63B-8-417**, as enacted by Laws of Utah 1999, Chapter 309  
293 **64-13-15**, as last amended by Laws of Utah 1991, Chapter 124  
294 **64-13-32**, as last amended by Laws of Utah 1993, Chapter 49  
295 **64-13d-106**, as enacted by Laws of Utah 1999, Chapter 288  
296 **65A-6-11**, as enacted by Laws of Utah 1988, Chapter 121  
297 **67-1-1**, as last amended by Laws of Utah 1993, Chapter 38  
298 **67-5-5**, as last amended by Laws of Utah 1982, Chapter 76  
299 **67-9-1**, as last amended by Laws of Utah 1984, Chapter 68  
300 **67-16-2**, as last amended by Laws of Utah 1989, Chapter 147  
301 **70C-2-207**, as enacted by Laws of Utah 1985, Chapter 159  
302 **70C-5-101**, as enacted by Laws of Utah 1985, Chapter 159

303 **70C-5-103**, as enacted by Laws of Utah 1985, Chapter 159  
304 **70C-5-104**, as enacted by Laws of Utah 1985, Chapter 159  
305 **70C-5-105**, as enacted by Laws of Utah 1985, Chapter 159  
306 **70C-6-104**, as enacted by Laws of Utah 1985, Chapter 159  
307 **70C-6-106**, as enacted by Laws of Utah 1985, Chapter 159  
308 **70C-6-304**, as enacted by Laws of Utah 1985, Chapter 159  
309 **70C-7-104**, as enacted by Laws of Utah 1985, Chapter 159  
310 **70C-7-201**, as enacted by Laws of Utah 1985, Chapter 159  
311 **72-2-104**, as renumbered and amended by Laws of Utah 1998, Chapter 270  
312 **72-5-107**, as renumbered and amended by Laws of Utah 1998, Chapter 270  
313 **72-9-303**, as renumbered and amended by Laws of Utah 1998, Chapter 270  
314 **72-9-703**, as renumbered and amended by Laws of Utah 1998, Chapter 270  
315 **73-2-10**, as last amended by Laws of Utah 1983, Chapter 201  
316 **73-2-12**, as last amended by Laws of Utah 1984, Chapter 67  
317 **73-2-13**, as last amended by Laws of Utah 1971, Chapter 186  
318 **73-2-23.1**, as enacted by Laws of Utah 1985, Chapter 228  
319 **73-3-5.5**, as last amended by Laws of Utah 1987, Chapter 161  
320 **73-3a-108**, as enacted by Laws of Utah 1991, Chapter 234  
321 **73-3b-303**, as enacted by Laws of Utah 1991, Chapter 146  
322 **73-5a-203**, as enacted by Laws of Utah 1990, Chapter 319  
323 **73-5a-301**, as enacted by Laws of Utah 1990, Chapter 319  
324 **73-5a-302**, as enacted by Laws of Utah 1990, Chapter 319  
325 **73-5a-303**, as enacted by Laws of Utah 1990, Chapter 319  
326 **73-5a-402**, as enacted by Laws of Utah 1990, Chapter 319  
327 **73-5a-601**, as enacted by Laws of Utah 1990, Chapter 319  
328 **73-18-7.1**, as enacted by Laws of Utah 1990, Chapter 216  
329 **73-18-10**, as last amended by Laws of Utah 1986, Chapter 197  
330 **73-18-20.3**, as enacted by Laws of Utah 1990, Chapter 216  
331 **73-18-20.5**, as last amended by Laws of Utah 1998, Chapter 263  
332 **73-18-20.7**, as enacted by Laws of Utah 1990, Chapter 216  
333 **76-1-304**, as last amended by Laws of Utah 1998, Chapter 121  
334 **76-1-402**, as last amended by Laws of Utah 1974, Chapter 32  
335 **76-2-201**, as enacted by Laws of Utah 1973, Chapter 196  
336 **76-2-204**, as enacted by Laws of Utah 1973, Chapter 196

- 337 **76-2-205**, as enacted by Laws of Utah 1973, Chapter 196  
338 **76-2-301**, as enacted by Laws of Utah 1973, Chapter 196  
339 **76-2-302**, as enacted by Laws of Utah 1973, Chapter 196  
340 **76-2-303**, as last amended by Laws of Utah 1998, Chapter 282  
341 **76-2-304**, as last amended by Laws of Utah 1974, Chapter 32  
342 **76-2-307**, as last amended by Laws of Utah 1995, Chapter 20  
343 **76-2-403**, as enacted by Laws of Utah 1973, Chapter 196  
344 **76-3-303**, as enacted by Laws of Utah 1973, Chapter 196  
345 **76-3-405**, as last amended by Laws of Utah 1997, Chapter 291  
346 **76-3-409**, as last amended by Laws of Utah 1985, Chapter 212  
347 **76-7-202**, as last amended by Laws of Utah 1995, Chapter 289  
348 **76-7-303**, as enacted by Laws of Utah 1974, Chapter 33  
349 **76-7-308**, as last amended by Laws of Utah 1991, First Special Session, Chapter 2  
350 **77-1-6**, as enacted by Laws of Utah 1980, Chapter 15  
351 **77-2-4**, as enacted by Laws of Utah 1980, Chapter 15  
352 **77-2-4.5**, as enacted by Laws of Utah 1990, Chapter 7  
353 **77-2-6**, as enacted by Laws of Utah 1980, Chapter 15  
354 **77-2-8**, as enacted by Laws of Utah 1980, Chapter 15  
355 **77-3-2**, as enacted by Laws of Utah 1980, Chapter 15  
356 **77-3-4**, as enacted by Laws of Utah 1980, Chapter 15  
357 **77-3-5**, as enacted by Laws of Utah 1980, Chapter 15  
358 **77-3-8**, as enacted by Laws of Utah 1980, Chapter 15  
359 **77-3-10**, as enacted by Laws of Utah 1980, Chapter 15  
360 **77-5-2**, as enacted by Laws of Utah 1980, Chapter 15  
361 **77-5-8**, as enacted by Laws of Utah 1980, Chapter 15  
362 **77-6-5**, as enacted by Laws of Utah 1980, Chapter 15  
363 **77-6-6**, as enacted by Laws of Utah 1980, Chapter 15  
364 **77-6-8**, as enacted by Laws of Utah 1980, Chapter 15  
365 **77-6-9**, as enacted by Laws of Utah 1980, Chapter 15  
366 **77-7-1**, as enacted by Laws of Utah 1980, Chapter 15  
367 **77-7-3**, as enacted by Laws of Utah 1980, Chapter 15  
368 **77-7-9**, as enacted by Laws of Utah 1980, Chapter 15  
369 **77-7-10**, as enacted by Laws of Utah 1980, Chapter 15  
370 **77-7-11**, as enacted by Laws of Utah 1980, Chapter 15

371 **77-7-14**, as last amended by Laws of Utah 1987, Chapter 245  
372 **77-7-16**, as enacted by Laws of Utah 1980, Chapter 15  
373 **77-7-17**, as enacted by Laws of Utah 1980, Chapter 15  
374 **77-8-2**, as enacted by Laws of Utah 1980, Chapter 15  
375 **77-8-4**, as enacted by Laws of Utah 1980, Chapter 15  
376 **77-8a-1**, as enacted by Laws of Utah 1990, Chapter 201  
377 **77-9-1**, as enacted by Laws of Utah 1980, Chapter 15  
378 **77-9-2**, as enacted by Laws of Utah 1980, Chapter 15  
379 **77-9-3**, as last amended by Laws of Utah 1998, Chapter 282  
380 **77-10a-1**, as enacted by Laws of Utah 1990, Chapter 318  
381 **77-10a-7**, as enacted by Laws of Utah 1990, Chapter 318  
382 **77-10a-8**, as last amended by Laws of Utah 1993, Chapter 38  
383 **77-10a-11**, as enacted by Laws of Utah 1990, Chapter 318  
384 **77-10a-17**, as enacted by Laws of Utah 1990, Chapter 318  
385 **77-10a-18**, as enacted by Laws of Utah 1990, Chapter 318  
386 **77-13-5**, as enacted by Laws of Utah 1980, Chapter 15  
387 **77-14-1**, as enacted by Laws of Utah 1980, Chapter 15  
388 **77-14-2**, as enacted by Laws of Utah 1980, Chapter 15  
389 **77-16a-303**, as enacted by Laws of Utah 1992, Chapter 171  
390 **77-17-1**, as enacted by Laws of Utah 1980, Chapter 15  
391 **77-17-2**, as enacted by Laws of Utah 1980, Chapter 15  
392 **77-17-3**, as enacted by Laws of Utah 1980, Chapter 15  
393 **77-17-9**, as enacted by Laws of Utah 1980, Chapter 15  
394 **77-17-11**, as enacted by Laws of Utah 1980, Chapter 15  
395 **77-17-12**, as enacted by Laws of Utah 1980, Chapter 15  
396 **77-19-5**, as enacted by Laws of Utah 1980, Chapter 15  
397 **77-19-11**, as last amended by Laws of Utah 2000, Chapters 1, 250  
398 **77-19-12**, as last amended by Laws of Utah 1988, Chapter 190  
399 **77-22-4.5**, as enacted by Laws of Utah 1995, Chapter 115  
400 **77-22a-2**, as enacted by Laws of Utah 1989, Chapter 9  
401 **77-22a-3**, as last amended by Laws of Utah 1993, Chapter 38  
402 **77-23a-3**, as last amended by Laws of Utah 1998, Chapter 282  
403 **77-23a-9**, as last amended by Laws of Utah 1988, Chapter 251  
404 **77-23a-16**, as enacted by Laws of Utah 1988, Chapter 251

405 **77-23b-2**, as last amended by Laws of Utah 1991, Chapter 241  
 406 **77-23b-5**, as enacted by Laws of Utah 1988, Chapter 251  
 407 **77-27-5.5**, as last amended by Laws of Utah 1994, Chapter 13  
 408 **77-27-12**, as enacted by Laws of Utah 1985, Chapter 213  
 409 **77-27-26**, as last amended by Laws of Utah 1998, Chapter 282  
 410 **77-28b-3**, as enacted by Laws of Utah 1990, Chapter 324  
 411 **77-28b-4**, as enacted by Laws of Utah 1990, Chapter 324  
 412 **77-28b-7**, as enacted by Laws of Utah 1990, Chapter 324  
 413 **77-30-3**, as enacted by Laws of Utah 1980, Chapter 15  
 414 **77-30-4**, as enacted by Laws of Utah 1980, Chapter 15  
 415 **77-30-5**, as enacted by Laws of Utah 1980, Chapter 15  
 416 **77-30-7**, as enacted by Laws of Utah 1980, Chapter 15  
 417 **77-30-10**, as enacted by Laws of Utah 1980, Chapter 15  
 418 **77-30-11**, as last amended by Laws of Utah 1995, Chapter 20  
 419 **77-30-12**, as enacted by Laws of Utah 1980, Chapter 15  
 420 **77-30-13**, as enacted by Laws of Utah 1980, Chapter 15  
 421 **77-30-14**, as last amended by Laws of Utah 1995, Chapter 20  
 422 **77-30-15**, as enacted by Laws of Utah 1980, Chapter 15  
 423 **77-30-16**, as last amended by Laws of Utah 1997, Chapter 199  
 424 **77-30-17**, as enacted by Laws of Utah 1980, Chapter 15  
 425 **77-30-20**, as enacted by Laws of Utah 1980, Chapter 15  
 426 **77-30-21**, as enacted by Laws of Utah 1980, Chapter 15  
 427 **77-30-22**, as enacted by Laws of Utah 1980, Chapter 15  
 428 **77-30-26**, as enacted by Laws of Utah 1980, Chapter 15  
 429 **77-38-10**, as last amended by Laws of Utah 1995, Chapter 352

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

432 Section 1. Section **7-1-208.2** is amended to read:

433 **7-1-208.2 . Deputy commissioner.**

434 The commissioner may appoint a deputy commissioner who shall be a citizen of the  
 435 United States and a member of the Utah State Bar, to serve at the pleasure of the  
 436 commissioner. The deputy commissioner shall serve as staff attorney for the department and  
 437 perform all other duties assigned to ~~him~~ the deputy commissioner by the commissioner.

438 Section 2. Section **7-1-302** is amended to read:

439 **7-1-302 . Review of supervisor's action by commissioner.**

440 The commissioner shall review, upon written request of the institution or other person  
441 affected, any act or order of a supervisor and may suspend, modify, or revoke any such act or  
442 order as [he] the commissioner may find to be arbitrary, capricious, contrary to law or the rules  
443 and regulations of the department, or not in the best interest of the public or of the state.

444 Section 3. Section **7-1-308** is amended to read:

445 **7-1-308 . Suspension or removal of director or officer -- Grounds -- Procedure**  
446 **for issuance of order.**

447 (1)(a) If the commissioner has determined that any officer or director of an institution or  
448 other person under the jurisdiction of the department has:

- 449 (i) violated any law, rule, regulation, or a cease and desist order which has become  
450 final;
- 451 (ii) engaged or participated in any unsafe or unsound practice in the conduct of the  
452 affairs of the institution or other person;
- 453 (iii) committed or engaged in any act, omission, or practice which constitutes a  
454 breach of [his] the person's fiduciary duty as an officer or director;
- 455 (iv) been charged in any information, indictment, or complaint authorized by a  
456 county attorney, a district attorney, or the attorney general of the state relative to a  
457 violation of this title; or
- 458 (v) been charged with the commission of or participation in a crime involving  
459 dishonesty or breach of trust; and

460 (b) if the commissioner determines that:

- 461 (i) the institution or other person under the jurisdiction of the department has suffered  
462 or will suffer substantial financial loss or other damage due to such actions and  
463 that such action may impair the safety and soundness of the institution or other  
464 person or prejudice in any manner the interests of the depositors, members,  
465 creditors, or shareholders; or
- 466 (ii) the director or officer has received financial gain by reason of any breach of  
467 fiduciary duty[~~]~~ ,the commissioner may, after notice and opportunity for hearing,  
468 serve upon such director or officer a written notice of suspension or removal of  
469 the individual from office or prohibition from further participation in the conduct  
470 of the affairs of the institution or other person.

471 (2) If the commissioner deems it necessary for the protection of an institution or other  
472 person under the jurisdiction of the department or the interests of its depositors,

473 members, creditors, or shareholders, [he] the commissioner may, by written notice served  
474 upon the officer or director, suspend that officer or director from office or prohibit [him]  
475 the officer or director from further participation in any manner in the conduct of the  
476 affairs of the institution or other person. The suspension or prohibition is effective upon  
477 service of the notice and, unless stayed by a court, shall remain in effect until the  
478 commissioner dismisses the charges specified in the notice, or, if an order of removal or  
479 prohibition is issued against the officer or director, until the effective date of that order.

480 Section 4. Section **7-1-310** is amended to read:

481 **7-1-310 . Subpoena power of commissioner.**

482 The commissioner may issue subpoenas to compel the attendance of witnesses and the  
483 production of books, records, and other papers and documents and may examine or cause to be  
484 examined under oath any officer, director, or employee of any institution subject to the  
485 jurisdiction of the department or any other person whose testimony [he] the commissioner finds  
486 relevant to any matter before [him] the commissioner or whose testimony is necessary or  
487 appropriate in carrying out [his] the commissioner's duties and responsibilities.

488 Section 5. Section **7-1-312** is amended to read:

489 **7-1-312 . Reports required of large stockholders of financial institutions as to**  
490 **loans secured by stock.**

491 The commissioner may require any person owning or acquiring 25% or more of the  
492 outstanding capital stock of any depository institution subject to [his] the commissioner's  
493 jurisdiction, or 25% or more of the stock of any corporation having control of the institution,  
494a to  
494 report to [him] the commissioner any borrowing by that person which is secured by that stock  
495 and to report to [him] the commissioner the terms of the borrowing. This section applies only if  
496 the purpose for the borrowing was to acquire control of the institution or any other depository  
497 institution.

498 Section 6. Section **7-1-313** is amended to read:

499 **7-1-313 . Requiring remedial action by institution in or about to be in unsound**  
500 **condition -- Assistance by insurers.**

501 (1) The commissioner may require any financial institution subject to the jurisdiction of the  
502 department that [he] the commissioner finds to be or about to be in an unsafe or unsound  
503 condition to take corrective or remedial action as [he] the commissioner considers  
504 appropriate to protect the interests of depositors, members, other creditors, and  
505 shareholders of the institution, and the general public.

506 (2) An insurer of the accounts of a financial institution may make loans to, purchase the  
507 assets of, establish accounts in, or provide other assistance to a financial institution in  
508 order to correct or remedy an unsafe or unsound condition or to protect the interests of  
509 depositors, members, other creditors, and shareholders of the institution. This assistance  
510 is subject to approval by the commissioner.

511 Section 7. Section **7-1-314** is amended to read:

512 **7-1-314 . Examination of institutions by commissioner or supervisor.**

513 (1) The commissioner or the responsible supervisor shall visit and examine or cause to be  
514 visited and examined every depository institution and such other institutions subject to  
515 the jurisdiction of the department as the commissioner considers necessary or advisable.

516 (2) At every examination of a depository institution careful inquiry shall be made as to:

517 (a) the condition and resources of the institution examined;

518 (b) the mode of conducting and managing of its affairs;

519 (c) the actions of its directors and officers;

520 (d) the investment and disposition of its funds;

521 (e) the security offered to depositors and other customers;

522 (f) whether or not it is violating any provision of law relating to the institution or the  
523 business of the institution examined;

524 (g) whether or not it is complying with its articles of incorporation and bylaws; and

525 (h) such other matters as the commissioner may prescribe.

526 (3) The commissioner may, in [~~his~~] the commissioner's discretion, accept examinations of  
527 any institution which are made by federal examiners or examiners from other states  
528 having jurisdiction over that institution in lieu of any examination required under the  
529 laws of this state.

530 (4) The nature and extent of examination of institutions or other business entities not  
531 classified as depository institutions but otherwise subject to the jurisdiction of the  
532 department as provided in this title shall be such as the commissioner may determine to  
533 be necessary or appropriate in determining whether or not the business is being  
534 conducted in accordance with law and the regulations of the department.

535 Section 8. Section **7-1-315** is amended to read:

536 **7-1-315 . Examination by board of directors required -- Report.**

537 The commissioner may at any time require the board of directors of any or all  
538 institutions under [~~his~~] the commissioner's jurisdiction to fully examine or have fully examined  
539 the books, papers, and affairs of the institution of which they are directors and particularly the



540 loans, discounts, and overdrafts of such institutions to ascertain the value and security thereof  
541 and the collateral security, if any, given in connection therewith and to inquire into such other  
542 matters as the commissioner may consider necessary and to have a report placed on file with  
543 the records of the institution, which report shall be subject to examination by the commissioner.

544 Section 9. Section **7-1-316** is amended to read:

545 **7-1-316 . Forms for reports required from institutions.**

546 The commissioner shall prescribe the forms for all reports required by law or regulation  
547 from financial institutions subject to the jurisdiction of the department and may change the  
548 forms at [his] the commissioner's discretion. The department shall furnish without charge upon  
549 the request of any such institution any blank form necessary or required by law.

550 Section 10. Section **7-1-319** is amended to read:

551 **7-1-319 . Notice to county attorney or district attorney of criminal violations --**  
552 **Attorney general to conduct actions commenced by commissioner -- Assistance of county**  
553 **attorney or district attorney.**

554 The commissioner shall inform the county attorney or district attorney in the county in  
555 which the principal office of an institution is located of any violation of any provision of law  
556 which constitutes a misdemeanor or felony by an officer, director, or employee of any  
557 institution under [his] the commissioner's jurisdiction[~~which shall come to his notice~~], and  
558 upon receipt of such information the county attorney or district attorney shall institute  
559 proceedings to enforce the provisions of the law. The attorney general shall conduct all  
560 actions, suits, and proceedings begun by the commissioner under authority of law and may call  
561 to [his] the attorney general's assistance the county attorney or district attorney of the county in  
562 which the action, suit, or proceeding is conducted, and it shall be the duty of the county  
563 attorney or district attorney to render such assistance as the attorney general may require.

564 Section 11. Section **7-1-320** is amended to read:

565 **7-1-320 . Actions to enjoin violations -- Bond not required -- Recovery -- Attorney**  
566 **fees.**

567 (1) Whenever it appears to the commissioner that any person has engaged in or is about to  
568 engage in any act or practice constituting a violation of this title or any rule, regulation,  
569 or order of the commissioner or the department, [he] the commissioner may bring an  
570 action in an appropriate court of general jurisdiction to enjoin the acts or practices and to  
571 enforce compliance with this title or any rule or order issued under this title. Upon a  
572 proper showing, a permanent or temporary injunction, restraining order, or extraordinary  
573 writ shall be granted and a receiver or conservator may be appointed for the defendant or

574 the defendant's assets. The court may not require the commissioner to post a bond.  
575 (2) If the court finds that the defendant in an action brought by the commissioner pursuant  
576 to this section has violated or is about to violate any provision of this title or any rule or  
577 order of the commissioner, the court may award to the department an amount not  
578 exceeding \$10,000 per day for each day the defendant was in violation. The court may  
579 also award the department reasonable [attorney's] attorney fees.

580 Section 12. Section **7-1-510** is amended to read:

581 **7-1-510 . Examination of institutions -- Adoption of rules -- Requiring actions by**  
582 **institutions.**

583 If the commissioner finds that it is in the public interest and necessary to protect the  
584 depositors and other customers of a financial institution, [he] the commissioner may:

- 585 (1) examine the books and records of any financial institution holding company and require  
586 the company to furnish whatever reports that [he] the commissioner considers  
587 appropriate to properly supervise the company's financial institution subsidiaries;  
588 (2) adopt and issue rules consistent with the purposes and provisions of this title as they  
589 pertain to financial institution holding companies; and  
590 (3) require a financial institution holding company to take any action [he] the commissioner  
591 finds reasonable and necessary to protect the interests of depositors, other customers,  
592 and creditors of any subsidiary financial institution, to maintain its solvency or to  
593 prevent its failure.

594 Section 13. Section **7-1-601** is amended to read:

595 **7-1-601 . Adverse claim to account in depository institution -- Notice required --**  
596 **Bond may be required for payment.**

597 Receipt of a notice of an adverse claim to a deposit or other account standing on the  
598 books of any depository institution doing business in this state does not obligate the depository  
599 institution to the adverse claimant, unless the notice is given pursuant to an appropriate court  
600 order, obtained by the adverse claimant in a legal action instituted by [him] the adverse claimant  
601 in which the person to whose credit the deposit stands is made a party. Such depository  
602 institution may also pay the adverse claim, if the claimant executes to the depository institution  
603 a good and sufficient bond in double the amount claimed, indemnifying it from any and all  
604 liability, loss, damage, costs and expenses including [attorneys'] attorney fees for and on  
605 account of the payment of the adverse claim or the dishonor of a check or other instrument of  
606 the person to whose credit the deposit stands on its books.

607 Section 14. Section **7-1-604** is amended to read:

608           **7-1-604 . Savings accounts -- Qualifications to hold -- Representation -- Transfer**  
 609 **-- Holder treated as owner -- Exception.**

- 610 (1) Savings accounts may be opened and held solely and absolutely by any adult or minor  
 611 individual, male or female, single or married in [~~his or her~~] the individual's own right or  
 612 in trust or other fiduciary capacity for any such adult or minor.
- 613 (2) Savings accounts shall be represented only by the account of each savings account  
 614 holder on the books of the depository institution.
- 615 (3) Savings accounts shall be transferable only on the books of the depository institution  
 616 and only upon written application. Acceptance by the institution of the transferee as an  
 617 account holder may only be upon terms approved by its board of directors. Nothing in  
 618 this subsection shall be construed as prohibiting the transfer of part or all of the funds in  
 619 a transaction account to a third party by means of checks, drafts, or other instruments or  
 620 by electronic means.
- 621 (4) The institution may treat the holder of record of a savings account as the owner of the  
 622 account for all purposes and may disregard any notice to the contrary, unless the  
 623 institution has acknowledged, in writing, notice of a pledge of the savings account.

624           Section 15. Section **7-1-610** is amended to read:

625           **7-1-610 . Attorney-in-fact as to savings account -- Institution immune from**  
 626 **liability.**

627           Any depository institution may continue to recognize the authority of an attorney-in-fact  
 628 authorized in writing to manage or to make withdrawals either in whole or in part from the  
 629 savings account of a holder, whether minor or adult, until it is on actual notice of the  
 630 revocation of [~~his~~] the authority of the attorney-in-fact. No such institution shall be liable for  
 631 damages, penalty, or tax by reason of any payment made under this section.

632           Section 16. Section **7-1-613** is amended to read:

633           **7-1-613 . Incompetency of savings account owner.**

634           When a savings account is held in any depository institution by a person who becomes  
 635 incompetent and an adjudication of incompetency has been made by a court of competent  
 636 jurisdiction, the institution may pay or deliver the withdrawal value of the savings account and  
 637 any earnings that may have accrued on the account to the conservator for that person upon  
 638 proof of [~~his~~] the conservator's appointment and qualification. However, if the institution has  
 639 received no written notice and is not on actual notice that the savings account holder has been  
 640 adjudicated incompetent, it may pay or deliver the funds to the holder in accordance with the  
 641 provision of the savings account contract, and the receipt or acquittance of the holder therefor

642 shall be a valid and sufficient release and discharge of the institution for the payment or  
643 delivery so made.

644 Section 17. Section **7-1-803** is amended to read:

645 **7-1-803 . Conflicting interests of commissioner, supervisors, and examiners --**  
646 **Loans and accounts -- Disclosure -- Penalty.**

647 (1) Neither the commissioner nor any supervisor or examiner may do any of the following  
648 with respect to any institution under the supervision of the department:

- 649 (a) be indebted, directly or indirectly, as a borrower, accommodation endorser, surety, or  
650 guarantor to an institution, or to an individual or any other legal or commercial entity  
651 owning or controlling an institution;
- 652 (b) be an officer, director, or employee of any institution or of an individual or any other  
653 legal or commercial entity owning or controlling an institution;
- 654 (c) own or deal in, directly or indirectly, the shares or obligations of an institution or of a  
655 corporation owning or controlling an institution;
- 656 (d) receive, directly or indirectly, from an institution or any officer, director, or  
657 employee of an institution, any salary, fee, or compensation; or
- 658 (e) be interested in or engage in the negotiations of any loan to, obligation of, or  
659 accommodation for another person to or with an institution.

660 (2) Notwithstanding Subsection (1), the commissioner, any supervisor, or any examiner of  
661 the department may:

- 662 (a) have and maintain savings, transaction, share, time deposit, or other accounts, or  
663 certificates and deposits in any financial or depository institution in the state, or be a  
664 lessee of a safe deposit box on the same terms and conditions available to the public  
665 generally;
- 666 (b) be indebted to a depository institution under the supervision of the department on  
667 terms offered to the public generally upon:
  - 668 (i) a mortgage loan upon the mortgagor's own home;
  - 669 (ii) an open or closed end consumer loan granted before the person became employed  
670 with the department or before the institution became subject to the jurisdiction of  
671 the department;
  - 672 (iii) in the case of a supervisor or examiner, a consumer loan lawfully made prior to  
673 January 1, 1991, provided that while the debt is subject to the provisions of this  
674 chapter, the terms of the debt are not changed in favor of the debtor in a manner  
675 not offered and provided to other creditworthy borrowers or waived or extended

- 676 as a result of delinquency or default; and
- 677 (iv) a debt fully secured at all times by deposits in the institution;
- 678 (c) be indebted on an installment debt transferred to an institution under the jurisdiction
- 679 of the department in the regular course of business by a seller of consumer goods; and
- 680 (d) continue to receive payments under a regularly established pension plan of general
- 681 application for fully retired employees of an institution under the supervision of the
- 682 department.
- 683 (3) Full disclosure in writing of any indebtedness incurred under Subsection (2) shall be
- 684 filed in the commissioner's office.
- 685 (4) Any person who knowingly violates this section with the intention of getting gain
- 686 through the influence of [his] that person's office shall forfeit the office or employment
- 687 and is guilty of a third degree felony.

688 Section 18. Section 7-2-3 is amended to read:

689 **7-2-3 . Action for injunction against commissioner in possession -- Procedure --**

690 **Appeal.**

- 691 (1)(a) Whenever any institution or other person of which the commissioner has taken
- 692 possession considers itself aggrieved by the taking, it may within 10 days after the
- 693 taking apply to the court to enjoin further proceedings.
- 694 (b) After ordering the commissioner to show cause why further proceedings should not
- 695 be enjoined and after hearing the allegations and proofs of the parties and
- 696 determining the facts, the court may:
- 697 (i) dismiss the application; or
- 698 (ii) enjoin the commissioner from further proceedings if the court finds the taking to
- 699 be arbitrary, capricious, an abuse of discretion, or otherwise contrary to law.
- 700 (c) If the court enjoins further proceedings, it shall order the commissioner to surrender
- 701 possession of the institution in a manner and on terms designated by the court in the
- 702 public interest.
- 703 (d) Notice of any hearings shall be given to persons designated by the court in the
- 704 manner designated by the court.
- 705 (2) An appeal may be taken by the commissioner, a receiver, or liquidator appointed by the
- 706 commissioner under Section 7-2-9, or by the institution from the judgment of the court
- 707 as provided by law. An appeal from the judgment does not stay any judgment in favor
- 708 of the commissioner, or a receiver or liquidator appointed by [him] the commissioner. If
- 709 the appeal is taken by the commissioner, or by a receiver or liquidator appointed by [him]

710 the commissioner, no bond is required. If the appeal is taken by the institution, a bond is  
711 required as provided by the Utah Rules of Civil Procedure.

712 Section 19. Section **7-2-4** is amended to read:

713 **7-2-4 . Consent required for institution to resume business.**

714 The institution or other person may resume business only with the consent of and upon  
715 conditions approved by the commissioner. The commissioner may give [his] the commissioner's  
716 consent to resumption of business if arrangements have been made by the institution or its  
717 stockholders, by reorganization or otherwise, to the satisfaction of the commissioner, to pay all  
718 creditors of the institution, aside from the stockholders, and to remedy the default or condition  
719 for which possession was taken and to pay the expenses of the proceeding.

720 Section 20. Section **7-2-8** is amended to read:

721 **7-2-8 . Special deputies or agents -- Appointment -- Bond.**

722 The commissioner may appoint one or more special deputies or agents to assist [him] the  
723 commissioner in the proceedings. The commissioner may fix the compensation of any agent  
724 appointed to assist [him] the commissioner. The commissioner may require from agents  
725 security for the faithful discharge of their duties. All bonds given under this section shall be  
726 deposited with the commissioner and kept in [his] the commissioner's office.

727 Section 21. Section **7-2-11** is amended to read:

728 **7-2-11 . Special counsel -- Employment by attorney general.**

729 Upon taking possession of any institution or other person subject to the jurisdiction of  
730 the department, the commissioner may request the attorney general to employ special counsel  
731 on [his] the commissioner's behalf to assist and advise [him] the commissioner in connection  
732 with a liquidation or reorganization proceeding and the prosecution or defense of any action or  
733 proceeding connected with it.

734 Section 22. Section **7-2-13** is amended to read:

735 **7-2-13 . Collections in liquidation -- Deposit -- Preference.**

736 The money collected in process of a liquidation by the commissioner shall be from time  
737 to time deposited, subject to [his] the commissioner's order as herein provided, in one or more  
738 federally insured depository institutions organized under the laws of this state. In case of the  
739 suspension or insolvency of the depository institution, these deposits shall be preferred before  
740 all other deposits.

741 Section 23. Section **7-2-14** is amended to read:

742 **7-2-14 . Expenses during possession.**

743 The expenses reimbursable to the commissioner during possession or in the course of

744 proceedings under this chapter include the compensation of deputies, agents, clerks, and  
745 examiners employed by [~~him~~] the commissioner and reasonable fees for counsel, accountants  
746 or consultants employed by [~~him~~] the commissioner or on [~~his~~] the commissioner's behalf. The  
747 compensation shall be fixed by the commissioner subject to the approval of the court. The  
748 expenses of the proceedings shall be paid out of the property of the institution in the hands of  
749 the commissioner, shall be a valid charge against that property, and shall be paid first in order  
750 of priority. No expenses may be paid out of the property of the institution until an account of  
751 the expense has been filed with and approved by the court.

752 Section 24. Section **7-2-15** is amended to read:

753 **7-2-15 . Priority of obligations, expenses, and claims -- Distribution of balance of**  
754 **assets.**

755 (1) The following obligations, expenses, and claims have the following priority:

756 (a) first, any obligation the commissioner may have under Subsection 7-2-6(3)(b) to be  
757 bound by the terms, covenants, and conditions of obligations secured by assets or  
758 property of the institution;

759 (b) second, administrative expenses, including those allowed under Section 7-2-14;

760 (c) third, unsecured claims for wages, salaries, or commissions, including vacation,  
761 severance, or sick leave pay, earned by an individual within 90 days before the date  
762 of the commissioner's possession, in an amount not exceeding \$2,000 for each  
763 individual;

764 (d) fourth, claims of depositors. Any federal deposit insurance agency or other deposit  
765 insurer is subrogated to all rights of the depositors against the institution, its officers  
766 and directors, and its persons in control of the institution as control is defined in  
767 Section 7-1-103 to the extent of all payments made for the benefit of the depositors.  
768 "Payments," as used in this subsection, includes arrangements by a federal deposit  
769 insurance agency for the assumption or payment of the deposit liabilities by another  
770 institution whose deposits are insured by a federal deposit insurance agency. The  
771 right of any agency of the United States insuring deposits or savings obligations to be  
772 subrogated to the rights of depositors upon payment of their claims may not be less  
773 extensive than the law of the United States provides with respect to subrogation to  
774 the rights of depositors in national banks. For the purposes of this section, a  
775 contractual commitment to advance funds, including a standby letter of credit, may  
776 not be considered a deposit liability of the institution;

777 (e) fifth, all other unsecured claims in amounts allowed by the court, including claims of

778 secured creditors to the extent the amount of their claims exceed the present fair  
779 market value of their collateral. The claim of a lessor for damages resulting from the  
780 termination of a lease of property may not be allowed in an amount in excess of the  
781 rent reserved by the lease, without acceleration, for 60 days after the lessor  
782 repossessed the leased property, or the leased property was surrendered to the lessor,  
783 whichever first occurs, whether before or after the commissioner took possession of  
784 the institution, plus any unpaid rent due under the lease, without acceleration, on the  
785 date of possession or surrender. A claim for damages resulting from the termination  
786 of an employment contract, may not be allowed in an amount in excess of the  
787 compensation provided by the contract, without acceleration, for 90 days after the  
788 employee was directed to terminate, or the employee terminated, performance under  
789 the contract, whichever first occurs, whether before or after the commissioner took  
790 possession of the institution, plus any unpaid compensation due under the contract,  
791 without acceleration, on the date the employee was directed to terminate or the  
792 employee terminated performance. Claims for damages resulting from the  
793 termination of employment contracts of persons who were in control of the  
794 institution, as control is defined in Section 7-1-103, are not entitled to priority under  
795 this subsection. Claims for damages for breach of a commitment to advance funds  
796 shall be limited to the amount due and owing by the institution on the date the  
797 commissioner took possession of the institution;

798 (f) sixth, claims for debt that are subordinated under the provisions of a subordination  
799 agreement or other instrument;

800 (g) seventh, claims of persons who were at any time in control of the institution as  
801 control is defined in Section 7-1-103; and

802 (h) eighth, all other claims.

803 (2) The commissioner shall classify each claim presented for priority purposes under  
804 Subsection (1) and shall indicate the classification on any certificate issued under the  
805 provisions of Subsection 7-2-6(11). This classification is final, subject to review by the  
806 court upon a timely objection filed under Subsection 7-2-6(9).

807 (3) When the commissioner has paid to each depositor and creditor of the institution whose  
808 claims have been proved and allowed the full amount of the claim, has made proper  
809 provision for unclaimed or unpaid deposits or dividends, and has paid all the expenses of  
810 the liquidation, [he] the commissioner shall distribute the balance of the assets of the  
811 institution in [his] the commissioner's possession among the shareholders of the



812 institution in proportion to the holdings and classes of this stock. Unless a court of  
 813 competent jurisdiction determines otherwise, the shareholders shall be determined by the  
 814 books and records of the institution as of the date the commissioner took possession.

815 Section 25. Section **7-2-16** is amended to read:

816 **7-2-16 . Interim ratable dividends.**

817 At any time after the expiration of the date fixed for the presentation of claims and prior  
 818 to the declaration of a final dividend the commissioner may, out of the funds remaining in [his]  
 819 the commissioner's hands after the payment of expenses, declare and pay, subject to their  
 820 priorities established under Section 7-2-15, one or more interim ratable dividends to any  
 821 person and in the amount and upon such notice as the court directs.

822 Section 26. Section **7-2-18** is amended to read:

823 **7-2-18 . Plan for reorganization or liquidation of institution -- Hearing --**  
 824 **Procedure -- Effect -- Appeals.**

- 825 (1) If the commissioner has taken possession of any institution or other person under the  
 826 jurisdiction of the department[~~he~~] , the commissioner may propose to the court a plan for  
 827 the reorganization or liquidation of the institution or the establishment of a new  
 828 institution by filing a petition with the court, setting forth the details of the plan and  
 829 requesting the court to set a day for hearing on the petition.
- 830 (2) The court shall make an order fixing a day for the hearing of the petition, prescribing  
 831 the manner in which notice of the hearing is given, and may prescribe a deadline for  
 832 filing written objections. The court may adjourn the hearing from time to time and no  
 833 further notice is required. At the time of hearing or any adjournment of a hearing the  
 834 court shall take testimony, and if it appears that it is in the best interests of the depositors  
 835 and other creditors, the court shall approve the plan.
- 836 (3) A plan of reorganization or liquidation approved by the court shall be fully binding  
 837 upon and constitute a final adjudication of all claims, rights, and interests of all  
 838 depositors, creditors, shareholders, and members of the institution being reorganized or  
 839 liquidated, and all other parties in interest with regard to the plan and with regard to any  
 840 institution or other person receiving any assets or assuming any liabilities under the plan.
- 841 (4) Notice of an appeal of an order approving a plan of reorganization or liquidation shall  
 842 be filed within 10 days after the date of entry of the order appealed from.

843 Section 27. Section **7-2-19** is amended to read:

844 **7-2-19 . Suspension of payments by institution -- Order of commissioner --**  
 845 **Approval of governor -- Period effective -- Exempt payments -- Operation during**

846 **suspension -- Modification of orders -- Adoption of rules and regulations.**

- 847 (1) The commissioner, whenever in [~~his~~] the commissioner's opinion the action is necessary  
848 in the public interest, may, if the governor approves, order such institutions as are  
849 subject to [~~his~~] the commissioner's supervision to suspend the payment in any manner of  
850 their respective liabilities to their depositors and other creditors, except as hereinafter  
851 provided.
- 852 (2) The order shall become effective upon notice, and shall continue in full force and effect  
853 until rescinded or modified by [~~him~~] the commissioner. No such order shall be issued for  
854 an initial period of more than 60 days, but any such order may, if the governor approves,  
855 be extended from time to time for further periods not exceeding 60 days each.
- 856 (3) Nothing contained in this chapter shall affect the right of the institutions to pay current  
857 operating expenses and other liabilities incurred during a period of suspension.
- 858 (4) Whenever in the opinion of the commissioner conditions warrant such action, [~~he~~] the  
859 commissioner may, if the governor approves, authorize the issuance of clearing house  
860 certificates, post notes or other evidences of indebtedness, either during a period of  
861 suspension, or during such longer period as [~~he~~] the commissioner may prescribe, and  
862 during a period of suspension, [~~he~~] the commissioner may permit the suspended  
863 institution to receive deposits and may authorize any such institution to pay any part of  
864 its liabilities, or of any class thereof, payment of which has been suspended.
- 865 (5) [~~He~~] The commissioner may, if the governor approves, at any time, by order, modify or  
866 rescind any or all previous orders made by [~~him~~] the commissioner under authority of  
867 this chapter.
- 868 (6) The commissioner may, if the governor approves, prescribe such rules and regulations  
869 as [~~he~~] the commissioner considers necessary in order to carry out the provisions of this  
870 chapter, and an order may be issued on such terms and conditions as may be  
871 incorporated in the order.

872 Section 28. Section **7-3-3.2** is amended to read:

873 **7-3-3.2 . Securities business permitted -- Activities conducted by subsidiary --**  
874 **Disclosure statements required.**

- 875 (1) A bank has all necessary and incidental powers to engage in the business of purchasing,  
876 selling, underwriting, and dealing in securities, whether as a principal for its own  
877 account or as agent or broker for a customer, subject to the limitations in this section.
- 878 (2) The securities business that a bank may conduct as a principal for its own account is  
879 limited to the activities specified in Subsections (2)(a) through (d). A bank does not

- 880 otherwise have power to enter securities underwriting or act as a principal in issuance or  
881 marketing of securities.
- 882 (a) A bank may purchase for investment and subsequently resell those types of securities  
883 authorized by statute or rule of the commissioner, including, without limitation,  
884 shares purchased in accordance with Section 7-3-21 and government or other  
885 securities lawfully acquired for the investment or trading portfolio of the bank or any  
886 of its subsidiaries or affiliates in accordance with any limitation established by any  
887 other federal or state statute, regulation, or rule.
- 888 (b) A bank may sell securities of any kind acquired in the ordinary course of business,  
889 including, without limitation, through foreclosure on pledged securities.
- 890 (c) A bank may underwrite or deal in securities issued by a municipality, county, or  
891 other local governmental entity or an agency of any such governmental entity,  
892 securities issued by a state or any of its agencies, or securities issued by the federal  
893 government or any of its agencies.
- 894 (d) A bank may establish or underwrite the securities of registered investment  
895 companies that are limited to operating or investing in money market funds or other  
896 short-term government or corporate debt instruments.
- 897 (3) This section may not be interpreted to alter the traditional rights and powers of banks to  
898 issue deposit instruments or similar instruments that acknowledge receipt of money for  
899 customers, even though the instruments may for some purposes be considered securities.
- 900 (4) Securities activities under this section, except those activities described in Subsections  
901 (2)(a) and (b), shall be conducted only through a subsidiary. Any such subsidiary shall  
902 be established pursuant to rules that the commissioner may adopt after notice and  
903 hearing. Any such rules shall further define the standards by which a securities  
904 subsidiary of a bank may be established and operated, including the requirement for  
905 registration, if required, as a broker-dealer with state, federal, and self-regulatory  
906 agencies. In addition to other standards that may be established by these rules, a bank  
907 may not invest more than 10% of its total capital in a securities subsidiary. For purposes  
908 of that determination, total capital shall be calculated in accordance with all other  
909 applicable statutes and rules of the commissioner, including the effect of loans from the  
910 bank to the subsidiary, together with capital standards established by the Federal Deposit  
911 Insurance Corporation. Every loan made by the bank to a securities subsidiary shall  
912 comply with applicable state and federal laws. In all cases, each subsidiary shall  
913 maintain separate corporate and financial records.

- 914 (5) Notwithstanding Subsection (4), a bank may enter into a networking agreement with a  
 915 registered broker-dealer for the provision of brokerage services to the bank's customers  
 916 on the bank's premises without the need to comply with Subsection (4), (6), or (7).
- 917 (6) The securities activities authorized by this section may be conducted from an authorized  
 918 banking office or from a separate office of a subsidiary, and may be offered to customers  
 919 in this state or in any other state, territory, or country, except to the extent such activities  
 920 are limited or prohibited by the laws of the other state, territory, or country.
- 921 (7) Before undertaking any of the direct or indirect securities activities permitted under this  
 922 section, except those authorized by Subsection (2)(a), a bank shall apply to the  
 923 commissioner. The commissioner shall render a decision of approval, conditional  
 924 approval, or disapproval within 60 days from the date of receiving the application.  
 925 Public notice is not required for any hearing on the application that may be held. [~~The~~  
 926 ~~commissioner shall satisfy himself before approving the application]~~ Before approving  
 927 the application, the commissioner shall be satisfied that the bank possesses the  
 928 managerial and financial resources necessary to conduct the securities activities safely  
 929 and soundly.
- 930 (8) In conducting securities activities, a bank shall in all respects comply, and cause its  
 931 securities subsidiary to comply, with the Utah Uniform Securities Act, the Securities Act  
 932 of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940,  
 933 and other applicable statutes, regulations, and rules.
- 934 (9) In connection with each customer for which a bank or its securities subsidiary shall act  
 935 as agent or broker, the bank or the subsidiary, as applicable, shall give a written  
 936 disclosure to its customer prior to closing any single transaction or establishment of an  
 937 account contemplating a series of transactions. The disclosure statement shall be in  
 938 legible print and shall be in substantially the form shown in Subsection (9)(a) with  
 939 respect to the bank and in Subsection (9)(b) with respect to any securities subsidiary.

940 (a) **DISCLOSURE STATEMENT**

941 The services offered by the securities department of this bank are offered to its  
 942 customers without regard to any other banking relationship. By signing below the customer  
 943 acknowledges receipt of this Disclosure Statement and agrees that any contract for securities  
 944 services is completely voluntary, and the selection of this bank for securities services has not  
 945 been required by any other business relationship or account with the bank.

946 \_\_\_\_\_(month/day/year).

947 **CUSTOMER:**

949 (b) DISCLOSURE STATEMENT

951 \_\_\_\_\_ (name of securities agency subsidiary) is a subsidiary of  
 952 \_\_\_\_\_ (name of bank). The services offered by \_\_\_\_\_ (name of  
 953 subsidiary) are offered to its customers without regard to any separate banking relationship  
 954 with \_\_\_\_\_ (name of bank). By signing below the customer acknowledges receipt  
 955 of this Disclosure Statement and agrees that any contract for services with \_\_\_\_\_  
 956 (name of subsidiary) is completely voluntary and the selection of \_\_\_\_\_ (name of  
 957 subsidiary) for securities services has not been required by any business relationship with its  
 958 parent bank.  
 959 \_\_\_\_\_(month/day/year).

960 CUSTOMER: \_\_\_\_\_

961 Section 29. Section **7-3-35** is amended to read:

962 **7-3-35 . Examinations in lieu of directors' examination -- Report filed with board**  
 963 **minutes.**

- 964 (1) With the approval of the commissioner, and under rules and regulations prescribed by [  
 965 ~~him~~] the commissioner, any examination made during an 18-month period by the  
 966 department, the applicable federal reserve bank or the Federal Deposit Insurance  
 967 Corporation, or a certified audit prepared by an independent certified public accountant  
 968 may be substituted for the directors' examination required under Section 7-3-33.  
 969 (2) If an examination by the department, the applicable federal reserve bank, or the Federal  
 970 Deposit Insurance Corporation or an audit by a certified public accountant, is substituted  
 971 for the directors' examination, the board of directors of the examined bank, or an  
 972 examining committee appointed by the board shall prepare and file with the minutes of  
 973 the board a detailed written report of the findings and recommendations based upon the  
 974 examination. The report shall be in addition to any other requirements prescribed by the  
 975 commissioner.

976 Section 30. Section **7-5-3** is amended to read:

977 **7-5-3 . Application for authorization to engage in trust business -- Criteria for**  
 978 **granting -- Authority of trust company.**

- 979 (1) A person seeking authorization to become a trust company and engage in the trust  
 980 business in this state shall file an application with the commissioner in the manner  
 981 provided in Section 7-1-704, and shall pay the fee prescribed in Section 7-1-401.  
 982 (2) The commissioner shall, in deciding whether or not to approve the application, take into  
 983 account:  
 984  
 985

- 986 (a) the character and condition of the applicant's assets;  
987 (b) the adequacy of its capital;  
988 (c) its earnings record;  
989 (d) the quality of its management;  
990 (e) the qualifications of any person proposed to be an officer in charge of the trust  
991 operations;  
992 (f) the needs of the community for fiduciary services;  
993 (g) the volume of business that the applicant will probably do; and  
994 (h) any other relevant facts and circumstances, including the availability of legal counsel  
995 to advise and pass upon matters relating to the trust business.
- 996 (3) The commissioner may not apply criteria making it more difficult for a state chartered  
997 depository institution to obtain approval to engage in the trust business than for a  
998 federally chartered depository institution of the same class.
- 999 (4) The commissioner may impose such conditions when authorizing a person to engage in  
1000 the trust business as [he] the commissioner considers appropriate to protect the public  
1001 interest.
- 1002 (5) Upon receiving authorization from the commissioner to become a trust company and  
1003 engage in the trust business, the trust company is qualified to act as fiduciary in any  
1004 capacity without bond.

1005 Section 31. Section **7-5-12** is amended to read:

1006 **7-5-12 . Directors' audit of trust business -- Report available to commissioner or**  
1007 **examiners -- Examinations in lieu of audit.**

1008 A committee of the board of directors, exclusive of any active officers of the trust  
1009 department, of every trust company authorized to engage in the trust business in this state  
1010 shall, at least once during a 15-month period, make a suitable audit of the trust business  
1011 operations of the institution or cause a suitable audit to be made by auditors responsible only to  
1012 the board of directors and shall ascertain whether the trust business operations of the institution  
1013 have been administered in accordance with law and sound fiduciary principles. A report of the  
1014 audit, together with the action taken thereon, shall be made available to the commissioner, [his]  
1015 the commissioner's examiners, or the examiners of other trust company regulating agencies  
1016 upon request. An examination by the state or other trust company regulating agencies or both  
1017 made during the same period may be substituted for this audit.

1018 Section 32. Section **7-9-18** is amended to read:

1019 **7-9-18 . Expulsion of member.**

- 1020 (1) The board of directors or board-designated representatives may expel from the credit  
1021 union any member who has not carried out [his] the member's engagements with the  
1022 credit union, or neglected or refused to comply with the credit union board policies,  
1023 provisions of this chapter, or of the credit union bylaws.
- 1024 (2) If the member whose expulsion is under consideration is a member of the board of  
1025 directors or credit committee, the supervisory committee shall call a special meeting of  
1026 the members to hear the facts and act upon the proposed expulsion.

1027 Section 33. Section **7-9-31** is amended to read:

1028 **7-9-31 . Shares held in trust.**

- 1029 (1) Shares may be issued to and deposits received in the name of a minor, and these shares  
1030 and deposits may, in the discretion of the board of directors, be withdrawn by the minor  
1031 or by [his] the minor's parent or guardian.
- 1032 (2) A credit union share account, share certificate, deposit, or deposit certificate may be  
1033 held in trust provided that the trustor, trustee, or primary beneficiary is a member of the  
1034 credit union.
- 1035 (3) The trustee of the trust meeting the requirements of Subsection (2) shall exercise the  
1036 rights of the trust as a member of the credit union.

1037 Section 34. Section **7-9-49** is amended to read:

1038 **7-9-49 . Limitation of personal liability of directors and committee members.**

- 1039 (1) Without limiting the generality of Section 7-9-50, the articles of incorporation may  
1040 include a provision eliminating or limiting the personal liability of a director,  
1041 supervisory committee member, or credit committee member to the credit union, its  
1042 members, or its depositors for monetary damages for any action taken or any failure to  
1043 take any action as a director, supervisory committee member, or credit committee  
1044 member, except liability for:
- 1045 (a) the amount of a financial benefit received by a director, supervisory committee  
1046 member, or credit committee member to which [he] the individual is not entitled;
- 1047 (b) an intentional infliction of harm on the credit union, its members, or depositors; or  
1048 (c) an intentional violation of criminal law.
- 1049 (2) No provision authorized under this section may eliminate or limit the liability of a  
1050 director, supervisory committee member, or credit committee member for any act or  
1051 omission occurring prior to the date when the provision becomes effective.
- 1052 (3) Any provision authorized under this section to be included in the articles of  
1053 incorporation may also be adopted in the bylaws or by resolution, but only if the

1054 provision is approved by the same percentage of members as would be required to  
1055 approve it as an amendment to the articles of incorporation.

1056 Section 35. Section **7-9-50** is amended to read:

1057 **7-9-50 . General limitation on liability.**

1058 A director, supervisory committee member, credit committee member, or officer is not  
1059 liable to the credit union, its members, its depositors, any conservator or receiver, or any  
1060 assignee or successor-in-interest thereof, for any action taken, or any failure to take any action,  
1061 as a director, supervisory committee member, credit committee member, or officer, as the case  
1062 may be, unless:

1063 (1) [he] the director, supervisory committee member, credit committee member, or officer

1064 has breached or failed to perform the duties of the office in compliance with this title;  
1065 and

1066 (2) the breach or failure to perform constitutes gross negligence, willful misconduct, or  
1067 intentional infliction of harm on the credit union or its members.

1068 Section 36. Section **7-17-5** is amended to read:

1069 **7-17-5 . Statements.**

1070 Every lender shall furnish to the borrower, or [his] the borrower's successors or assigns,  
1071 without charge, within 60 days after the end of each calendar year, an itemized statement  
1072 showing money:

1073 (1) received for interest and principal repayment; and

1074 (2) received and held in or disbursed from a reserve account, if any.

1075 Section 37. Section **7-19-3** is amended to read:

1076 **7-19-3 . Waiver of procedures.**

1077 The commissioner may waive any of the procedures of Section 7-1-705 or any  
1078 regulation of the department if [he] the commissioner considers it necessary to protect the  
1079 interest of depositors, creditors, and other customers of a failing or failed depository institution  
1080 or failing or failed depository institution holding company in a supervisory merger or a  
1081 supervisory acquisition.

1082 Section 38. Section **7-19-5** is amended to read:

1083 **7-19-5 . Findings prerequisite to requiring or authorizing supervisory**  
1084 **acquisitions or mergers by commissioner.**

1085 The commissioner may not authorize or require any transaction pursuant to Section  
1086 7-19-2 unless [he] the commissioner determines that:

1087 (1) the acquiring or resulting depository institution or depository institution holding



1088 company has demonstrated an acceptable record of meeting the credit needs of the  
 1089 communities which it serves; and  
 1090 (2) the acquiring or resulting depository institution or depository institution holding  
 1091 company has a record of sound performance, capital adequacy, financial capacity, and  
 1092 efficient management such that the acquisition or merger will not jeopardize the  
 1093 financial stability of the acquired or merged depository institution and will not be  
 1094 detrimental to the interests of depositors, creditors, other customers of the depository  
 1095 institution, or to the public.

1096 Section 39. Section **7-19-9** is amended to read:

1097 **7-19-9 . Commissioner's powers not limited -- Immunity -- Rules -- Reports.**

- 1098 (1) This chapter does not limit any power otherwise granted to the commissioner or to any  
 1099 depository institution or depository institution holding company by the laws of this state.  
 1100 (2) The commissioner is not subject to any civil liability or penalty nor to any criminal  
 1101 prosecution for any error in judgment or discretion in any action taken or omitted by [  
 1102 ~~him~~] the commissioner in good faith under the provisions of this chapter.  
 1103 (3) The commissioner may promulgate such rules and regulations as may be necessary to  
 1104 implement this chapter.  
 1105 (4) By January 10 of each year, the commissioner shall report to the governor and the  
 1106 Legislature the nature and general terms and conditions of any supervisory acquisition or  
 1107 supervisory merger effectuated under the provisions of this chapter during the preceding  
 1108 year.

1109 Section 40. Section **8-2-2** is amended to read:

1110 **8-2-2 . Investment of funds by Division of Finance.**

1111 The Division of Finance shall with the approval of the governor invest the money which  
 1112 may be deposited with the state treasurer under the provisions of the preceding section in the  
 1113 name of the state, in bonds or other obligations of the state or of the United States, or in  
 1114 securities in which the division is authorized to invest money in behalf of the state, and  
 1115 semiannually in each year it shall cause to be paid the accrued interest thereof to such person,  
 1116 association or corporation for the care, maintenance or improvement of any cemetery or  
 1117 cemetery lot where the money has been deposited for that purpose. If such cemetery is not  
 1118 held in private ownership, such interest shall be paid to the city or town in which the cemetery  
 1119 is located. At the time of paying such interest the treasurer shall inform the person, city, or  
 1120 town to whom it is paid of the purpose to which it is to be applied as stated in the copy of the  
 1121 instrument which is filed with [~~him~~] the treasurer, and the person, city, or town to whom it is

1122 paid shall apply it to such purpose.

1123 Section 41. Section **9-8-804** is amended to read:

1124 **9-8-804 . Statute of limitations for claiming repositied materials from a collecting**  
1125 **institution.**

1126 (1) Any repositied materials in a collecting institution that are not accompanied by a transfer  
1127 of title to those materials are considered a gift to the collecting institution when more  
1128 than 25 years have passed from the date of the last written contact between the depositor  
1129 or [~~his~~] the depositor's successors and the collecting institution.

1130 (2) No depositor or any of [~~his~~] the depositor's successors may bring an action against the  
1131 collecting institution to recover the repositied materials from the collecting institution  
1132 after 25 years have passed from the date of the last written contact between the depositor  
1133 or [~~his~~] the depositor's successors and the collecting institution.

1134 Section 42. Section **9-8-806** is amended to read:

1135 **9-8-806 . Claiming repositied materials held by a collecting institution.**

1136 (1) Any person claiming title to repositied materials held by a collecting institution shall  
1137 demonstrate that [~~he~~] the person owns all right, title, and interest in the repositied  
1138 materials to the reasonable satisfaction of the collecting institution.

1139 (2)(a) Any person claiming to represent a person claiming title to repositied materials  
1140 held by a collecting institution shall demonstrate, to the reasonable satisfaction of the  
1141 collecting institution, that:

1142 (i) [~~he~~] the person claiming to represent a person claiming title to the repositied  
1143 material represents every person who owns any right, title, or interest in the  
1144 repositied materials; and

1145 (ii) the represented persons [~~he represents~~] own all right, title, and interest in the  
1146 repositied materials.

1147 (b) Any person claiming [~~he represents~~] to represent persons holding all right, title, and  
1148 interest in the repositied materials may demonstrate that representation by providing  
1149 the collecting institution with a notarized authorization from every person having any  
1150 right, title, or interest in the repositied materials.

1151 Section 43. Section **9-9-203** is amended to read:

1152 **9-9-203 . Acceptance or rejection of cession of state jurisdiction -- Proclamation**  
1153 **by governor.**

1154 (1) If the governor receives a resolution signed by the majority of any tribe, tribal council,  
1155 or other governing body duly recognized by the Bureau of Indian Affairs of any tribe,

1156 community, band or group in the state certifying the results of a special election  
1157 expressly ceding criminal or civil jurisdiction of the Indian tribe, community, band, or  
1158 group or its lands or any portion thereof to the state of Utah within the limits authorized  
1159 by federal law, [he] the governor shall either accept or reject the cession of jurisdiction  
1160 within 60 days.

1161 (2) If the governor accepts jurisdiction, [he] the governor shall issue a proclamation within  
1162 60 days to the effect that civil or criminal jurisdiction shall apply, subject to the  
1163 limitations of this chapter, to all Indians and all Indian territory, country, lands or any  
1164 portion thereof of the Indian body involved to the extent authorized by the resolution.  
1165 Failure to issue the proclamation within the time prescribed is considered a rejection of  
1166 the assumption of jurisdiction.

1167 Section 44. Section **10-3-202** is amended to read:

1168 **10-3-202 . Terms of elected municipal officers.**

1169 Each elected officer of a municipality shall hold office for the term for which [he] the  
1170 officer is elected and until [his] the officer's successor is chosen and qualified, unless the office  
1171 becomes vacant under Section 10-3-301.

1172 Section 45. Section **10-3-705** is amended to read:

1173 **10-3-705 . Requirements as to form -- Effective date.**

1174 Ordinances passed or enacted by the governing body shall be signed by the mayor, or if [  
1175 he] the mayor is absent, by the mayor pro tempore, or by a quorum of the governing body, and  
1176 shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its  
1177 failure to conform to the provisions of Subsection 10-3-704(1), (2), (3) or (4). Ordinances  
1178 which do not have an effective date shall become effective 20 days after publication or  
1179 posting, or 30 days after final passage by the governing body, whichever is sooner.

1180 Section 46. Section **10-3-829** is amended to read:

1181 **10-3-829 . Acts of officials not voided.**

1182 No official act of any municipal officer shall be invalid for the reason that [he] the officer  
1183 failed to take the oath of office.

1184 Section 47. Section **10-3-904** is amended to read:

1185 **10-3-904 . Books and supplies -- Recording, filing, and inspection.**

1186 The city engineer's office shall be supplied with all necessary books, cases and supplies  
1187 for recording and filing as required. The city engineer shall record and file all drawings and  
1188 documents pertaining to public lands and improvements. Those made in [his] the city engineer's  
1189 office shall be placed on record as soon as completed and shall then be open for public

1190 inspections, and any person copying the same or taking notes therefrom may do so in pencil  
 1191 only. [He] The city engineer shall keep the records and files in good condition and turn the  
 1192 same over to [his] the city engineer's successor in office. [He] The city engineer shall allow no  
 1193 alteration, mutilation or changes to be made in any matter of record, and shall be held strictly  
 1194 accountable for the same.

1195 Section 48. Section **10-3-906** is amended to read:

1196 **10-3-906 . Seal.**

1197 The city engineer shall be provided with a seal by the city for [his] the city engineer's  
 1198 use, containing the words "\_\_\_\_City, Utah, Engineering Department." The seal shall be  
 1199 affixed to every certification approval.

1200 Section 49. Section **10-3-915** is amended to read:

1201 **10-3-915 . Rights to arrest without warrant.**

1202 The members of the police force shall have the power and authority, without process, to  
 1203 arrest and take into custody any person who shall commit or threaten or attempt to commit in  
 1204 the presence of the officer, or within [his] the officer's view, any breach of the peace, or any  
 1205 offense directly prohibited by the laws of this state or by ordinance.

1206 Section 50. Section **10-8-50** is amended to read:

1207 **10-8-50 . Disturbing the peace -- Public intoxication -- Fighting -- Obscene**  
 1208 **language -- Disorderly conduct -- Lewd behavior -- Interference with officers -- Trespass.**

1209 (1) Boards of commissioners and city councils of cities may provide for the punishment of  
 1210 any person or persons for:

- 1211 (a) disturbing the peace or good order of the city;
- 1212 (b) disturbing the peace of any person or persons;
- 1213 (c) disturbing any lawful assembly;
- 1214 (d) public intoxication;
- 1215 (e) challenging, encouraging, or engaging in fighting;
- 1216 (f) using obscene or profane language in a place or under circumstances which could  
 1217 cause a breach of the peace or good order of the city;
- 1218 (g) engaging in indecent or disorderly conduct;
- 1219 (h) engaging in lewd or lascivious behavior or conduct in the city; and
- 1220 (i) interfering with any city officer in the discharge of [his] the officer's duty.

1221 (2) Boards of commissioners and city councils of cities may provide for the punishment of  
 1222 trespass and such other petty offenses as the board of commissioners or city council may  
 1223 consider proper.

- 1224 (3)(a) A woman's breast feeding, including breast feeding in any location where she  
 1225 otherwise may rightfully be, does not under any circumstance constitute a lewd or  
 1226 indecent act, irrespective of whether or not the breast is covered during or incidental  
 1227 to feeding.
- 1228 (b) Boards of commissioners and city councils of cities may not prohibit a woman's  
 1229 breast feeding in any location where she otherwise may rightfully be, irrespective of  
 1230 whether the breast is uncovered during or incidental to the breast feeding.

1231 Section 51. Section **11-3-4** is amended to read:

1232 **11-3-4 . Enforcement -- Seizure of fireworks sold unlawfully -- Revocation of**  
 1233 **license.**

- 1234 (1) Each county and municipal officer charged with the enforcement of state and municipal  
 1235 laws, including all fire enforcement officials and the State Fire Marshal Division of the  
 1236 Department of Public Safety, shall enforce this chapter and Sections 53-7-220 through  
 1237 53-7-225, Utah Fireworks Act.
- 1238 (2) Any official charged with enforcing this chapter and the Utah Fireworks Act may:
- 1239 (a) seize display fireworks, fireworks, and unclassified fireworks that are offered for  
 1240 sale, sold, or in the possession of an individual in violation of this chapter or the Utah  
 1241 Fireworks Act; and
- 1242 (b) recommend to the state fire [~~marshall~~] marshal that the state fire marshal revoke the  
 1243 license of each importer or wholesaler selling or offering to sell display fireworks,  
 1244 fireworks, or unclassified fireworks in violation of this chapter or the Utah Fireworks  
 1245 Act[~~have his license revoked~~].

1246 Section 52. Section **11-30-6** is amended to read:

1247 **11-30-6 . Contest of petition by attorney general or county attorney -- Attorney**  
 1248 **general and county attorney as parties.**

- 1249 (1) A copy of the petition and order shall be served on the attorney general at least 20 days  
 1250 before the hearing. Upon receipt of the petition, the attorney general shall carefully  
 1251 examine the petition and, if the petition is believed to be defective, insufficient, or  
 1252 untrue, or if, in the attorney general's opinion, a reasonable question exists as to the  
 1253 validity of the bonds, the attorney general shall contest the petition. If neither of those  
 1254 conditions exists or if one or more other parties to the action will, in the attorney  
 1255 general's opinion, competently contest the petition, the attorney general may, upon  
 1256 approval of the court, be dismissed as a defendant.
- 1257 (2) If the petition is filed by the state or any agency, authority, instrumentality, or institution

1258 of the state, the attorney general may not be made a party to the proceeding and notice  
 1259 shall be served on the county attorney in the county in which the largest expenditure of  
 1260 the proceeds of the bonds is expected to be made. That county attorney shall then in all  
 1261 respects perform the role of the attorney general as set forth in this section.

1262 (3) The attorney general or county attorney, as the case may be, may waive [his] the right of  
 1263 appeal and that waiver shall be binding on all successors and assigns.

1264 (4) All costs of the attorney general or county attorney incurred in performing duties  
 1265 imposed by this section shall be reimbursed from the proceeds of the bonds if the bonds  
 1266 are issued.

1267 Section 53. Section **13-1-5** is amended to read:

1268 **13-1-5 . Executive director's authority over division directors.**

1269 The executive director has policymaking and management jurisdiction over directors of  
 1270 the divisions and agencies within the department. [He] The executive director shall appoint the  
 1271 division directors, subject to approval by the governor, unless otherwise provided by law and  
 1272 shall determine their compensation.

1273 Section 54. Section **13-7-4** is amended to read:

1274 **13-7-4 . Business establishment, place of public accommodation, or enterprise**  
 1275 **regulated by the state denying rights deemed public nuisance -- Investigation and**  
 1276 **conciliation -- Action to enjoin -- Civil action for damages -- Expenses of defending action.**

1277 Any business establishment or place of public accommodation or enterprise regulated by  
 1278 the state in which a violation of the rights provided in Section 13-7-3 of this chapter occurs is a  
 1279 public nuisance. The operator of any such business establishment or place of public  
 1280 accommodation or enterprise regulated by the state is guilty of maintaining a public nuisance  
 1281 and may be enjoined as hereinafter provided.

1282 (1) Upon application to the attorney general by any person denied the rights guaranteed by  
 1283 Section 13-7-3, the attorney general shall investigate and seek to conciliate the matter.

1284 (2) An action to enjoin any nuisance defined in this section may be brought in the name of  
 1285 the state of Utah by the attorney general. Upon the trial of the cause, on finding that the  
 1286 material allegations of the complaint are true, the court shall order such nuisance to be  
 1287 abated, and enjoin all persons from maintaining or permitting such nuisance. When any  
 1288 injunction as herein provided has been granted it shall be binding upon the defendant  
 1289 and shall act as an injunction in personam against the defendant throughout the state.

1290 (3) Any person who is denied the rights provided for in Section 13-7-3 shall have a civil  
 1291 action for damages and any other remedy available in law or equity against any person

1292 who denies [him] that person the rights provided for in Section 13-7-3 or who aids,  
 1293 incites or conspires to bring about such denial.

1294 (4) Any business establishment or place of public accommodation or enterprises regulated  
 1295 by the state charged with maintaining a public nuisance in violation of this chapter,  
 1296 which is determined or found not to be in violation of this chapter, may be awarded all  
 1297 actual and necessary expenses incurred in defending such action, as determined and  
 1298 approved by the court having jurisdiction of the matter.

1299 Section 55. Section **13-11-9** is amended to read:

1300 **13-11-9 . Rule-making requirements.**

1301 (1) In addition to complying with other rule-making requirements imposed by this act, the  
 1302 enforcing authority shall:

1303 (a) adopt as a rule a description of the organization of [his] the enforcing authority's  
 1304 office, stating the general course and method of operation of [his] the office and  
 1305 method whereby the public may obtain information or make submissions or requests;

1306 (b) adopt rules of practice setting forth the nature and requirements of all formal and  
 1307 informal procedures available, including a description of the forms and instructions  
 1308 used by the enforcing authority of [his] the enforcing authority's office; and

1309 (c) make available for public inspection all rules, written statements of policy, and  
 1310 interpretations formulated, adopted, or used by the enforcing authority in discharging [  
 1311 his] the enforcing authority's functions.

1312 (2) A rule of the enforcing authority is invalid, and may not be invoked by the enforcing  
 1313 authority for any purpose, until it has been made available for public inspection under  
 1314 Subsection (1). This provision does not apply to a person who has knowledge of a rule  
 1315 before engaging in an act or practice that violates this act.

1316 Section 56. Section **13-11-16** is amended to read:

1317 **13-11-16 . Investigatory powers of enforcing authority.**

1318 (1) If, by [his] the enforcing authority's own inquiries or as a result of complaints, the  
 1319 enforcing authority has reason to believe that a person has engaged in, is engaging in, or  
 1320 is about to engage in an act or practice that violates this act, [he] the enforcing authority  
 1321 may administer oaths and affirmations, subpoena witnesses or matter, and collect  
 1322 evidence.

1323 (2) If matter that the enforcing authority subpoenas is located outside this state, the person  
 1324 subpoenaed may either make it available to the enforcing authority at a convenient  
 1325 location within the state or pay the reasonable and necessary expenses for the enforcing

1326 authority or [his] the enforcing authority's representative to examine the matter at the  
 1327 place where it is located. The enforcing authority may designate representatives,  
 1328 including officials of the state in which the matter is located, to inspect the matter on [his]  
 1329 the enforcing authority's behalf, and [he] the enforcing authority may respond to similar  
 1330 requests from officials of other states.

1331 (3) Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable  
 1332 notice to all persons affected, the enforcing authority may apply to the court for an order  
 1333 compelling compliance.

1334 (4) In the event a witness asserts a privilege against self-incrimination, testimony and  
 1335 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants  
 1336 of Immunity.

1337 Section 57. Section **13-14a-5** is amended to read:

1338 **13-14a-5 . Notice or consent required before changing terms of retailing**  
 1339 **agreement -- Limitations on pledge of personal assets -- Cancellation of retailing**  
 1340 **agreement.**

1341 (1) Each manufacturer, wholesaler, financing subsidiary or division of the manufacturer, or  
 1342 any independent lender shall give the dealer prior written notice and obtain the dealer's  
 1343 consent before:

1344 (a) changing either the time or manner of payment;

1345 (b) making any changes in notes or security;

1346 (c) adding or releasing guarantors; or

1347 (d) granting extensions or renewals in payment schedules on any contract that is  
 1348 executed by the dealer in behalf of and in the name of any third purchaser of goods or  
 1349 services in which the dealer is obligated to assume contingent liability for the  
 1350 repurchase of that contract upon default by that third party.

1351 (2) A person who signs a security agreement or guarantee agreement with a manufacturer or  
 1352 wholesaler may not be required to pledge or encumber [his] the person's personal assets  
 1353 in a value in excess of the amount of the indebtedness secured.

1354 (3) If any manufacturer or wholesaler fails to give notice or obtain consent under  
 1355 Subsection (1), or fails to comply with Subsection (2), the guarantee or security  
 1356 agreement affected is considered cancelled and terminated.

1357 Section 58. Section **13-20-4** is amended to read:

1358 **13-20-4 . Nonconforming motor vehicles -- Replacement -- Refund -- Criteria --**  
 1359 **Defenses.**



- 1360 (1) If the manufacturer, its agent, or its authorized dealer is unable to conform the motor  
1361 vehicle to any applicable express warranty by repairing or correcting any defect or  
1362 condition that substantially impairs the use, market value, or safety of the motor vehicle  
1363 after a reasonable number of attempts, the manufacturer shall replace the motor vehicle  
1364 with a comparable new motor vehicle or accept return of the vehicle from the consumer  
1365 and refund to the consumer the full purchase price including all collateral charges, less a  
1366 reasonable allowance for the consumer's use of the vehicle. Refunds shall be made to  
1367 the consumer, and any lienholders or lessors as their interests may appear.
- 1368 (2) A reasonable allowance for use is that amount directly attributable to use by the  
1369 consumer prior to [his] the consumer's first report of the nonconformity to the  
1370 manufacturer, its agent, or its authorized dealer, and during any subsequent period when  
1371 the vehicle is not out of service because of repair.
- 1372 (3) Upon receipt of any refund or replacement under Subsection (1), the consumer,  
1373 lienholder, or lessor shall furnish to the manufacturer clear title to and possession of the  
1374 motor vehicle.
- 1375 (4) It is an affirmative defense to any claim under this chapter:
- 1376 (a) that an alleged nonconformity does not substantially impair the consumer's use of the  
1377 motor vehicle and does not substantially impair the market value or safety of the  
1378 motor vehicle; or
- 1379 (b) that an alleged nonconformity is the result of abuse, neglect, or unauthorized  
1380 modifications or alterations of a motor vehicle by a consumer.

1381 Section 59. Section **13-21-4** is amended to read:

1382 **13-21-4 . Bond, letter of credit, or certificate of deposit -- Not required of agent if**  
1383 **obtained by organization.**

- 1384 (1) If a credit services organization has obtained a bond, letter of credit, or certificate of  
1385 deposit as set forth in Subsection 13-21-3(1) a salesperson, agent, or representative who  
1386 sells the services of that organization is not required to post [~~his own~~] a separate bond,  
1387 letter of credit, or certificate of deposit.
- 1388 (2) As used in this section, a person is not a salesperson, agent, or representative of a credit  
1389 services organization unless:
- 1390 (a) the person does business under the same name as the credit services organization; or  
1391 (b) the credit services organization and the issuer of the bond or letter of credit certify in  
1392 writing that the bond or letter of credit covers the person.

1393 Section 60. Section **13-28-7** is amended to read:

1394           **13-28-7 . Penalties -- Administrative and criminal.**

- 1395   (1) Any person who violates this chapter shall be subject to:
- 1396       (a) a cease and desist order; and
- 1397       (b) an administrative fine of not less than \$100 or more than \$5,000 for each separate
- 1398           violation.

1399   (2) All administrative fines shall be deposited in the Consumer Protection Education and

1400       Training Fund created in Section 13-2-8.

1401   (3) Any person who intentionally violates this part is guilty of a class A misdemeanor and

1402       may be fined up to \$10,000. A person intentionally violates this part if the violation

1403       occurs after the division, attorney general, or a district or county attorney notifies the

1404       person by certified mail that [he] the person is in violation of this chapter.

1405       Section 61. Section **15-8-11** is amended to read:

1406           **15-8-11 . Enforcement -- Penalties.**

- 1407   (1)(a) A lessor who fails to comply with the requirements of this chapter is liable to a
- 1408       consumer in an amount equal to the greater of:
- 1409           (i) the actual damages sustained by the consumer as a result of the lessor's failure to
- 1410               comply with this chapter; or
- 1411           (ii) 25% of the total payments necessary to acquire ownership, but not less than \$100
- 1412               nor more than \$1,000.
- 1413       (b) A lessor may also be liable to the consumer for the costs of the action and reasonable [
- 1414           attorneys'] attorney fees, as determined by the court.

1415   (2) A consumer may not take any action to offset the amount for which a lessor is

1416       potentially liable under Subsection (1) against any amount owed by the consumer,

1417       unless the amount of the lessor's liability has been determined by judgment of a court of

1418       competent jurisdiction in an action in which the lessor was a party. This subsection does

1419       not bar a consumer then in default on an obligation from asserting a violation of this

1420       chapter as an original action, or as a defense or counterclaim, to an action brought by a

1421       lessor against the consumer.

1422   (3) No action under this section may be brought in any court of competent jurisdiction more

1423       than two years after the date the consumer made [his] the consumer's last rental payment

1424       or more than two years after the date of the occurrence of the violation that is the subject

1425       of the suit, whichever is later.

1426       Section 62. Section **16-7-2** is amended to read:

1427           **16-7-2 . Articles of incorporation -- Execution -- Filing.**

1428 Any person who is the archbishop, bishop, president, trustee in trust, president of stake,  
1429 president of congregation, overseer, presiding elder, or clergyman of any church or religious  
1430 society who has been duly chosen, elected, or appointed in conformity with the constitution,  
1431 canons, rites, regulations, or discipline of such church or religious society, and in whom is  
1432 vested the legal title to its property, may make and subscribe articles of incorporation,  
1433 acknowledge the same before some officer authorized to take acknowledgments, and file the  
1434 original articles with the Division of Corporations and Commercial Code; [he] the person who  
1435 makes and subscribes the articles of incorporation shall retain a copy of these articles in [his]  
1436 the person's possession.

1437 Section 63. Section **16-10a-129** is amended to read:

1438 **16-10a-129 . Penalty for signing false documents.**

- 1439 (1) A person commits an offense if [he] the person signs a document knowing it to be false  
1440 in any material respect, with intent that the document be delivered to the division for  
1441 filing.
- 1442 (2) An offense under this section is a class A misdemeanor punishable by a fine not to  
1443 exceed \$2,500.

1444 Section 64. Section **16-10a-824** is amended to read:

1445 **16-10a-824 . Quorum and voting.**

- 1446 (1) Unless the articles of incorporation or bylaws require a greater number, or, as permitted  
1447 in Subsection (2), a lower number, a quorum of a board of directors consists of:
- 1448 (a) a majority of the fixed number of directors if the corporation has a fixed board size;  
1449 or
- 1450 (b) a majority of the number of directors prescribed, or if no number is prescribed, of the  
1451 number in office immediately before the meeting begins, if a range for the size of the  
1452 board is established pursuant to Subsection 16-10a-803(2).
- 1453 (2) The articles of incorporation or bylaws may authorize a quorum of a board of directors  
1454 to consist of no fewer than 1/3 of the fixed or prescribed number of directors determined  
1455 under Subsection (1).
- 1456 (3) If a quorum is present when a vote is taken, the affirmative vote of a majority of  
1457 directors present is the act of the board of directors unless the articles of incorporation,  
1458 bylaws, or this chapter require the vote of a greater number of directors.
- 1459 (4) A director who is present at a meeting of the board of directors when corporate action is  
1460 taken is considered to have assented to the action taken at the meeting unless:
- 1461 (a) the director objects at the beginning of the meeting, or promptly upon arrival, to

- 1462 holding the meeting or transacting business at the meeting and does not thereafter  
1463 vote for or assent to any action taken at the meeting;
- 1464 (b) the director contemporaneously requests [~~his~~] the director's dissent or abstention as to  
1465 any specific action to be entered into the minutes of the meeting; or
- 1466 (c) the director causes written notice of a dissent or abstention as to any specific action  
1467 to be received by the presiding officer of the meeting before adjournment of the  
1468 meeting or by the corporation promptly after adjournment of the meeting.
- 1469 (5) The right of dissent or abstention as to a specific action pursuant to Subsection (4) is not  
1470 available to a director who votes in favor of the action taken.

1471 Section 65. Section **16-10a-841** is amended to read:

1472 **16-10a-841 . Limitation of liability of directors.**

- 1473 (1) Without limiting the generality of Subsection 16-10a-840(4), if so provided in the  
1474 articles of incorporation or in the bylaws or a resolution to the extent permitted in  
1475 Subsection (3), a corporation may eliminate or limit the liability of a director to the  
1476 corporation or to its shareholders for monetary damages for any action taken or any  
1477 failure to take any action as a director, except liability for:
- 1478 (a) the amount of a financial benefit received by a director to which [~~he~~] the director is  
1479 not entitled;
- 1480 (b) an intentional infliction of harm on the corporation or the shareholders;
- 1481 (c) a violation of Section 16-10a-842; or
- 1482 (d) an intentional violation of criminal law.
- 1483 (2) No provision authorized under this section may eliminate or limit the liability of a  
1484 director for any act or omission occurring prior to the date when the provision becomes  
1485 effective.
- 1486 (3) Any provision authorized under this section to be included in the articles of  
1487 incorporation may also be adopted in the bylaws or by resolution, but only if the  
1488 provision is approved by the same percentage of shareholders of each voting group as  
1489 would be required to approve an amendment to the articles of incorporation including  
1490 the provision.
- 1491 (4) Any foreign corporation authorized to transact business in this state, including any  
1492 federally chartered depository institution authorized under federal law to transact  
1493 business in this state, may adopt any provision authorized under this section.
- 1494 (5) With respect to a corporation that is a depository institution regulated by the  
1495 Department of Financial Institutions or by an agency of the federal government, any

1496 provision authorized under this section may include the elimination or limitation of the  
1497 personal liability of a director or officer to the corporation's members or depositors.

1498 Section 66. Section **16-10a-853** is amended to read:

1499 **16-10a-853 . Shareholders' action.**

1500 (1) Shareholders' action respecting a transaction is effective for purposes of Subsection  
1501 16-10a-851(2)(b) if a quorum existed pursuant to Subsection (2) and a majority of the  
1502 votes entitled to be cast by holders of qualified shares present in person or by proxy at  
1503 the meeting were cast in favor of the transaction after notice to shareholders describing  
1504 the director's conflicting interest transaction, provision of the information referred to in  
1505 Subsection (3), and required disclosure to the shareholders who voted on the transaction,  
1506 to the extent the information was not known by them.

1507 (2) A majority of the votes entitled to be cast by the holders of all qualified shares  
1508 constitutes a quorum for purposes of action that complies with this section. Subject to  
1509 the provisions of Subsections (3) and (4), shareholders' action that otherwise complies  
1510 with this section is not affected by the presence of holders of, or the voting of, shares  
1511 that are not qualified shares.

1512 (3) For purposes of compliance with Subsection (1), a director who has a conflicting  
1513 interest respecting the transaction shall, before the shareholders vote, inform the  
1514 secretary or other officer or agent of the corporation authorized to tabulate votes of the  
1515 number and the identity of persons holding or controlling the vote, of all shares that the  
1516 director knows are beneficially owned, or the voting of which is controlled, by the  
1517 director or by a related person of the director, or both.

1518 (4) If a shareholders' vote does not comply with Subsection (1) solely because of a failure  
1519 of a director to comply with Subsection (3), and if the director establishes that the failure  
1520 did not determine and was not intended by [~~him~~] the director to influence the outcome of  
1521 the vote, the court may, with or without further proceedings under Subsection  
1522 16-10a-851(2)(c), take any action respecting the transaction and the director, and give  
1523 any effect to the shareholders' vote, as it considers appropriate in the circumstances.

1524 Section 67. Section **16-10a-902** is amended to read:

1525 **16-10a-902 . Authority to indemnify directors.**

1526 (1) Except as provided in Subsection (4), a corporation may indemnify an individual made  
1527 a party to a proceeding because [~~he~~] the individual is or was a director, against liability  
1528 incurred in the proceeding if:

1529 (a) [~~his~~] the individual's conduct was in good faith; [~~and~~]

- 1530 (b) [he] the individual reasonably believed that [his] the individual's conduct was in, or  
1531 not opposed to, the corporation's best interests; and
- 1532 (c) in the case of any criminal proceeding, [he] the individual had no reasonable cause to  
1533 believe [his] the individual's conduct was unlawful.
- 1534 (2) A director's conduct with respect to any employee benefit plan for a purpose [he] the  
1535 director reasonably believed to be in or not opposed to the interests of the participants in  
1536 and beneficiaries of the plan is conduct that satisfies the requirement of Subsection (1)(b).
- 1537 (3) The termination of a proceeding by judgment, order, settlement, conviction, or upon a  
1538 plea of nolo contendere or its equivalent is not, of itself, determinative that the director  
1539 did not meet the standard of conduct described in this section.
- 1540 (4) A corporation may not indemnify a director under this section:
- 1541 (a) in connection with a proceeding by or in the right of the corporation in which the  
1542 director was adjudged liable to the corporation; or
- 1543 (b) in connection with any other proceeding charging that the director derived an  
1544 improper personal benefit, whether or not involving action in [his] the director's  
1545 official capacity, in which proceeding [he] the director was adjudged liable on the  
1546 basis that [he] the director derived an improper personal benefit.
- 1547 (5) Indemnification permitted under this section in connection with a proceeding by or in  
1548 the right of the corporation is limited to reasonable expenses incurred in connection with  
1549 the proceeding.

1550 Section 68. Section **16-10a-903** is amended to read:

1551 **16-10a-903 . Mandatory indemnification of directors.**

1552 Unless limited by its articles of incorporation, a corporation shall indemnify a director  
1553 who was successful, on the merits or otherwise, in the defense of any proceeding, or in the  
1554 defense of any claim, issue, or matter in the proceeding, to which [he] the director was a party  
1555 because [he] the director is or was a director of the corporation, against reasonable expenses  
1556 incurred by [him] the director in connection with the proceeding or claim with respect to which [  
1557 he] the director has been successful.

1558 Section 69. Section **16-10a-908** is amended to read:

1559 **16-10a-908 . Insurance.**

1560 A corporation may purchase and maintain liability insurance on behalf of a person who  
1561 is or was a director, officer, employee, fiduciary, or agent of the corporation, or who, while  
1562 serving as a director, officer, employee, fiduciary, or agent of the corporation, is or was  
1563 serving at the request of the corporation as a director, officer, partner, trustee, employee,

1564 fiduciary, or agent of another foreign or domestic corporation or other person, or of an  
1565 employee benefit plan, against liability asserted against or incurred by [~~him~~] the person in that  
1566 capacity or arising from [~~his~~] the person's status as a director, officer, employee, fiduciary, or  
1567 agent, whether or not the corporation would have power to indemnify [~~him~~] the person against  
1568 the same liability under Section 16-10a-902, 16-10a-903, or 16-10a-907. Insurance may be  
1569 procured from any insurance company designated by the board of directors, whether the  
1570 insurance company is formed under the laws of this state or any other jurisdiction of the  
1571 United States or elsewhere, including any insurance company in which the corporation has an  
1572 equity or any other interest through stock ownership or otherwise.

1573 Section 70. Section **16-10a-1302** is amended to read:

1574 **16-10a-1302 . Right to dissent.**

- 1575 (1) A shareholder, whether or not entitled to vote, is entitled to dissent from, and obtain  
1576 payment of the fair value of shares held by [~~him~~] the shareholder in the event of, any of  
1577 the following corporate actions:
- 1578 (a) consummation of a plan of merger to which the corporation is a party if:
    - 1579 (i) shareholder approval is required for the merger by Section 16-10a-1103 or the  
1580 articles of incorporation; or
    - 1581 (ii) the corporation is a subsidiary that is merged with its parent under Section  
1582 16-10a-1104;
  - 1583 (b) consummation of a plan of share exchange to which the corporation is a party as the  
1584 corporation whose shares will be acquired;
  - 1585 (c) consummation of a sale, lease, exchange, or other disposition of all, or substantially  
1586 all, of the property of the corporation for which a shareholder vote is required under  
1587 Subsection 16-10a-1202(1), but not including a sale for cash pursuant to a plan by  
1588 which all or substantially all of the net proceeds of the sale will be distributed to the  
1589 shareholders within one year after the date of sale; and
  - 1590 (d) consummation of a sale, lease, exchange, or other disposition of all, or substantially  
1591 all, of the property of an entity controlled by the corporation if the shareholders of the  
1592 corporation were entitled to vote upon the consent of the corporation to the  
1593 disposition pursuant to Subsection 16-10a-1202(2).
- 1594 (2) A shareholder is entitled to dissent and obtain payment of the fair value of [~~his~~] the  
1595 shareholder's shares in the event of any other corporate action to the extent the articles of  
1596 incorporation, bylaws, or a resolution of the board of directors so provides.
- 1597 (3) Notwithstanding the other provisions of this part, except to the extent otherwise

- 1598 provided in the articles of incorporation, bylaws, or a resolution of the board of  
1599 directors, and subject to the limitations set forth in Subsection (4), a shareholder is not  
1600 entitled to dissent and obtain payment under Subsection (1) of the fair value of the  
1601 shares of any class or series of shares which either were listed on a national securities  
1602 exchange registered under the federal Securities Exchange Act of 1934, as amended, or  
1603 on the National Market System of the National Association of Securities Dealers  
1604 Automated Quotation System, or were held of record by more than 2,000 shareholders,  
1605 at the time of:
- 1606 (a) the record date fixed under Section 16-10a-707 to determine the shareholders entitled  
1607 to receive notice of the shareholders' meeting at which the corporate action is  
1608 submitted to a vote;
  - 1609 (b) the record date fixed under Section 16-10a-704 to determine shareholders entitled to  
1610 sign writings consenting to the proposed corporate action; or
  - 1611 (c) the effective date of the corporate action if the corporate action is authorized other  
1612 than by a vote of shareholders.
- 1613 (4) The limitation set forth in Subsection (3) does not apply if the shareholder will receive  
1614 for [his] the shareholder's shares, pursuant to the corporate action, anything except:
- 1615 (a) shares of the corporation surviving the consummation of the plan of merger or share  
1616 exchange;
  - 1617 (b) shares of a corporation which at the effective date of the plan of merger or share  
1618 exchange either will be listed on a national securities exchange registered under the  
1619 federal Securities Exchange Act of 1934, as amended, or on the National Market  
1620 System of the National Association of Securities Dealers Automated Quotation  
1621 System, or will be held of record by more than 2,000 shareholders;
  - 1622 (c) cash in lieu of fractional shares; or
  - 1623 (d) any combination of the shares described in Subsection (4), or cash in lieu of  
1624 fractional shares.
- 1625 (5) A shareholder entitled to dissent and obtain payment for [his] the shareholder's shares  
1626 under this part may not challenge the corporate action creating the entitlement unless the  
1627 action is unlawful or fraudulent with respect to [him] the shareholder or to the  
1628 corporation.

1629 Section 71. Section **16-10a-1327** is amended to read:

1630 **16-10a-1327 . Special provisions relating to shares acquired after announcement**  
1631 **of proposed corporate action.**



1632 (1) A corporation may, with the dissenters' notice given pursuant to Section 16-10a-1322,  
 1633 state the date of the first announcement to news media or to shareholders of the terms of  
 1634 the proposed corporate action creating dissenters' rights under Section 16-10a-1302 and  
 1635 state that a shareholder who asserts dissenters' rights must certify in writing, in or with  
 1636 the payment demand, whether or not [he] the dissenter or the person on whose behalf [he  
 1637 asserts] the dissenters' rights are being asserted acquired beneficial ownership of the  
 1638 shares before that date. With respect to any dissenter who does not certify in writing, in  
 1639 or with the payment demand that [he] the dissenter or the person on whose behalf the  
 1640 dissenters' rights are being asserted, acquired beneficial ownership of the shares before  
 1641 that date, the corporation may, in lieu of making the payment provided in Section  
 1642 16-10a-1325, offer to make payment if the dissenter agrees to accept it in full  
 1643 satisfaction of [his] the dissenter's demand.

1644 (2) An offer to make payment under Subsection (1) shall include or be accompanied by the  
 1645 information required by Subsection 16-10a-1325(2).

1646 Section 72. Section **16-10a-1328** is amended to read:

1647 **16-10a-1328 . Procedure for shareholder dissatisfied with payment or offer.**

1648 (1) A dissenter who has not accepted an offer made by a corporation under Section  
 1649 16-10a-1327 may notify the corporation in writing of [his] the dissenter's own estimate of  
 1650 the fair value of [his] the dissenter's shares and demand payment of the estimated  
 1651 amount, plus interest, less any payment made under Section 16-10a-1325, if:

- 1652 (a) the dissenter believes that the amount paid under Section 16-10a-1325 or offered  
 1653 under Section 16-10a-1327 is less than the fair value of the shares;  
 1654 (b) the corporation fails to make payment under Section 16-10a-1325 within 60 days  
 1655 after the date set by the corporation as the date by which it must receive the payment  
 1656 demand; or  
 1657 (c) the corporation, having failed to take the proposed corporate action creating  
 1658 dissenters' rights, does not return the deposited certificates or release the transfer  
 1659 restrictions imposed on uncertificated shares as required by Section 16-10a-1326.

1660 (2) A dissenter waives the right to demand payment under this section unless [he] the  
 1661 dissenter causes the corporation to receive the notice required by Subsection (1) within  
 1662 30 days after the corporation made or offered payment for [his] the dissenter's shares.

1663 Section 73. Section **16-10a-1408** is amended to read:

1664 **16-10a-1408 . Enforcement of claims against dissolved corporations.**

1665 A claim may be enforced:

- 1666 (1) under Section 16-10a-1406 or 16-10a-1407 against the dissolved corporation, to the  
1667 extent of its undistributed assets; or
- 1668 (2) against a shareholder of the dissolved corporation, if the assets have been distributed in  
1669 liquidation; but a shareholder's total liability for all claims under this section may not  
1670 exceed the total value of assets distributed to ~~[him]~~ the shareholder, as that value is  
1671 determined at the time of distribution. Any shareholder required to return any portion of  
1672 the value of assets received by ~~[him]~~ the shareholder in liquidation shall be entitled to  
1673 contribution from all other shareholders. The contributions shall be in accordance with  
1674 the shareholders' respective rights and interests and may not exceed the value of the  
1675 assets received in liquidation.

1676 Section 74. Section **16-10a-1602** is amended to read:

1677 **16-10a-1602 . Inspection of records by shareholders and directors.**

- 1678 (1) A shareholder or director of a corporation is entitled to inspect and copy, during regular  
1679 business hours at the corporation's principal office, any of the records of the corporation  
1680 described in Subsection 16-10a-1601(5) if ~~[he]~~ the shareholder or director gives the  
1681 corporation written notice of the demand at least five business days before the date on  
1682 which ~~[he]~~ the shareholder or director wishes to inspect and copy.
- 1683 (2) In addition to the rights set forth in Subsection (1), a shareholder or director of a  
1684 corporation is entitled to inspect and copy, during regular business hours at a reasonable  
1685 location specified by the corporation, any of the following records of the corporation if  
1686 the shareholder or director meets the requirements of Subsection (3) and gives the  
1687 corporation written notice of the demand at least five business days before the date on  
1688 which ~~[he]~~ the shareholder or director wishes to inspect and copy:
- 1689 (a) excerpts from:
- 1690 (i) minutes of any meeting, records of any action taken by the board of directors, or  
1691 by a committee of the board of directors while acting on behalf of the corporation  
1692 in place of the board of directors;
- 1693 (ii) minutes of any meeting of the shareholders;
- 1694 (iii) records of any action taken by the shareholders without a meeting; and
- 1695 (iv) waivers of notices of any meeting of the shareholders, of any meeting of the  
1696 board of directors, or of any meeting of a committee of the board of directors;
- 1697 (b) accounting records of the corporation; and
- 1698 (c) the record of shareholders described in Subsection 16-10a-1601(3).
- 1699 (3) A shareholder or director is entitled to inspect and copy records as described in

- 1700 Subsection (2) only if:
- 1701 (a) the demand is made in good faith and for a proper purpose;
- 1702 (b) the shareholder or director describes with reasonable particularity [~~his~~] the
- 1703 shareholder's or director's purpose and the records [~~he~~] the shareholder or director
- 1704 desires to inspect; and
- 1705 (c) the records are directly connected with [~~his~~] the shareholder's or director's purpose.
- 1706 (4) For purposes of this section:
- 1707 (a) "proper purpose" means a purpose reasonably related to the demanding shareholder's
- 1708 or director's interest as a shareholder or director; and
- 1709 (b) "shareholder" includes a beneficial owner whose shares are held in a voting trust and
- 1710 any other beneficial owner who establishes beneficial ownership.
- 1711 (5) The right of inspection granted by this section may not be abolished by a corporation's
- 1712 articles of incorporation or bylaws.
- 1713 (6) This section does not affect:
- 1714 (a) the right of a shareholder or director to inspect records under Section 16-10a-720 or,
- 1715 if the shareholder or director is in litigation with the corporation, to the same extent
- 1716 as any other litigant; or
- 1717 (b) the power of a court, independent of this chapter, to compel the production of
- 1718 corporate records for examination.
- 1719 (7) A shareholder or director may not use any information obtained through the inspection
- 1720 or copying of records permitted by Subsection (2) for any purposes other than those set
- 1721 forth in a demand made under Subsection (3).
- 1722 Section 75. Section **16-10a-1603** is amended to read:
- 1723 **16-10a-1603 . Scope of inspection right.**
- 1724 (1) A shareholder's or director's agent or attorney has the same inspection and copying
- 1725 rights as the shareholder or director represented by the agent or attorney.
- 1726 (2) The right to copy records under Section 16-10a-1602 includes, if reasonable, the right to
- 1727 receive copies made by photographic, xerographic, or other means.
- 1728 (3) Except as provided in Section 16-10a-1606, the corporation may impose a reasonable
- 1729 charge, payable in advance, covering the costs of labor and material, for copies of any
- 1730 documents to be provided to the shareholder or director. The charge may not exceed the
- 1731 estimated cost of production or reproduction of the records.
- 1732 (4) The corporation may comply with a shareholder's or director's demand to inspect the
- 1733 record of shareholders under Subsection 16-10a-1602(2)(c) by providing [~~him~~] the

1734 shareholder or director with a list of the corporation's shareholders that complies with  
1735 Subsection 16-10a-1601(3) and was compiled no earlier than the date of the  
1736 shareholder's or director's demand.

1737 Section 76. Section **16-10a-1605** is amended to read:

1738 **16-10a-1605 . Financial statements.**

1739 Upon the written request of any shareholder, a corporation shall mail to ~~[him]~~ the  
1740 shareholder its most recent annual or quarterly financial statements showing in reasonable  
1741 detail its assets and liabilities and the results of its operations.

1742 Section 77. Section **16-10a-1606** is amended to read:

1743 **16-10a-1606 . Information respecting shares.**

1744 Upon the written request of any shareholder, a corporation at its own expense shall mail  
1745 to ~~[him]~~ the shareholder the information specified by Subsection 16-10a-625(3), whether or not  
1746 the information is also contained or summarized on any share certificate of the shareholder.

1747 The corporation may comply with this section by mailing articles of incorporation including  
1748 the designations, preferences, limitations, and relative rights applicable to each class and series  
1749 of shares and the authority of the board of directors to determine variations for any existing or  
1750 future class or series.

1751 Section 78. Section **16-10a-1608** is amended to read:

1752 **16-10a-1608 . Statement of person named as director or officer.**

1753 ~~[(†)]~~ Any person named as a director or officer of a domestic or foreign corporation in an  
1754 annual report or other document on file with the division may, if ~~[he]~~ the person does not  
1755 hold the named position, deliver to the division for filing a statement setting forth:

1756 ~~[(a)]~~ (1) ~~[his]~~ the person's name;

1757 ~~[(b)]~~ (2) the domestic or foreign corporation's name;

1758 ~~[(c)]~~ (3) information sufficient to identify the report or other document in which ~~[he]~~ the  
1759 person is named as a director or officer; and

1760 ~~[(d)]~~ (4) the date on which ~~[he]~~ the person ceased to be a director or officer of the domestic  
1761 or foreign corporation, or a statement that ~~[he]~~ the person did not hold the position for  
1762 which ~~[he]~~ the person was named in the corporate report or other document.

1763 Section 79. Section **19-1-302** is amended to read:

1764 **19-1-302 . Violation of laws and orders unlawful.**

1765 It is unlawful for any person:

1766 (1) to violate the provisions of the laws of this title or the terms of any order or rule issued  
1767 under it; or

1768 (2) to fail to remove or abate from private property under the person's control at [his] the  
 1769 person's own expense within 48 hours, or such other reasonable time as the department  
 1770 determines, after being ordered to do so, any nuisance, source of filth, or other sanitation  
 1771 violation.

1772 Section 80. Section **19-6-304** is amended to read:

1773 **19-6-304 . Inspections.**

1774 (1) Upon presentation of appropriate credentials and at any reasonable time, any authorized  
 1775 officer, employee, or representative of the department may:

1776 (a) enter and inspect any property, premises, or place where [he] the officer, employee, or  
 1777 representative has reason to believe there is a hazardous materials or substances  
 1778 release;

1779 (b) copy any records relating to those hazardous materials or substances to determine  
 1780 compliance with this part and the rules made under authority of this part; and

1781 (c) inspect and take samples of any suspected hazardous material or substance.

1782 (2) If the department's representative takes samples of any suspected hazardous material or  
 1783 substance under authority of this section, [he] the representative shall:

1784 (a) give a receipt describing the sample taken to the owner, operator, or agent who has  
 1785 control of the suspected hazardous material or substance;

1786 (b) if requested and if possible, give the owner, operator, or agent a split sample of the  
 1787 suspected hazardous material or substance equal in volume or weight to the portion [  
 1788 he] the representative retains; and

1789 (c) if an analysis of any sample is made, upon request, promptly furnish a copy of the  
 1790 results of the analysis to the owner, operator, or agent.

1791 Section 81. Section **19-6-309** is amended to read:

1792 **19-6-309 . Emergency provisions.**

1793 (1)(a) If the executive director has reason to believe any hazardous materials release  
 1794 that occurred after March 18, 1985, is presenting a direct and immediate threat to  
 1795 public health or the environment, the executive director may:

1796 (i) issue an order requiring the owner or operator of the facility to take abatement  
 1797 action within the time specified in the order; or

1798 (ii) bring suit on behalf of the state in a court with jurisdiction under Title 78A,  
 1799 Judiciary and Judicial Administration, to require the owner or operator to take  
 1800 immediate abatement action.

1801 (b) If the executive director determines the owner or operator cannot be located or is

- 1802 unwilling or unable to take abatement action, the executive director may:
- 1803 (i) reach an agreement with one or more potentially responsible parties to take
- 1804 abatement action; or
- 1805 (ii) use fund money to investigate the release and take abatement action.
- 1806 (2) The executive director may use money from the fund created in Section 19-6-307:
- 1807 (a) for abatement action even if an adjudicative proceeding or judicial review
- 1808 challenging an order or a decision to take abatement action is pending; and
- 1809 (b) to investigate a suspected hazardous materials release if [he] the executive director
- 1810 has reason to believe the release may present a direct and immediate threat to public
- 1811 health.

1812 (3) This section takes precedence over any conflicting provision in this part.

1813 Section 82. Section **19-6-312** is amended to read:

1814 **19-6-312 . Preinvestigation requirements.**

1815 Before undertaking any remedial investigations on a facility on the hazardous substances

1816 priority list, the executive director shall make reasonable attempts to:

- 1817 (1) identify potentially responsible parties for each facility; and
- 1818 (2) send written notice to each potentially responsible party informing [him] the party of [his]
- 1819 the party's potential responsibility.

1820 Section 83. Section **19-6-314** is amended to read:

1821 **19-6-314 . Remedial investigations of priority list sites -- Parties involved --**

1822 **Powers of the executive director.**

- 1823 (1) All remedial investigations conducted under the authority of this section shall:
- 1824 (a) meet the substantive requirements of CERCLA;
- 1825 (b) follow procedures established by the National Contingency Plan to avoid
- 1826 inconsistent state and federal action; and
- 1827 (c) include recommendations for remedial action.
- 1828 (2)(a) After determining that a hazardous substance release is occurring from a national
- 1829 priority list site or proposed national priority list site, and identifying responsible
- 1830 parties under Section 19-6-312, the executive director shall make reasonable efforts
- 1831 to reach an agreement with the identified responsible parties to conduct a remedial
- 1832 investigation.
- 1833 (b) The executive director may define in the agreement the scope of the remedial
- 1834 investigation, the form of the report, and the time limits for completion of the
- 1835 investigation.

1836 (c) If any responsible party fails to perform as required under an agreement entered  
1837 under the authority of this section, the executive director may take action to enforce  
1838 the agreement.

1839 (3)(a) If the executive director is unable to reach an agreement with one or more  
1840 responsible parties to perform a remedial investigation, the executive director may  
1841 issue an order directing one or more responsible parties to perform the remedial  
1842 investigation.

1843 (b) The executive director may define in the order the scope of the remedial  
1844 investigation, the form of the report, and the time limits for completion of the  
1845 remedial investigation.

1846 (4)(a) If the executive director is unable to obtain an agreement with one or more  
1847 responsible parties to perform a remedial investigation, chooses not to order any  
1848 responsible party to perform the remedial investigation, or determines that the  
1849 remedial investigation performed by a responsible party does not meet the  
1850 substantive requirements of CERCLA, [he] the executive director may direct the  
1851 department to conduct or correct the remedial investigation.

1852 (b) The executive director may recover the costs incurred in conducting a remedial  
1853 investigation from responsible parties according to the standards contained in Section  
1854 19-6-316.

1855 Section 84. Section **19-6-315** is amended to read:

1856 **19-6-315 . Remedial investigations of scored sites -- Parties involved -- Powers of**  
1857 **the executive director.**

1858 (1) All remedial investigations conducted under the authority of this section shall:

1859 (a) meet the substantive requirements of CERCLA; and

1860 (b) include recommendations for remedial action.

1861 (2)(a) After determining that a hazardous substance release is occurring from a scored  
1862 site and identifying responsible parties under Section 19-6-312, the executive director  
1863 shall make reasonable efforts to reach an agreement with the identified responsible  
1864 parties to perform a remedial investigation.

1865 (b) The executive director may define in the agreement the scope of the investigation,  
1866 the form of the report, and the time limits for completion of the investigation.

1867 (c) If the potentially responsible parties fail to perform as required under an agreement  
1868 entered under the authority of this section, the executive director may take action to  
1869 enforce the agreement.

1870 (3)(a) If the executive director is unable to reach an agreement with one or more  
1871 responsible parties to perform a remedial investigation, or determines that the  
1872 remedial investigation performed by responsible parties does not meet the substantive  
1873 requirements of CERCLA, [~~he~~] the executive director may direct the department to  
1874 conduct or correct the remedial investigation.

1875 (b) The executive director may recover the costs incurred in conducting a remedial  
1876 investigation from responsible parties according to the standards contained in Section  
1877 19-6-316.

1878 Section 85. Section **19-6-317** is amended to read:

1879 **19-6-317 . Remedial investigation report -- Remedial action plan implementation**  
1880 **-- Legal remedies.**

1881 (1) Upon receipt of a remedial investigation report for a national priority list site, the  
1882 executive director shall:

1883 (a) review the report;

1884 (b) provide a period for public comment;

1885 (c) issue an order defining a remedial action plan consistent with CERCLA for the  
1886 facility; and

1887 (d) follow the procedures established by the National Contingency Plan to avoid  
1888 inconsistent state and federal action.

1889 (2)(a) To implement the remedial action plan, the executive director shall seek to reach  
1890 an agreement with all responsible parties to perform the remedial action.

1891 (b) The executive director may define in the agreement the remedial action required and  
1892 the time limits for completion of the remedial action.

1893 (c) If the responsible parties fail to perform as required under an agreement entered  
1894 under the authority of this section, the executive director may take action to enforce  
1895 the agreement.

1896 (3)(a) If the executive director is unable to reach an agreement with one or more  
1897 responsible parties to perform remedial action, [~~he~~] the executive director may order  
1898 all responsible parties to perform the remedial action.

1899 (b) The executive director may define in the order the remedial action required and the  
1900 time limits for completion of the remedial action.

1901 Section 86. Section **19-6-422** is amended to read:

1902 **19-6-422 . Participation by state risk manager in suit, claim, or settlement.**

1903 (1) If a suit is filed or a claim is made against a responsible party who is eligible for



1904 payments from the fund for bodily injury or property damage connected with a release  
1905 of petroleum from a petroleum storage tank, the state risk manager and [~~his~~] the state risk  
1906 manager's legal counsel may participate with the responsible party and [~~his~~] the  
1907 responsible party's legal counsel in:

- 1908 (a) the defense of any suit;  
1909 (b) determination of legal strategy and any other decisions affecting the defense of any  
1910 suit; and  
1911 (c) any settlement negotiations.

1912 (2) The state risk manager shall approve any settlement between the responsible party and a  
1913 third party before payment of fund money is made.

1914 Section 87. Section **19-8-110** is amended to read:

1915 **19-8-110 . Voluntary cleanup work plans and reports.**

1916 (1) After the applicant and the executive director have signed the voluntary cleanup  
1917 agreement, the applicant shall prepare and submit the appropriate work plans and reports  
1918 to the executive director as provided in the agreement.

1919 (2) The executive director shall review and evaluate the work plans and reports for  
1920 accuracy, quality, and completeness.

1921 (3) The executive director may approve a voluntary cleanup work plan or report, or if [~~he~~]  
1922 the executive director does not approve the work plan or a report, [~~he~~] the executive  
1923 director shall notify the applicant in writing concerning additional information or  
1924 commitments necessary to obtain approval.

1925 (4) At any time during the evaluation of a work plan or report, the executive director may  
1926 request the applicant to submit additional or corrected information.

1927 (5) After considering the proposed future use of the property that is the subject of the  
1928 agreement, the executive director may approve work plans and reports submitted under  
1929 this section that do not require removal or remedy of all discharges, releases, and  
1930 threatened releases on the property if the applicant's response actions under the  
1931 agreement:

- 1932 (a) will be completed in a manner that protects human health and the environment;  
1933 (b) will not cause, contribute to, or exacerbate discharges, releases, or threatened  
1934 releases on the property that are not required to be removed or remedied under the  
1935 work plan; and  
1936 (c) will not interfere with or substantially increase the costs of response actions to  
1937 address any remaining discharges, releases, or threatened releases resulting from

1938 releases initially generated on the property.

1939 Section 88. Section **31A-2-105** is amended to read:

1940 **31A-2-105 . Constitutional oath.**

1941 Before entering upon the duties of [his] the commissioner's office, the commissioner  
 1942 shall take, subscribe, and file the constitutional oath. If the commissioner takes action in [his]  
 1943 the commissioner's office before complying with this section, in good faith and without  
 1944 knowledge of this requirement, and the validity of [his] the commissioner's action is then  
 1945 challenged, that person may take the oath after the action and the oath shall be given  
 1946 retroactive effect to the date on which [he] the commissioner began [his] the commissioner's  
 1947 duties.

1948 Section 89. Section **31A-2-106** is amended to read:

1949 **31A-2-106 . Ethical requirements for Insurance Department staff.**

- 1950 (1) No employee of the Insurance Department, including the commissioner, may:
- 1951 (a) make any solicitation for any partisan political purpose or for anything that is not  
 1952 related to the public interest, as it is affected by insurance; or
- 1953 (b) continue or initiate a monetary relationship, except as policyholder, with an  
 1954 insurance agency or brokerage firm, insurance service organization, insurance  
 1955 adjuster, insurer or person affiliated with an insurer, except that:
- 1956 (i) a commissioner may receive renewal commissions or other deferred compensation  
 1957 earned before [his] the commissioner's appointment if this commission or  
 1958 compensation does not require [him] the commissioner to personally perform  
 1959 further service;
- 1960 (ii) a commissioner may continue to be obligated under the terms of a mortgage  
 1961 entered into prior to [his] the commissioner's appointment; and
- 1962 (iii) a commissioner may continue to have the beneficial interest in or own stock in  
 1963 an insurer, noninsurance company with insurance subsidiaries, insurance agency,  
 1964 brokerage firm, or insurance service organization acquired before appointment if  
 1965 the commissioner's ownership or interest is not of such total value that the  
 1966 commissioner might receive a substantial monetary benefit by failing to act  
 1967 impartially towards the organization. A partnership interest shall be treated as if it  
 1968 were shares in a corporation.
- 1969 (2) If the commissioner has any beneficial interest or ownership in an organization outlined  
 1970 under Subsection (1)(b)(iii), or if it is known to the commissioner that [his] the  
 1971 commissioner's spouse, parent, sibling, or child has an interest in any organization that,

1972 if held by the commissioner, would disqualify ~~[him]~~ the commissioner from serving as  
 1973 commissioner, ~~[he shall disqualify himself]~~ the commissioner is disqualified and shall  
 1974 abstain from all actions respecting the particular organization. The commissioner shall  
 1975 then delegate a senior staff member who is not also disqualified to act in ~~[his]~~ the  
 1976 commissioner's place with regard to that organization. There is a rebuttable presumption  
 1977 that the commissioner or the delegate service staff member knows of any disqualifying  
 1978 holdings. The commissioner shall report a disqualification in each annual report to the  
 1979 governor as long as the disqualification continues.

1980 (3) The commissioner shall give the governor at least 10 days written notice of any  
 1981 solicitation to be made by the commissioner or other member of the department staff.

1982 (4) In addition to any other penalty, an employee violating this section may be removed  
 1983 from office.

1984 Section 90. Section **31A-2-111** is amended to read:

1985 **31A-2-111 . Delegation.**

1986 (1) Any power, duty, or function vested in the commissioner by law may be exercised,  
 1987 discharged, or performed by an employee of the Insurance Department acting in the  
 1988 commissioner's name and under ~~[his]~~ the commissioner's delegated authority.

1989 (2) Any person whose own course of action depends in good faith upon proof of the  
 1990 validity of an alleged delegation is not obligated to act until shown a written delegation  
 1991 of the commissioner with the signature of the commissioner or deputy commissioner.

1992 Section 91. Section **31A-2-112** is amended to read:

1993 **31A-2-112 . Advisory councils and committees.**

1994 The commissioner may create advisory councils and committees to assist ~~[him]~~ the  
 1995 commissioner. ~~[He]~~ The commissioner may appoint members and provide by rule for the  
 1996 creation, governance, duties, and termination of any council or committee established.

1997 Section 92. Section **31A-2-311** is amended to read:

1998 **31A-2-311 . Reciprocal enforcement of foreign decrees.**

1999 (1) As used in this section:

2000 (a) "Reciprocal state" means a state whose laws contain procedures substantially similar  
 2001 to those specified in this section for the enforcement of decrees or orders issued by  
 2002 courts located in other states against an insurer authorized to do business in the  
 2003 reciprocal state, and which recognizes Utah as a reciprocal state under its law.

2004 (b) "Foreign decree" means a decree or order of a court located in a reciprocal state,  
 2005 including a United States court located in a reciprocal state against an insurer

- 2006 authorized to do business in Utah.
- 2007 (2) The commissioner shall determine which states qualify as reciprocal states and shall  
2008 maintain a list of them.
- 2009 (3) The attorney general, upon request of the commissioner, may proceed in the courts of  
2010 Utah or any other state to enforce an order or decision issued in Utah in any court  
2011 proceeding or in any administrative proceeding before the insurance commissioner.
- 2012 (4)(a) A copy of any foreign court decree authenticated under Utah statutes or court  
2013 rules may be filed in the office of the clerk of the Third District Court for Salt Lake  
2014 County. The clerk, upon verifying with the commissioner that the decree or order  
2015 qualifies as a foreign court decree, shall treat it in the same manner and give it the  
2016 same effect as a decree of a district court of Utah.
- 2017 (b)(i) When filing the foreign decree, the filer shall deposit with the clerk of the  
2018 court an affidavit setting forth the name and last-known post-office address of the  
2019 defendant in Utah.
- 2020 (ii) When the foreign decree and the affidavit are filed, the clerk shall immediately  
2021 mail notice of the filing of the foreign decree to the defendant at the address given  
2022 by the filer and to the commissioner, and shall note the mailing in the docket. In  
2023 addition, the attorney general may mail a notice of the filing of the foreign decree  
2024 to the defendant and to the commissioner. Alternatively, the commissioner may  
2025 mail a notice of the filing of the foreign decree to the defendant, and either the  
2026 attorney general or the commissioner may file proof of this mailing with the clerk.  
2027 The clerk's failure to mail notice of the filing does not affect the enforcement  
2028 proceedings if the attorney general or the commissioner has filed a proof of  
2029 mailing.
- 2030 (iii) No execution or other process for enforcement of a foreign decree may issue  
2031 until 30 days after the foreign decree is filed.
- 2032 (c)(i) If the defendant shows the court that an appeal from the foreign decree is  
2033 pending or will be taken, or that a stay of execution has been granted, the court  
2034 shall stay enforcement of the foreign decree until the appeal is concluded, the time  
2035 for appeal expires, or the stay of execution expires or is vacated, upon proof by  
2036 the defendant that [he] the defendant has furnished the security for the satisfaction  
2037 of the decree required by the state in which it was rendered.
- 2038 (ii) If the defendant shows the court any ground upon which enforcement of a similar  
2039 decree of any district court of Utah would be stayed, the court shall stay

2040 enforcement of the foreign decree for an appropriate period, upon proof by the  
2041 defendant that [he] the defendant has furnished the same security for satisfaction of  
2042 the decree as is required in Utah.

2043 (d) A person filing a foreign decree shall pay to the clerk of the court the same fee for an  
2044 enforcement proceeding as is required for enforcing a decree of the district court.

2045 Section 93. Section **31A-5-103** is amended to read:

2046 **31A-5-103 . Orders imposing and relaxing restrictions.**

2047 (1) The commissioner may by order subject an individual corporation not otherwise subject  
2048 to some or all of the restrictions of Subsections 31A-5-304(4), 31A-5-305(1)(a),  
2049 31A-5-305(2)(a)(i) and (ii), and 31A-5-410(1)(b) if [he] the commissioner finds after a  
2050 hearing that the individual corporation's financial condition, management, and other  
2051 circumstances require additional regulation for the protection of the interests of insureds  
2052 or the public. The commissioner shall detail in writing the grounds for [his] the  
2053 commissioner's order.

2054 (2) The commissioner may by order free a new corporation from any or all of the  
2055 restrictions generally applicable to new corporations under the provisions listed in  
2056 Subsection (1), if [he] the commissioner is satisfied that the corporation's financial  
2057 condition, management, and other circumstances give assurance that the interests of  
2058 insureds and the public will not be endangered by doing so.

2059 Section 94. Section **31A-5-206** is amended to read:

2060 **31A-5-206 . Sale of securities by authorized insurer.**

2061 A domestic insurer that has already received a certificate of authority may issue  
2062 additional securities to obtain further financing, after obtaining a solicitation permit from the  
2063 commissioner. The organizational permit requirements in Section 31A-5-204 apply if the  
2064 commissioner prescribes its application. The phrase "organization permit" in Section  
2065 31A-5-204 means "solicitation permit" when being applied to this section. The solicitation  
2066 permit terminates one year from the date of its issuance. However, this permit may be  
2067 extended for not more than one additional year by the commissioner on terms [he] the  
2068 commissioner considers sufficient to protect the policyholders, the shareholders, and the public.

2069 Section 95. Section **31A-5-209** is amended to read:

2070 **31A-5-209 . Termination and revocation of organization permit and payment of**  
2071 **organization expenses.**

2072 (1) The organization permit terminates upon:

2073 (a) issuance of a certificate of authority under Section 31A-5-212;

- 2074 (b) revocation of the organization permit under Subsection (2); or  
2075 (c) expiration of one year after issuance, except that:
- 2076 (i) filing with the commissioner a good-faith application for a certificate of authority  
2077 tolls the running of the expiration period for 30 days or until the commissioner  
2078 rejects the application, whichever is earlier; and
- 2079 (ii) on application before expiration of the year the commissioner may grant a  
2080 reasonable extension if [he] the commissioner states that [he] the commissioner  
2081 expects the corporation to be able to satisfy the requirements for a certificate of  
2082 authority within the extended period.
- 2083 (2) The commissioner may revoke an organization permit if:
- 2084 (a) he finds, after a hearing, that because of changes in circumstances, or because the  
2085 facts are not as represented in the application, the conditions for issuance of a permit  
2086 are not satisfied; or
- 2087 (b) he denies an application for a certificate of authority and finds that the corporation  
2088 cannot reasonably be expected to satisfy the requirements for a certificate of authority  
2089 within the remaining term of the organization permit or extension allowable under  
2090 Subsection (1)(c).
- 2091 (3)(a) Except in cases under Subsections (3)(b) and (3)(c), if the organization permit is  
2092 revoked or expires before a certificate of authority is granted, after payment of the  
2093 expenses of the state and payments to creditors under Section 31A-5-205,  
2094 incorporators who have advanced money for the reasonable and authorized expenses  
2095 of organization, including underwriting expenses, may be reimbursed in cash from  
2096 the proceeds of share, mutual bond, or contribution note subscriptions under the  
2097 organization permit, on itemized receipts audited by the commissioner. The total  
2098 reimbursement may not exceed 5% of the amount received from subscribers. The  
2099 remainder in the escrow account shall then be distributed among the subscribers in  
2100 proportion to their contributions, valued as of the time the contributions were made.  
2101 The bond under Section 31A-5-205 shall be discharged or the deposits under Section  
2102 31A-5-205 shall be released to the extent they are not needed for other purposes.
- 2103 (b) Reimbursement may be refused to any incorporator under Subsection (3), if the  
2104 commissioner finds that in connection with the organization of the corporation, the  
2105 incorporator has wilfully or negligently violated in a material way any provision of  
2106 this chapter.
- 2107 (c) No reimbursement may be made under Subsection (3)(a) to an incorporator of an

- 2108 assessable mutual until all advance premiums collected under Subsection  
2109 31A-5-211(5) have been repaid in full.
- 2110 (4) The legal existence of the corporation terminates upon completion of the payments  
2111 under Subsection (3).
- 2112 (5) This section does not apply to stock or mutual insurance corporations already in  
2113 existence on July 1, 1986.
- 2114 Section 96. Section **31A-5-213** is amended to read:  
2115 **31A-5-213 . Accelerated organization procedure.**
- 2116 (1) The incorporators may apply for a certificate of authority without first obtaining an  
2117 organization permit if:
- 2118 (a) their number is not more than 15;  
2119 (b) no compensation is paid directly or indirectly for soliciting any of them;  
2120 (c) they purchase for their own accounts all the shares proposed to be issued in the case  
2121 of a stock corporation, or in the case of a mutual, they supply all the minimum  
2122 permanent surplus and initial expendable surplus by contribution notes or otherwise;  
2123 and  
2124 (d) the shares are promotional securities and are subject to Subsections 31A-5-304(3)  
2125 and (4).
- 2126 (2) The application for a certificate of authority shall include:
- 2127 (a) proof that the purchase price for the shares or the proceeds of contribution notes have  
2128 been deposited on behalf of the proposed corporation;  
2129 (b) a statement concerning whether and what property other than money is held in trust  
2130 for the proposed corporation; and  
2131 (c) the information which the commissioner reasonably requires under Subsection  
2132 31A-5-204(2).
- 2133 (3) The commissioner shall issue a certificate of authority if ~~he~~ the commissioner finds  
2134 that:
- 2135 (a) all requirements of law have been met;  
2136 (b) all natural persons who are incorporators, the directors and principal officers of  
2137 corporate incorporators, and the proposed directors and officers of the corporation  
2138 being formed are trustworthy and collectively have the competence and experience to  
2139 engage in the particular insurance business proposed; and  
2140 (c) the business plan is consistent with the interests of the corporation's potential  
2141 insureds and of the public.

- 2142 (4) The director of the Division of Corporations and Commercial Code shall issue a  
2143 certificate of incorporation upon notice from the insurance commissioner that all the  
2144 applicable requirements of law have been met, including the payment of fees.
- 2145 (5) When the certificate of incorporation is issued, the corporation's legal existence begins,  
2146 the articles and bylaws become effective, and the proposed directors and officers take  
2147 office. The certificate is conclusive evidence of compliance with this section, except in  
2148 a proceeding by the state against the corporation.
- 2149 (6) This section does not apply to stock or mutual insurance corporations already in  
2150 existence on July 1, 1986.

2151 Section 97. Section **31A-5-216** is amended to read:

2152 **31A-5-216 . Change of domicile.**

- 2153 (1) A foreign insurance corporation may become a Utah insurance corporation if it submits  
2154 an application which evidences that the corporation complies with all of the  
2155 requirements imposed on domestic Utah corporations. The commissioner may, by order  
2156 after a hearing, relax the requirements of this chapter applicable to corporations in the  
2157 process of organization that, because of the developed status of the insurer, [he] the  
2158 commissioner finds unnecessary to protect policyholders and the public. The  
2159 commissioner shall simultaneously issue a certificate of organization under Subsection  
2160 31A-5-204(3) and a certificate of authority under Subsection 31A-5-212(2) when the  
2161 conditions for both have been satisfied.
- 2162 (2) Upon approval by the commissioner, a domestic insurer may transfer its domicile to any  
2163 other state in which it is admitted. The commissioner shall approve the transfer of  
2164 domicile unless [he] the commissioner finds that the transfer will prejudice the interests  
2165 of policyholders, creditors, or the public in Utah. The commissioner may require a  
2166 special deposit, reinsurance, or other protective measures as an alternative to rejecting  
2167 the insurer's application to move. After or simultaneous with the removal of the  
2168 corporation, it may seek entry into this state as a foreign corporation under Chapter 14,  
2169 Foreign Insurers.
- 2170 (3) The transfer of domicile of an insurance corporation under either Subsection (1) or  
2171 Subsection (2) does not affect the obligations of the corporation under its existing  
2172 insurance contracts or any other existing contracts.

2173 Section 98. Section **31A-5-303** is amended to read:

2174 **31A-5-303 . Insider trading of securities.**

- 2175 (1) Every person who is directly or indirectly the beneficial owner of more than 10% of any



2176 class of any equity security of a domestic stock insurance corporation, or who is a  
2177 director or officer of a domestic stock corporation, shall file with the commissioner  
2178 within 10 days after [he] the person becomes a beneficial owner, director, or officer, and  
2179 within 10 days after the close of any following calendar month in which there has been a  
2180 change in [his] the person's ownership or office, a statement in a form prescribed by the  
2181 commissioner, of [his] the person's office and of all the equity securities of the company  
2182 which [he] the person beneficially owns, and of all the changes in either. The  
2183 commissioner may accept a copy of a similar statement filed with another regulatory  
2184 authority in satisfaction of this subsection's requirement.

2185 (2) To prevent the unfair use of information which may have been obtained by a beneficial  
2186 owner, director, or officer because of [his] the beneficial owner's, director's, or officer's  
2187 relationship to the corporation, any profit realized by [him] the beneficial owner,  
2188 director, or officer from the purchase and sale or sale and purchase of any equity  
2189 security of the corporation within any period of less than six months, unless the security  
2190 was acquired in good faith in connection with a debt previously contracted, is  
2191 recoverable by the corporation. This recovery may be made in spite of any intention by  
2192 the beneficial owner, director, or officer in entering into the transaction to hold the  
2193 security purchased or not to repurchase the security sold for a period exceeding six  
2194 months. A suit to recover the profit may be instituted in any court of competent  
2195 jurisdiction by the corporation. If the corporation fails to bring suit within 60 days after  
2196 request by the owner of a security of the corporation or if the corporation fails to  
2197 prosecute it diligently, the owner of any security of the corporation may bring suit or  
2198 prosecute the action in the name and on behalf of the corporation. This suit may not be  
2199 brought more than two years after the date the profit was realized. This subsection does  
2200 not apply to any transaction where the beneficial owner was not a beneficial owner both  
2201 at the time of the purchase and sale, or the sale and purchase, of the security involved,  
2202 nor does it apply to any transaction which the commissioner, by rule, exempts as not  
2203 within the purpose of this subsection.

2204 (3)(a) A dealer in the ordinary course of [his] the dealer's business and incident to [his]  
2205 the dealer's establishment or maintenance of a primary or secondary market for the  
2206 security other than on an exchange as defined in the federal Securities Exchange Act  
2207 of 1934, is not governed by Subsection (2) regarding a purchase and sale or sale and  
2208 purchase. The commissioner may by rule define terms and prescribe conditions  
2209 regarding securities held in an investment account and transactions made in the

- 2210 ordinary course of business and incident to the establishment or maintenance of a  
2211 primary or secondary market.
- 2212 (b) Subsections (1) and (2) do not apply to foreign or domestic arbitrage transactions  
2213 unless made in contravention of rules the commissioner adopts to carry out this  
2214 section.
- 2215 (c) Subsections (1) and (2) do not apply to equity securities of a corporation if:
- 2216 (i) the securities are registered, or are required to be registered, under Section 12 of  
2217 the federal Securities Exchange Act of 1934, as amended; or
- 2218 (ii) the corporation did not have any class of its equity securities held of record by  
2219 100 or more persons on the last business day of the year preceding the year in  
2220 which equity securities of the corporation would otherwise be subject to  
2221 Subsections (1) and (2).
- 2222 (4) No person may, in contravention of rules the commissioner adopts for the protection of  
2223 investors or the public, solicit or permit the use of [his] the person's name to solicit a  
2224 proxy, consent, or authorization regarding an equity security of a domestic stock  
2225 corporation having 100 or more shareholders of record.
- 2226 (5) No provision of this section imposing liability applies to an act done or omitted in good  
2227 faith in conformity with any rule of the commissioner. Liability does not apply even if  
2228 the rule is amended, rescinded, or determined by judicial or other authority to be invalid  
2229 after the act or omission.
- 2230 (6) As used in this section, "equity security" means any stock or similar security; any  
2231 security convertible, with or without consideration, into stock or a similar security;  
2232 carrying any warrant or right to subscribe to or purchase stock or a similar security; any  
2233 such warrant or right; or any other security which the commissioner considers to be of  
2234 similar nature and designates as an equity security by rules promulgated in the public  
2235 interest or for the protection of investors.
- 2236 Section 99. Section **31A-5-304** is amended to read:
- 2237 **31A-5-304 . Promoter stock.**
- 2238 (1) While the organization permit is effective, the incorporators, directors, and principal  
2239 officers of a stock corporation shall in the aggregate subscribe and pay, at the public  
2240 offering price, at least \$150,000 in cash or in property of equivalent value approved by  
2241 the commissioner under Subsection 31A-5-207(1)(a) or (2)(a), for shares offered by the  
2242 corporation under the organization permit.
- 2243 (2)(a) Certificates representing promotional securities and any stock received on those

2244 shares as the result of a stock dividend, stock split, or exercise of preemptive or  
2245 conversion rights, shall be placed in escrow with a depository satisfactory to the  
2246 commissioner under an agreement providing that the shares may not be transferred  
2247 without the approval of the commissioner.

2248 (b) If the corporation issues any life insurance policies, any shares subject to this section  
2249 shall be released from escrow five years after issuance of the certificate of authority.

2250 In other cases, the shares shall be released from escrow three years after issuance of  
2251 the certificate of authority.

2252 (3) The commissioner's approval of the transfer of promoter stock under Subsection (2)(a):

2253 (a) shall be granted upon request, if the corporation has made an addition to earned  
2254 surplus in each of the two immediately preceding years of at least 15% of the capital  
2255 and surplus raised by the sale of shares under the organization permit; and

2256 (b) may be granted upon a showing of hardship by the shareholder or [his] the  
2257 shareholder's estate or legatee, if the release from escrow of the shares or a portion of  
2258 the shares would not, in the commissioner's opinion, endanger the interests of  
2259 insureds or the public.

2260 (4) For three years after the issuance of the certificate of authority, an option to purchase  
2261 stock may be issued only under a plan approved by the commissioner.

2262 (5) This section does not apply to promotional securities issued prior to July 1, 1986.

2263 Section 100. Section **31A-5-307** is amended to read:

2264 **31A-5-307 . Reduction in capital.**

2265 A stock corporation may reduce its capital by amendment of its articles of incorporation  
2266 under Section 31A-5-219, if the commissioner is notified of the proposed reduction at least 60  
2267 days prior to the proposed effective date of the reduction. The commissioner may disapprove  
2268 the reduction within 45 days after the notice if [he] the commissioner finds that it would violate  
2269 the law or would be contrary to the interests of insureds. [His] The commissioner's order shall  
2270 explain in detail why the distribution is disapproved.

2271 Section 101. Section **31A-5-408** is amended to read:

2272 **31A-5-408 . Election and removal of directors and officers of stock corporations.**

2273 (1) Sections 16-10a-721, 16-10a-724, and 16-10a-728 apply to the voting of shares of a  
2274 stock corporation.

2275 (2) At each annual meeting of shareholders, the shareholders shall elect directors to hold  
2276 office until the next succeeding annual election, except as provided under Subsection (3)  
2277 or (4). Each director shall hold office for the term for which [he] the director is elected

2278 and until [his] the director's successor is elected and qualified, if qualification is required.

2279 (3) Sections 16-10a-808 and 16-10a-832 apply to removal of directors and officers of a  
2280 stock corporation.

2281 (4) Each director shall be subject to election at least once every three years.

2282 (5) A vacancy in the board of directors may be filled by the affirmative vote of a majority  
2283 of the remaining directors even though the number of remaining directors is less than a  
2284 quorum. The director elected through this process shall serve only until the next regular  
2285 shareholders meeting at which a director's election may be held.

2286 Section 102. Section **31A-5-507** is amended to read:

2287 **31A-5-507 . Conversion of assessable to nonassessable and nonassessable to**  
2288 **assessable mutuals.**

2289 (1) When an assessable mutual accumulates enough surplus to satisfy the financial  
2290 requirements for the operation of a nonassessable mutual, it may apply for a certificate  
2291 of authority authorizing it to sell nonassessable policies. The commissioner shall issue a  
2292 certificate of authority designating it a nonassessable mutual, if [he] the commissioner  
2293 finds that the applicant satisfies the requirements of the law and that the issuance of  
2294 nonassessable policies will not endanger the interests of its insureds or the public.  
2295 Policies issued after the issuance of this certificate of authority are nonassessable.  
2296 Existing policies remain in effect and are nonassessable.

2297 (2) A nonassessable mutual may apply to the commissioner for a certificate of authority  
2298 designating it an assessable mutual. The commissioner shall issue the certificate if the  
2299 law permits the corporation to issue assessable policies and if [he] the commissioner  
2300 finds that the conversion will not endanger the interests of insureds or the public. All  
2301 policies issued after conversion are assessable, unless otherwise provided by contract.

2302 Section 103. Section **31A-5-509** is amended to read:

2303 **31A-5-509 . Conversion of a domestic mutual life insurance company into a**  
2304 **fraternal.**

2305 A domestic mutual life insurance company may be converted into a fraternal under  
2306 Chapter 9, Insurance Fraternal, in the following manner:

2307 (1) The board of directors of the company shall adopt a plan of conversion stating:

2308 (a) the basis for and the purposes of the proposed action;

2309 (b) the proposed articles and bylaws for the new fraternal; and

2310 (c) the proposed procedure and estimated expenses for implementing the conversion.

2311 (2) The plan shall be filed with the commissioner for approval, together with the

2312 information under Subsection 31A-9-205(2) required by the commissioner. The  
 2313 commissioner shall approve the plan unless [he] the commissioner finds, after a hearing,  
 2314 that:

2315 (a) the conversion would be contrary to the law;

2316 (b) the new fraternal would not satisfy the requirements for a certificate of authority  
 2317 under Section 31A-5-212 as incorporated by Section 31A-9-210; or

2318 (c) the plan would be contrary to the interests of the policyholders or the public.

2319 (3) After being approved by the commissioner, the plan shall be submitted to the  
 2320 policyholders for their approval.

2321 (4) A copy of the plan adopted by the policyholders shall be filed with the commissioner,  
 2322 with a statement indicating the number and percentages of policyholders voting, the  
 2323 method of voting, and the number of votes cast in favor of the plan.

2324 (5) If all requirements of the law are met, the commissioner shall issue a certificate of  
 2325 authority for the new fraternal. Upon this issuance, the mutual ceases its legal existence  
 2326 and the corporate existence of the new fraternal begins. The new fraternal is considered  
 2327 as having been incorporated on the date the converted mutual was incorporated. The  
 2328 new fraternal has all of the assets and is liable for all of the obligations of the converted  
 2329 mutual. The commissioner may grant a fraternal an adjustment period, not to exceed  
 2330 one year, for compliance with the requirements of Chapter 9, Insurance Fraternal. The  
 2331 commissioner's extension shall specify the extent to which particular provisions of  
 2332 Chapter 9, Insurance Fraternal, do not apply.

2333 Section 104. Section **31A-5-601** is amended to read:

2334 **31A-5-601 . Duties of officers, directors, agents, and employees.**

2335 (1) Any officer, director, agent, attorney, or employee upon whom legal process is properly  
 2336 served or who receives notice of any legal action that may affect or involve the property  
 2337 or business of the insurer, shall promptly communicate the service or notice and detailed  
 2338 information about it to facilitate informed response to persons in the insurer's  
 2339 organization who have authority to take responsive action or to instigate responsive  
 2340 action by those in authority.

2341 (2) A director of an insurer is assumed to have enough knowledge of its affairs to determine  
 2342 whether any act, proceeding, or omission of its directors is a violation of any provision  
 2343 of this chapter. If a director is present at a meeting of directors at which a violation of  
 2344 any provision of this chapter occurs, [he] the director is considered as concurring in the  
 2345 violation unless at the meeting [he] the director requires [his] the director's dissent to be

2346 entered on the minutes. If a director is absent from the meeting, [he] the director is  
2347 considered as concurring in any violation if the facts of violation appear on the minutes  
2348 of the meeting and [he] the director remains a director for six months after the violation  
2349 without requiring that [his] the director's dissent from the violation be entered upon the  
2350 record or the minutes.

2351 Section 105. Section **31A-7-303** is amended to read:

2352 **31A-7-303 . Board of directors.**

- 2353 (1) Subject to other provisions under this section, Sections 16-6a-801 through 16-6a-805,  
2354 and Sections 16-6a-810, 16-6a-812, 16-6a-814, 16-6a-815, and 16-6a-816 apply to the  
2355 board of directors of insurers organized or operating under this chapter.
- 2356 (2) The property and lawful business of every corporation subject to this chapter shall be  
2357 held and managed by a governing board of trustees or directors with the powers and  
2358 authority as is necessary or incidental to the complete execution of the purposes of each  
2359 corporation as limited by its articles of incorporation and bylaws. A board may not  
2360 consist of less than five members. A majority of the directors shall be residents of Utah.
- 2361 (3) Any person employed by or receiving more than 10% of [his] the person's income from a  
2362 corporation licensed under this chapter, and any person related to that person within the  
2363 second degree by blood or marriage, is an "insider." Insiders may not constitute a  
2364 majority of the board of a corporation organized and operating under this chapter.
- 2365 (4) The board shall manage the business and affairs of the corporation and may not delegate  
2366 its power or responsibility to do so, except to the extent authorized by Section 31A-7-307.
- 2367 (5) Section 16-6a-814 applies to the place and notice of directors' meetings.
- 2368 (6) Any director may be removed from office for cause by an affirmative vote of a majority  
2369 of the full board at a meeting of the board called for that purpose.

2370 Section 106. Section **31A-7-403** is amended to read:

2371 **31A-7-403 . Conversion to a Title 31A, Chapter 5, mutual insurer.**

- 2372 (1) An insurer organized and operating under this chapter may be converted into a mutual  
2373 insurer under Chapter 5, Domestic Stock and Mutual Insurance Corporations, as  
2374 provided in this section.
- 2375 (2)(a) The board shall pass a resolution that the conversion is not contrary to the  
2376 interests of the policyholders specifying the reasons for and the purposes of the  
2377 proposed conversion, and the manner in which the conversion is expected to affect  
2378 policyholders, particularly the policyholders that are members.
- 2379 (b) The board's resolution shall also set forth a plan of conversion which shall include:

- 2380 (i) the articles of incorporation of the new Chapter 5, Domestic Stock and Mutual  
2381 Insurance Corporations, mutual insurer, including a description of the classes of  
2382 policyholders who, by virtue of being policyholders, will have an interest in the  
2383 converted insurer;
- 2384 (ii) the bylaws of the new Chapter 5, Domestic Stock and Mutual Insurance  
2385 Corporations, mutual insurer;
- 2386 (iii) a description of any changes in the insurer's mode of operations after conversion  
2387 to a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual  
2388 insurer; and
- 2389 (iv) any other items specified by rule.
- 2390 (3) The provisions of Chapter 16, Insurance Holding Companies, apply to the conversion of  
2391 a Chapter 7, Nonprofit Health Service Insurance Corporations, insurer to a Chapter 5,  
2392 Domestic Stock and Mutual Insurance Corporations, mutual insurance corporation.
- 2393 (4) The plan of conversion shall be submitted to the commissioner for approval, together  
2394 with a projection of the planned or anticipated financial condition of the insurer for two  
2395 years after the conversion.
- 2396 (5) The commissioner shall hold an adjudicative proceeding concerning the conversion  
2397 application.
- 2398 (6) The commissioner shall approve the plan of conversion, unless ~~he~~ the commissioner  
2399 finds that the plan violates the law, is contrary to the interests of policyholders or the  
2400 public, or would result in an unfair distribution of interest among the insurer's  
2401 policyholders.
- 2402 (7)(a) Upon the commissioner approving the conversion under Subsection (6), the  
2403 commissioner shall issue a new certificate of authority.
- 2404 (b) The issuance of the certificate is the conversion, and upon issuance of the certificate  
2405 the Chapter 7, Nonprofit Health Service Insurance Corporations, insurer at once  
2406 becomes a mutual insurance corporation organized under and fully subject to Chapter  
2407 5, Domestic Stock and Mutual Insurance Corporations.
- 2408 (c) The mutual insurer is considered to have been organized at the time the converted  
2409 Chapter 7, Nonprofit Health Service Insurance Corporations, insurer was organized.
- 2410 (d) Unless otherwise provided in the plan of conversion, the directors, officers, agents,  
2411 and employees of the Chapter 7, Nonprofit Health Service Insurance Corporations,  
2412 insurer shall continue in like capacity with the mutual insurance corporation.
- 2413 Section 107. Section **31A-9-103** is amended to read:

2414           **31A-9-103 . Orders imposing and relaxing restrictions.**

- 2415       (1) The commissioner may subject any fraternal to some or all of the restrictions of  
2416           Subsections 31A-5-305(2)(a)(i) and (ii), and Subsection 31A-5-410(1)(b), as such  
2417           provisions are incorporated by Sections 31A-9-303 and 31A-9-407.
- 2418       (2) The commissioner may free a fraternal from any of the restrictions applicable to  
2419           fraternals under the provisions enumerated in Subsection (1), if [he] the commissioner is  
2420           satisfied that the fraternal's financial condition, management, and other circumstances  
2421           give assurance that the interests of insureds and the public will not be endangered by the  
2422           waiver.

2423           Section 108. Section **31A-11-106** is amended to read:

2424           **31A-11-106 . Application for certificate of authority -- Deposit or bond.**

- 2425       (1) Any corporation may apply, in the form specified by the commissioner, for a certificate  
2426           of authority to transact a motor club business. The applicant shall include with the  
2427           application any documents the commissioner may reasonably require, the deposit  
2428           described in Subsection (2), which may be waived if net worth exceeds the deposit  
2429           requirements, and the fee provided for in Section 31A-3-103. No person may engage in  
2430           the motor club business without complying with this section and receiving a certificate  
2431           of authority under Section 31A-11-107.
- 2432       (2) The deposit required under Subsection (1) shall comply with the requirements of  
2433           Section 31A-2-206, and is \$100,000. In lieu of the deposit, the applicant may supply a  
2434           bond of a corporate surety authorized to do a surety business in this state, in the same  
2435           sum and in a form prescribed by the commissioner, payable to the state. The deposit, or  
2436           the bond, shall be conditioned upon the corporation's faithful performance in the sale or  
2437           rendering of motor club service under the provisions of this chapter, and the payment of  
2438           fines, fees, or penalties imposed on the motor club under this title. Any person with a  
2439           claim against the deposit or bond arising from the motor club's breach of the conditions  
2440           of the deposit or bond may bring suit in [his] the person's own name to make a claim  
2441           against the deposit or bond, or the commissioner may bring suit on behalf of claimants.  
2442           In no event shall the liability of the surety exceed the amount of the bond, regardless of  
2443           the number of claimants or claims made on the bond. Regardless of the number of years  
2444           the bond continues in force or the number of premiums payable or paid, the limit of the  
2445           surety's liability, specified as the amount of liability of the bond, is not cumulative from  
2446           year to year or from period to period. The bond shall be forfeited up to the amount of  
2447           actual damages sustained by any claimant or claimants. No cause of action shall be filed



2448 against the bond after two years from the date of termination of the bond.

2449 (3) If a motor club is a separate division of a corporation, the commissioner may increase  
2450 the deposit or bond requirements to take into account the increased risk created by the  
2451 other business of the corporation. However, the deposit or bond requirement may not be  
2452 more than twice the amounts required under Subsection (2).

2453 Section 109. Section **31A-11-108** is amended to read:

2454 **31A-11-108 . Denial of certificate of authority.**

2455 If the commissioner declines or fails to issue a certificate of authority under Section  
2456 31A-11-107 within a reasonable time, [~~he~~] the commissioner shall issue an order giving a  
2457 reasonably detailed explanation for the refusal or the delay.

2458 Section 110. Section **31A-11-110** is amended to read:

2459 **31A-11-110 . Registration of agents.**

2460 No person may execute, issue, or deliver any motor club service contract to any person  
2461 or receive anything of value for the contract either before or after its execution, unless [~~he~~] the  
2462 person executing, issuing, or delivering the contract is registered with the commissioner. A  
2463 person is registered upon filing a statement including [~~his~~] the person's name, home and  
2464 business address, telephone number, and motor club represented with the commissioner, on a  
2465 form prescribed by the commissioner, and upon payment of all the fees due under Section  
2466 31A-3-103. Registered persons shall give the commissioner notice of any change in  
2467 registration information.

2468 Section 111. Section **31A-11-112** is amended to read:

2469 **31A-11-112 . Bail for traffic violations.**

2470 (1) Any insurance company that is qualified to transact a surety business in Utah may  
2471 contract to become surety for any guaranteed arrest bond certificates issued by it or by a  
2472 motor club, by filing with the commissioner an undertaking to become surety. The  
2473 undertaking shall be in a form prescribed by the commissioner and shall state the  
2474 following:

2475 (a) The name and address of the motor club or clubs issuing the guaranteed arrest bond  
2476 certificates on which the company will be surety, and whether the motor club will  
2477 issue the certificates itself.

2478 (b) The unqualified obligation of the company to be surety to pay, up to a specified  
2479 dollar amount, the fine or forfeiture of any person who fails to make an appearance to  
2480 answer the charges for which the guaranteed arrest bond certificate is posted.

2481 (2) Any guaranteed arrest bond certificate under Subsection (1), when posted by the

2482 signatory, shall be accepted in lieu of cash bail or other bond in an amount not  
 2483 exceeding the dollar amount specified under Subsection (1)(b), to guarantee the  
 2484 appearance of the person when required by any court in Utah when the person is arrested  
 2485 for violation of any Utah motor vehicle law, or any motor vehicle ordinance of any Utah  
 2486 municipality, except for driving under the influence of drugs or intoxicating liquors or  
 2487 for any felony. A law enforcement officer who issues a citation to an operator of a  
 2488 vehicle who has a valid guaranteed arrest bond certificate in [his] the operator's  
 2489 possession shall obtain the necessary information for the arrest citation, and if the  
 2490 guaranteed arrest bond certificate covers the fine for the violation, the officer shall  
 2491 release the vehicle and operator after serving the citation and receiving the guaranteed  
 2492 arrest bond from the operator. The officer shall deliver the guaranteed arrest bond to the  
 2493 appropriate court to be held as a bail bond.

2494 (3) A guaranteed arrest bond certificate posted as a bail bond in a district court is subject to  
 2495 the forfeiture and enforcement provisions which govern bail bonds in criminal cases. A  
 2496 guaranteed arrest bond certificate posted as a bail bond in a justice court is subject to the  
 2497 forfeiture and enforcement provisions of the charter or ordinance of the particular  
 2498 municipality which pertains to bail bonds.

2499 (4) A motor club may not agree to exonerate or indemnify an authorized surety issuing  
 2500 guaranteed arrest bonds under Subsection (1) for losses in connection with these bonds.

2501 Section 112. Section **31A-14-202** is amended to read:

2502 **31A-14-202 . Certificate of authority.**

2503 (1) The commissioner shall either issue a certificate of authority to an applicant under  
 2504 Section 31A-14-201 or issue an order refusing the certificate which explains why [he] the  
 2505 commissioner finds that:

2506 (a) not all specific requirements of the law have been met, including the requirements of  
 2507 Section 31A-14-209 for an alien insurer;

2508 (b) the applicant is not sound, reliable, entitled to public confidence, or cannot  
 2509 reasonably be expected to perform its obligations continuously in the future;

2510 (c) the applicant's directors and officers or, in the case of an alien insurer, its United  
 2511 States manager, are not sufficiently trustworthy and competent to engage in the  
 2512 proposed business in this state and to comply with the laws of this state; or

2513 (d) the applicant has not been in existence long enough to demonstrate its competence to  
 2514 engage in the proposed business in this state.

2515 (2) If the commissioner finds that the applicant does not comply with all requirements of

- 2516 the law, the commissioner may, after a hearing under Section 31A-2-301, issue a  
 2517 certificate of authority if the purposes of each unsatisfied requirement and the protection  
 2518 of insureds, creditors, and the public in this state are otherwise achieved by:
- 2519 (a) a deposit in trust to be established and maintained under Section 31A-2-206;
  - 2520 (b) a bond acceptable to the commissioner conditioned on the satisfaction of the  
 2521 purposes of the requirement;
  - 2522 (c) special limits on the applicant's business or methods of operation in this state or  
 2523 elsewhere; or
  - 2524 (d) other protective devices satisfactory to the commissioner.
- 2525 (3) The certificate of authority shall specify the terms of any deposit or bond required as a  
 2526 condition for authorization, any limits placed on the insurer's business or methods of  
 2527 operation in this state, and any other conditions imposed under Subsection (2).
- 2528 (4) An insurer may apply to the commissioner for a new certificate of authority, removing,  
 2529 altering, or adding limits on its business or methods of operation. The application shall  
 2530 be accompanied by the information specified in Section 31A-14-201 that the  
 2531 commissioner reasonably requires. The commissioner shall issue the new certificate as  
 2532 requested if [he] the commissioner would do so if an initial application were being made.
- 2533 Section 113. Section **31A-14-216** is amended to read:
- 2534 **31A-14-216 . Release from regulation.**
- 2535 (1) A foreign insurer authorized under this chapter is subject to regulation under the  
 2536 applicable provisions of the Insurance Code, unless it is released from regulation under  
 2537 this section.
  - 2538 (2) A foreign insurer may apply for release from regulation by filing with the commissioner:
    - 2539 (a) its certificate of authority;
    - 2540 (b) a schedule of its outstanding liabilities from policies issued in this state to residents  
 2541 of Utah or on risks located in Utah, and from other business transactions in Utah;
    - 2542 (c) a plan for securing the discharge of those outstanding liabilities; and
    - 2543 (d) any other information as reasonably required by the commissioner.
  - 2544 (3) The commissioner shall promptly release the insurer from regulation if [he] the  
 2545 commissioner finds all the following:
    - 2546 (a) The insurer has stopped doing any new business in Utah.
    - 2547 (b) The discharge of existing liabilities to creditors in Utah is sufficiently secured.
    - 2548 (c) The release would not otherwise be prejudicial to the interests of insureds or  
 2549 creditors in Utah or, if the insurer is an alien insurer and Utah is the state of entry into

- 2550 the United States, of all insureds and creditors in the United States.
- 2551 (4) Before deciding on the release, the commissioner may require the insurer to notify, at its  
2552 own expense, all agents or other classes of potentially interested persons in a manner the  
2553 commissioner prescribes, including publication of its withdrawal from Utah. The notice  
2554 shall advise affected persons to communicate to the commissioner any objections they  
2555 may have to the insurer's release from regulation.
- 2556 (5) As a prerequisite for releasing the insurer, the commissioner may require a deposit  
2557 under Section 31A-2-206, a bond issued by a surety authorized in Utah, or other  
2558 appropriate security or reinsurance in a sufficient amount to secure the proper discharge  
2559 of the insurer's remaining liabilities in Utah. The commissioner may also require the  
2560 insurer to sign an agreement to remain subject to the jurisdiction of the commissioner  
2561 and the courts of Utah with respect to any matter arising out of business done in Utah  
2562 prior to the release.

2563 Section 114. Section **31A-15-107** is amended to read:

2564 **31A-15-107 . Defense of action by unauthorized person.**

- 2565 (1) Except under Subsection (3), no pleading, notice, order, or process in any action in court  
2566 or in any administrative proceeding before the commissioner instituted against an  
2567 unauthorized person under Sections 31A-2-309 and 31A-2-310 may be filed by or on  
2568 behalf of the unauthorized person unless one of the following conditions exists:
- 2569 (a) The unauthorized person deposits with the clerk of the court in which the action or  
2570 proceeding is pending, or with the commissioner in administrative proceedings, cash,  
2571 securities, or a bond with sureties in an amount fixed by the court or the  
2572 commissioner, sufficient to secure the payment or performance of any probable final  
2573 judgment or order.
- 2574 (b) That person procures proper authorization to do an insurance business in Utah.
- 2575 (c) The commissioner, after a hearing, issues an order stating that [he] the commissioner  
2576 is satisfied the person has funds or securities, in a state of the United States, in trust  
2577 or otherwise, which are readily available and adequate to satisfy any probable final  
2578 judgment or to perform in accordance with any order.
- 2579 (2) The court in any action or proceeding under this section, or the commissioner in any  
2580 administrative proceeding under this section, may order any postponement [he] the  
2581 commissioner considers necessary to give the unauthorized person a reasonable  
2582 opportunity to comply with Subsection (1).
- 2583 (3) Subsection (1) does not prevent an unauthorized person from filing a motion to quash a

2584 writ or to set aside service on the ground that the person has not done any of the acts  
2585 specified under Subsection 31A-15-102(2).

2586 Section 115. Section **31A-21-310** is amended to read:

2587 **31A-21-310 . Dividends on policies.**

2588 (1) Section 31A-22-418 applies to life insurance and annuities.

2589 (2) Any insurer may distribute a portion of surplus attributable to policies other than life  
2590 insurance or annuities, in amounts and with classifications the board of directors  
2591 determines to be fair and reasonable. This distribution may not be contingent on the  
2592 renewal of any policy or of premium payments unless the policy stated that limitation  
2593 when it was written. A schedule explaining the basis for the distribution shall be filed  
2594 with the commissioner prior to the distribution. The schedule shall be kept confidential  
2595 by the commissioner unless [he] the commissioner finds that the interests of insureds and  
2596 the public require that it be made public.

2597 (3) Any insurer may distribute surplus to any class of policyholder, even if their policies do  
2598 not provide for it. A schedule explaining the basis for the distribution shall be filed with  
2599 the commissioner under Subsection (2) at least 30 days prior to the distribution. The  
2600 commissioner shall disallow any distribution which is materially unfair to other  
2601 policyholders or which would place the insurer in a financially hazardous condition.

2602 (4) It is permissible to provide an indivisible dividend to classes of policyholders having  
2603 more than one type of policy, including a combination of life or annuities with other  
2604 types of insurance.

2605 Section 116. Section **31A-22-105** is amended to read:

2606 **31A-22-105 . Common control of fiduciary funds permissible.**

2607 Any fiduciary from whom a bond, undertaking, or other obligation is required may agree  
2608 and arrange with [his] the fiduciary's sureties for the deposit for safekeeping of any and all  
2609 assets for which [he] the fiduciary is responsible with a depository institution authorized by law  
2610 to hold the assets, in a manner which prevents the withdrawal or alienation of any part of the  
2611 property without the written consent of the sureties, or an order of the court made after notice  
2612 is given to the sureties and a hearing is held as directed by the court. This deposit agreement  
2613 does not release or change the fiduciary responsibility of the principal, or the liability of the  
2614 principal or sureties as established under the bond.

2615 Section 117. Section **31A-22-308** is amended to read:

2616 **31A-22-308 . Persons covered by personal injury protection.**

2617 The following may receive benefits under personal injury protection coverage:

- 2618 (1) the named insured, when injured in an accident involving any motor vehicle, regardless  
2619 of whether the accident occurs in this state, the United States, its territories or  
2620 possessions, or Canada, except where the injury is the result of the use or operation of  
2621 the named insured's own motor vehicle not actually insured under the policy;
- 2622 (2) persons related to the insured by blood, marriage, adoption, or guardianship who are  
2623 residents of the insured's household, including those who usually make their home in the  
2624 same household but temporarily live elsewhere under the circumstances described in [   
2625 ~~Section~~] Subsection (1), except where the person is injured as a result of the use or  
2626 operation of [his] the person's own motor vehicle not insured under the policy; and
- 2627 (3) any other natural person whose injuries arise out of an automobile accident occurring:  
2628 (a) while the person occupies a motor vehicle described in the policy with the express or  
2629 implied consent of the named insured; or  
2630 (b) [~~while~~] if the person is a pedestrian [~~if he~~] who is injured in an accident occurring in  
2631 Utah involving the described motor vehicle.

2632 Section 118. Section **31A-22-311** is amended to read:

2633 **31A-22-311 . Definitions.**

2634 As used in Sections 31A-22-312 and 31A-22-314:

- 2635 (1) "Authorized driver" means the person to whom the vehicle is rented and includes:
- 2636 (a) [his] the spouse of the person renting the vehicle if the spouse is a licensed driver  
2637 satisfying the rental company's minimum age requirement;
- 2638 (b) [his] the employer or coworker of the person renting the vehicle if the employer or  
2639 coworker is engaged in business activity with the renter and if [they] the employer or  
2640 coworker are licensed drivers satisfying the rental company's minimum age  
2641 requirement;
- 2642 (c) any person who operates the vehicle during an emergency situation;
- 2643 (d) any person who operates the vehicle while parking the vehicle at a commercial  
2644 establishment; or
- 2645 (e) any person expressly listed by the rental company on the rental agreement as an  
2646 authorized driver.
- 2647 (2) "Damage" means any damage or loss to the rented vehicle resulting from a collision,  
2648 including loss of use and any costs and expenses incident to the damage or loss.
- 2649 (3) "Rental agreement" means any written agreement stating the terms and conditions  
2650 governing the use of a private passenger motor vehicle provided by a rental company.
- 2651 (4) "Rental company" means any person or organization in the business of providing

2652 private passenger motor vehicles to the public.

2653 (5) "Renter" means any person or organization obtaining the use of a private passenger  
2654 motor vehicle from a rental company under the terms of a rental agreement.

2655 Section 119. Section **31A-22-312** is amended to read:

2656 **31A-22-312 . Liability for collision damage -- No security required -- No waiver --**  
2657 **Section inapplicable to rental companies disclosing charges.**

2658 (1) No rental company may, in rental agreements of 30 continuous days or less, hold any  
2659 authorized driver liable for any damage except when:

2660 (a) the damage is caused intentionally by an authorized driver or as a result of [his] the  
2661 authorized driver's willful and wanton misconduct;

2662 (b) the damage arises out of the authorized driver's operation of the vehicle while  
2663 illegally intoxicated or under the influence of any illegal drug as defined or  
2664 determined under the law of the state where the damage occurred;

2665 (c) the damage is caused while the authorized driver is engaged in any speed contest;

2666 (d) the rental transaction is based on information supplied by the renter with the intent to  
2667 defraud the rental company;

2668 (e) the damage arises out of the use of the vehicle while committing or otherwise  
2669 engaged in a criminal act in which the use of the motor vehicle is substantially related  
2670 to the nature of the criminal activity;

2671 (f) the damage arises out of the use of the motor vehicle to carry persons or property for  
2672 hire; or

2673 (g) the damage arises out of the use of the motor vehicle outside of the United States or  
2674 Canada unless the use is specifically authorized by the rental agreement.

2675 (2) No security or deposit for damage in any form may be required or requested by the  
2676 rental company during the rental period, or pending the resolution of any dispute.

2677 (3) No waiver may be offered to provide coverage for any of the exceptions listed in this  
2678 section.

2679 (4) This section does not apply to any rental company:

2680 (a) whose advertising in this state clearly discloses all charges and costs incidental to the  
2681 basic daily rental rate; and

2682 (b) that provides written notice to renters clearly printed on the rental agreement and  
2683 prominently displayed at its place of business, that the renter's own motor vehicle  
2684 insurance or [his] the renter's credit card agreement may cover any damage or loss to  
2685 the rental vehicle.

2686 Section 120. Section **31A-22-401** is amended to read:

2687 **31A-22-401 . Prohibited life insurance policy provisions.**

2688 No life insurance company may issue or deliver any life insurance policy subject to this  
2689 chapter under Section 31A-21-101 which contains any provision:

- 2690 (1) forfeiting the policy for failure to repay any loan on the policy or to pay interest on the  
2691 loan while the total indebtedness on the policy is less than its loan value, and in  
2692 ascertaining the indebtedness due upon policy loans, the interest, if not paid when due,  
2693 may be added to the principal of those loans and may bear interest at the same rate as the  
2694 principal;
- 2695 (2) claiming that the policy was issued or became effective more than one year before the  
2696 original application for the insurance is executed, if the insured would then be rated at an  
2697 age more than one year younger than [~~his~~] the insured's age at the date of [~~his~~] the  
2698 insured's application, unless the aggregate amount of the annual premiums for the whole  
2699 term of the back-dated period is paid in cash;
- 2700 (3) allowing assessments or calls to be made upon policyholders; or
- 2701 (4) allowing an insurer to cancel or terminate a policy for a reason other than:
- 2702 (a) nonpayment of a premium when due; or
- 2703 (b) as allowed pursuant to Subsection 31A-21-105(2).

2704 Section 121. Section **31A-22-512** is amended to read:

2705 **31A-22-512 . Individual insurability.**

- 2706 (1) An insurer may exclude or limit the coverage under a group life policy on any person,  
2707 including a group member's dependent, as to whom the evidence of individual  
2708 insurability is not satisfactory to the insurer.
- 2709 (2) The group life insurance policy shall contain a provision setting forth the conditions, if  
2710 any, under which the insurer reserves the right to require a person eligible for insurance  
2711 to furnish satisfactory evidence to the insurer of the individual insurability as a condition  
2712 to part or all of [~~his~~] the person's coverage.

2713 Section 122. Section **31A-22-514** is amended to read:

2714 **31A-22-514 . Incontestability.**

2715 The group life insurance policy shall contain a provision that the validity of the policy  
2716 may not be contested, except for nonpayment of premiums, after it has been in force for two  
2717 years from its date of issue. This provision shall also state that no statement made by any  
2718 person insured under the policy relating to [~~his~~] the person's insurability may be used in  
2719 contesting the validity of the insurance with respect to which the statement was made after the



2720 insurance has been in force, prior to the contest, for a period of two years during the person's  
2721 lifetime, nor may the statement be used unless it is contained in a written instrument signed by [  
2722 ~~him~~] the person. This type of provision does not preclude the assertion of defenses based upon  
2723 provisions in the policy which relate to eligibility for coverage.

2724 Section 123. Section **31A-22-1005** is amended to read:

2725 **31A-22-1005 . Payment as bar to recovery.**

2726 Payment of compensation under a workers' compensation insurance policy, whether in  
2727 whole or in part, by either the employer or the insurer, bars recovery by the employee or [~~his~~]  
2728 the employee's dependents to the extent of the payment.

2729 Section 124. Section **31A-22-1007** is amended to read:

2730 **31A-22-1007 . Employer's insolvency.**

2731 Every workers' compensation policy or contract shall contain a provision that the  
2732 insolvency of the employer and [~~his~~] the employer's discharge does not relieve the insurer from  
2733 the payment of compensation for injuries or death sustained by an employee during the life of  
2734 that policy or contract.

2735 Section 125. Section **31A-22-1102** is amended to read:

2736 **31A-22-1102 . Policy and certificate forms.**

2737 (1) Legal expense insurance may be written as individual, group, blanket, or franchise  
2738 insurance. Each contractual obligation for legal expense insurance shall be evidenced by  
2739 a policy. Each person insured under a group policy shall be issued a certificate of  
2740 coverage.

2741 (2) Policies and certificates of legal expense insurance are subject to Section 31A-21-201.

2742 (3) The commissioner may not approve any form that does not meet all of the following  
2743 requirements:

2744 (a) Policies shall contain a list and description of the legal services promised or the legal  
2745 matters for which expenses are to be reimbursed, and any limits on the amounts to be  
2746 reimbursed.

2747 (b) Certificates issued under group policies shall contain a full statement of the benefits  
2748 provided, but may summarize the other terms of the master policy.

2749 (c) Policies promising legal services to be provided by a limited number of attorneys  
2750 who have concluded provider contracts with the insurer, whether the attorney in an  
2751 individual case is to be selected by the insured or by the insurer, shall provide for  
2752 alternative benefits in case the insured is unable to find a participating attorney  
2753 willing to perform the promised services or the attorney selected by the insurer is

2754 disqualified or otherwise unable to perform the promised services. The alternative  
 2755 benefit may consist of furnishing the services of an attorney selected and paid by the  
 2756 insurer or paying the fee of an attorney selected by the insured. The policy shall also  
 2757 provide a procedure that includes impartial review for settling disagreements about  
 2758 the grounds for demanding an alternative benefit.

2759 (d) No policy, except one issued by a mutual insurance company, may provide for  
 2760 assessments on policyholders or for reductions of benefits to maintain the insurer's  
 2761 solvency.

2762 (4) The commissioner may disapprove a policy or certificate form if [~~he~~] the commissioner  
 2763 finds that it:

2764 (a) is unfair, unfairly discriminatory, misleading, or encourages misrepresentation or  
 2765 misunderstanding of the contract;

2766 (b) provides coverage or benefits or contains other provisions that would endanger the  
 2767 solidity of the insurer; or

2768 (c) is contrary to law.

2769 (5) The commissioner may require the submission of relevant information [~~he~~] the  
 2770 commissioner considers to be reasonably necessary in determining whether to approve  
 2771 or disapprove a filing.

2772 Section 126. Section **31A-22-1305** is amended to read:

2773 **31A-22-1305 . Persons authorized to issue annuities.**

2774 No person may issue an annuity to another person unless the issuer is:

2775 (1) an insurer authorized to issue annuities under Chapter 5, Domestic Stock and Mutual  
 2776 Insurance Corporations, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers;

2777 (2) a domestic corporation created under Title 16, Chapter 6a, Utah Revised Nonprofit  
 2778 Corporation Act, or other applicable law, or a foreign corporation conducted without  
 2779 profit, which is engaged solely in bona fide charitable, religious, missionary,  
 2780 educational, medical, or philanthropic activities; or

2781 (3) a natural person who issues an annuity to [~~his~~] the person's spouse, children,  
 2782 grandchildren, great-grandchildren, parents, grandparents, uncles, aunts, brothers,  
 2783 sisters, nieces, or nephews, whether those relationships are by birth, marriage, or legal  
 2784 adoption.

2785 Section 127. Section **31A-25-201** is amended to read:

2786 **31A-25-201 . License and authority from insurers required.**

2787 (1) A person may not perform, offer to perform, or advertise any service as a third party

2788 administrator in Utah, without a valid license under Section 31A-25-203 and express  
2789 authority from all insurers it represents. A person may not utilize the services of another  
2790 as a third party administrator if [he] the person knows or should know that the other does  
2791 not have a license or the insurer authority as required by law. The commissioner shall  
2792 be notified of the commencement or termination of insurer authority in a form  
2793 established by rules.

2794 (2) The commissioner may by rule exempt certain persons or classes of persons from the  
2795 license requirement of Subsection (1) if the functions they perform do not require the  
2796 special competence, trustworthiness, or regulatory surveillance made possible by  
2797 licensing.

2798 (3) A contract is not invalid as a result of a violation of this section.

2799 Section 128. Section **31A-26-211** is amended to read:

2800 **31A-26-211 . Claims liaison.**

2801 Authorized insurers with employees engaged in insurance adjusting may be required by  
2802 the commissioner to designate one or more natural persons to whom the commissioner or [his]  
2803 the commissioner's staff may direct inquiries concerning the insurer's claims adjustments.  
2804 Insurers shall report to the commissioner the name, title, business address, telephone number  
2805 of, and any changes in its designees under this section.

2806 Section 129. Section **31A-26-212** is amended to read:

2807 **31A-26-212 . Emergency license.**

2808 In the event of a catastrophe or emergency which arises out of a disaster, act of God,  
2809 riot, civil commotion, conflagration, or other similar occurrence, the commissioner shall, upon  
2810 application, issue emergency licenses to persons who are not licensed adjusters. An  
2811 emergency license shall be applied for within a week of beginning claims adjustment. It may  
2812 remain in force for not more than 90 days, unless extended by the commissioner before it  
2813 expires for an additional period of not more than 90 additional days. The insurer who  
2814 contracts with an independent adjuster who is so licensed is responsible for all [his] the  
2815 independent adjuster's claims practices while so engaged, as if [he] the independent adjuster  
2816 were a regular salaried employee. The fee for an emergency license is the same as the fee  
2817 required of other licensed adjusters, unless the commissioner waives the fee.

2818 Section 130. Section **31A-28-217** is amended to read:

2819 **31A-28-217 . Immunity.**

2820 (1) There is no liability on the part of and no cause of action of any nature shall arise  
2821 against any member insurer or its agents or employees, the association or its agents or

2822 employees, members of the board of directors, or the commissioner or [his] the  
2823 commissioner's representatives, for any action or omission by them in effecting this part.

2824 (2) The state does not waive any defense under this part, including the defense of  
2825 governmental immunity. The state is not liable for any action or omission of the  
2826 association, its members, or their respective agents or employees. The state is not liable  
2827 for any failure of the association to perform its duties or to fulfill its stated purpose  
2828 under this part.

2829 Section 131. Section **34-23-303** is amended to read:

2830 **34-23-303 . Civil action allowed.**

2831 (1) In addition to the administrative action authorized by Section 34-23-401, and criminal  
2832 actions authorized by Sections 34-23-302 and 34-23-402, a minor employee may bring a  
2833 civil action to enforce [his] the minor employee's right to a minimum wage under Section  
2834 34-23-301.

2835 (2)(a) An aggrieved minor employee is entitled to injunctive relief and may recover the  
2836 difference between the wage paid and the minimum wage, plus interest.

2837 (b) The court may award court costs and attorney fees to the prevailing party.

2838 (3) An action brought under this section shall be brought within two years of the alleged  
2839 violation.

2840 Section 132. Section **34-26-1** is amended to read:

2841 **34-26-1 . Extent and condition of preference.**

2842 If any property of any person is seized through any process of any court, or when [his] a  
2843 person's business is suspended by the act of creditors or is put into the hands of a receiver,  
2844 assignee, or trustee, either by voluntary or involuntary action, the amount owing to workmen,  
2845 clerks, traveling or city salesmen, or servants, for work or labor performed within five months  
2846 next preceding the seizure or transfer of the property shall be considered and treated as  
2847 preferred debts, and the workmen, clerks, traveling and city salesmen, and servants shall be  
2848 preferred creditors, the first to be paid in full. If there are not sufficient proceeds to pay them  
2849 in full, then the proceeds shall be paid to them pro rata, after paying costs. No officer,  
2850 director, or general manager of a corporation employer or any member of an association  
2851 employer or partner of a partnership employer is entitled to this preference.

2852 Section 133. Section **34-38-4** is amended to read:

2853 **34-38-4 . Samples -- Identification and collection.**

2854 In order to test reliably for the presence of drugs or alcohol, an employer may require  
2855 samples from [his] the employer's employees and prospective employees, and may require

2856 presentation of reliable identification to the person collecting the samples. Collection of the  
 2857 sample shall be in conformance with the requirements of Section 34-38-6. The employer may  
 2858 designate the type of sample to be used for testing.

2859 Section 134. Section **34-38-7** is amended to read:

2860 **34-38-7 . Employer's written testing policy -- Purposes and requirements for**  
 2861 **collection and testing -- Employer's use of test results.**

- 2862 (1) Testing or retesting for the presence of drugs or alcohol by an employer shall be carried  
 2863 out within the terms of a written policy which has been distributed to employees and is  
 2864 available for review by prospective employees.
- 2865 (2) Within the terms of [~~his~~] the employer's written policy, an employer may require the  
 2866 collection and testing of samples for the following purposes:
- 2867 (a) investigation of possible individual employee impairment;
- 2868 (b) investigation of accidents in the workplace or incidents of workplace theft;
- 2869 (c) maintenance of safety for employees or the general public; or
- 2870 (d) maintenance of productivity, quality of products or services, or security of property  
 2871 or information.
- 2872 (3) The collection and testing of samples shall be conducted in accordance with Sections  
 2873 34-38-4, 34-38-5, and 34-38-6, and need not be limited to circumstances where there are  
 2874 indications of individual, job-related impairment of an employee or prospective  
 2875 employee.
- 2876 (4) The employer's use and disposition of all drug or alcohol test results are subject to the  
 2877 limitations of Sections 34-38-8 and 34-38-13.

2878 Section 135. Section **34-39-2** is amended to read:

2879 **34-39-2 . Definitions.**

2880 As used in this chapter:

- 2881 (1) "Employment invention" means any invention or part thereof conceived, developed,  
 2882 reduced to practice, or created by an employee which is:
- 2883 (a) conceived, developed, reduced to practice, or created by the employee:
- 2884 (i) within the scope of [~~his~~] the employee's employment;
- 2885 (ii) on [~~his~~] the employer's time; or
- 2886 (iii) with the aid, assistance, or use of any of [~~his~~] the employer's property, equipment,  
 2887 facilities, supplies, resources, or intellectual property;
- 2888 (b) the result of any work, services, or duties performed by an employee for [~~his~~] the  
 2889 employer;

- 2890 (c) related to the industry or trade of the employer; or  
2891 (d) related to the current or demonstrably anticipated business, research, or development  
2892 of the employer.

2893 (2) "Intellectual property" means any and all patents, trade secrets, know-how, technology,  
2894 confidential information, ideas, copyrights, trademarks, and service marks and any and  
2895 all rights, applications, and registrations relating to them.

2896 Section 136. Section **34-39-3** is amended to read:

2897 **34-39-3 . Scope of act -- When agreements between an employee and employer**  
2898 **are enforceable or unenforceable with respect to employment inventions -- Exceptions.**

2899 (1) An employment agreement between an employee and [his-]employer is not enforceable  
2900 against the employee to the extent that the agreement requires the employee to assign or  
2901 license, or to offer to assign or license, to the employer any right or intellectual property  
2902 in or to an invention that is:

- 2903 (a) created by the employee entirely on [his] the employee's own time; and  
2904 (b) not an employment invention.

2905 (2) An agreement between an employee and [his-]employer may require the employee to  
2906 assign or license, or to offer to assign or license, to [his] the employer any or all of [his]  
2907 the employee's rights and intellectual property in or to an employment invention.

2908 (3) Subsection (1) does not apply to:

- 2909 (a) any right, intellectual property or invention that is required by law or by contract  
2910 between the employer and the United States government or a state or local  
2911 government to be assigned or licensed to the United States; or  
2912 (b) an agreement between an employee and [his-]employer which is not an employment  
2913 agreement.

2914 (4) Notwithstanding Subsection (1), an agreement is enforceable under Subsection (1) if the  
2915 employee's employment or continuation of employment is not conditioned on the  
2916 employee's acceptance of such agreement and the employee receives a consideration  
2917 under such agreement which is not compensation for employment.

2918 (5) Employment of the employee or the continuation of [his] the employee's employment is  
2919 sufficient consideration to support the enforceability of an agreement under Subsection  
2920 (2) whether or not the agreement recites such consideration.

2921 (6) An employer may require [his-]employees to agree to an agreement within the scope of  
2922 Subsection (2) as a condition of employment or the continuation of employment.

2923 (7) An employer may not require [his-]employees to agree to anything unenforceable under

- 2924 Subsection (1) as a condition of employment or the continuation of employment.
- 2925 (8) Nothing in this chapter invalidates or renders unenforceable any employment agreement  
2926 or provisions of an employment agreement unrelated to employment inventions.
- 2927 Section 137. Section **34-40-205** is amended to read:
- 2928 **34-40-205 . Civil action allowed.**
- 2929 (1) In addition to the administrative and criminal actions authorized by this chapter, an  
2930 employee may bring a civil action to enforce [his] the employee's rights under this  
2931 chapter.
- 2932 (2)(a) An aggrieved employee is entitled to injunctive relief and may recover the  
2933 difference between the wage paid and the minimum wage, plus interest.
- 2934 (b) The court may award court costs and attorney fees to the prevailing party.
- 2935 (3) An action brought under this section shall be brought within two years of the alleged  
2936 violation.
- 2937 Section 138. Section **34A-2-207** is amended to read:
- 2938 **34A-2-207 . Noncompliance -- Civil action by employees.**
- 2939 (1)(a) Employers who fail to comply with Section 34A-2-201 are not entitled to the  
2940 benefits of this chapter or Chapter 3, Utah Occupational Disease Act, during the  
2941 period of noncompliance, but shall be liable in a civil action to their employees for  
2942 damages suffered by reason of personal injuries arising out of or in the course of  
2943 employment caused by the wrongful act, neglect, or default of the employer or any of  
2944 the employer's officers, agents, or employees, and also to the dependents or personal  
2945 representatives of such employees when death results from such injuries.
- 2946 (b) In any action described in Subsection (1)(a), the defendant may not [~~avail himself of~~]  
2947 use any of the following defenses:
- 2948 (i) the fellow-servant rule;
- 2949 (ii) assumption of risk; or
- 2950 (iii) contributory negligence.
- 2951 (2) Proof of the injury shall constitute prima facie evidence of negligence on the part of the  
2952 employer and the burden shall be upon the employer to show freedom from negligence  
2953 resulting in the injury.
- 2954 (3) An employer who fails to comply with Section 34A-2-201 is subject to Sections  
2955 34A-2-208 and 34A-2-212.
- 2956 (4) In any civil action permitted under this section against the employer, the employee shall  
2957 be entitled to necessary costs and a reasonable attorney fee assessed against the

2958 employer.

2959 Section 139. Section **35A-4-102** is amended to read:

2960 **35A-4-102 . Public policy -- General welfare requires creation of unemployment**  
2961 **reserves -- Employment offices.**

2962 As a guide to the interpretation and application of this chapter, the public policy of this  
2963 state is declared to be as follows: Economic insecurity due to unemployment is a serious  
2964 menace to the health, morals, and welfare of the people of this state. Unemployment is  
2965 therefore a subject of general interest and concern that requires appropriate action by the  
2966 Legislature to prevent its spread and to lighten its burden which now so often falls with  
2967 crushing force upon the unemployed worker and [his] the unemployed worker's family. The  
2968 achievement of social security requires protection against this greatest hazard of our economic  
2969 life. This objective can be furthered by operating free public employment offices in affiliation  
2970 with a nation-wide system of employment services, by devising appropriate methods for  
2971 reducing the volume of unemployment and by the systematic accumulation of funds during  
2972 periods of employment from which benefits may be paid for periods of unemployment, thus  
2973 maintaining purchasing power and limiting the serious social consequences of unemployment.  
2974 The Legislature, therefore, declares that in its considered judgment the public good, and the  
2975 general welfare of the citizens of this state require the enactment of this measure, under the  
2976 police power of the state, for the establishment and maintenance of free public employment  
2977 offices and for the compulsory setting aside of unemployment reserves to be used for the  
2978 benefit of unemployed persons.

2979 Section 140. Section **35A-4-105** is amended to read:

2980 **35A-4-105 . Department may be represented by attorneys in actions.**

2981 (1) In any civil action to enforce the provisions of this chapter the department may be  
2982 represented by any qualified attorney who is employed by the department and is  
2983 designated by it for this purpose, or at the department's request by the attorney general,  
2984 or if the action is brought in the courts of any other state by any attorney qualified to  
2985 appear in the courts of that state.

2986 (2) All criminal actions for violation of any provision of this chapter, or of any rules or  
2987 regulations issued pursuant thereto, shall be prosecuted by the attorney general of the  
2988 state; or, at [his] the attorney general's request and under [his] the attorney general's  
2989 direction, by the prosecuting attorney of any county in which the employing unit has a  
2990 place of business or the violator resides.

2991 Section 141. Section **35A-4-207** is amended to read:



2992           **35A-4-207 . Unemployment.**

- 2993       (1)(a) An individual is "unemployed" in any week during which [~~he~~] the individual  
2994           performs no services and with respect to which no wages are payable to [~~him~~] the  
2995           individual, or in any week of less than full-time work if the wages payable to [~~him~~]  
2996           the individual with respect to the week are less than [~~his~~] the individual's weekly  
2997           benefit amount.
- 2998       (b) The department shall prescribe rules applicable to unemployed individuals making  
2999           distinctions in the procedure as to total unemployment, part-total unemployment,  
3000           partial unemployment of individuals attached to their regular jobs, and other forms of  
3001           short-time work, as the department considers necessary.
- 3002       (2) The department may by rule prescribe in the case of individuals working on a regular  
3003           attachment basis the existence of unemployment for periods longer than a week if:  
3004           (a) it is a period of less than full-time work;  
3005           (b) insofar as possible the loss of wages required as a condition of being considered  
3006           unemployed in those periods shall be such as to allow comparable benefits, for  
3007           comparable loss in wages, to those individuals working less than full-time in each  
3008           week as would be payable on a weekly claim period basis to those individuals  
3009           working full-time and not at all in alternate weeks.
- 3010       (3) Unemployment shall in no case be measured on a basis of longer than a four-week  
3011           period.

3012           Section 142. Section **35A-4-402** is amended to read:

3013           **35A-4-402 . Extended benefits.**

- 3014       (1) Except when the result would be inconsistent with the other provisions of this section or  
3015           the rules of the department, the provisions of this chapter that apply to claims for or  
3016           payments of regular benefits apply to claims for and payments of extended benefits.
- 3017       (2) An individual is eligible to receive extended benefits with respect to any week of  
3018           unemployment in [~~his~~] the individual's eligibility period only if the division finds that  
3019           with respect to that week the individual:  
3020           (a) is an "exhaustee" as defined in this section;  
3021           (b) has satisfied the requirements of this chapter for the receipt of regular benefits that  
3022           are applicable to individuals claiming extended benefits, including not being subject  
3023           to a disqualification for the receipt of benefits; and  
3024           (c) has satisfied the federal requirements as adopted by state regulation for the receipt of  
3025           extended benefits.

- 3026 (3) The weekly extended benefit amount payable to an individual for a week of total  
3027 unemployment in [his] the individual's eligibility period is an amount equal to the weekly  
3028 benefit amount payable to [him] the individual during [his] the individual's applicable  
3029 benefit year.
- 3030 (4) The total extended benefit amount payable to any eligible individual with respect to [his]  
3031 the individual's applicable benefit year is the lesser of the following amounts:
- 3032 (a) 50% of the total amount of regular benefits which were payable to [him] the  
3033 individual under this chapter in [his] the individual's applicable benefit year;
- 3034 (b) 13 times [his] the individual's weekly benefit amount which was payable to [him] the  
3035 individual under this chapter for a week of total unemployment in the applicable  
3036 benefit year; or
- 3037 (c) 39 times [his] the individual's weekly benefit amount which was payable to [him] the  
3038 individual under this chapter for a week of total unemployment in the applicable  
3039 benefit year, reduced by the total amount of regular benefits which were paid or  
3040 deemed paid to [him] the individual under this chapter with respect to the benefit year.
- 3041 (5) Notwithstanding any other provision of this chapter, if the benefit year of any  
3042 individual ends within an extended benefit period, the remaining balance of extended  
3043 benefits that the individual would, but for this section, be entitled to receive in that  
3044 extended benefit period, with respect to weeks of unemployment beginning after the end  
3045 of the benefit year, shall be reduced, but not below zero, by the product of the number of  
3046 weeks for which the individual received any amounts as trade adjustment allowances  
3047 within that benefit year, multiplied by the individual's weekly benefit amount for  
3048 extended benefits.
- 3049 (6)(a) Whenever an extended benefit period is to become effective in this state as a  
3050 result of a state "on" indicator, or an extended benefit period is to be terminated in  
3051 this state as a result of a state "off" indicator, the division shall make an appropriate  
3052 public announcement.
- 3053 (b) Computations required by Subsection (7)(f) shall be made by the division, in  
3054 accordance with regulations prescribed by the United States Secretary of Labor.
- 3055 (7) As used in this section:
- 3056 (a) "Extended benefit period" means a period that:
- 3057 (i) begins with the third week after a week for which there is a state "on" indicator;  
3058 and  
3059 (ii) ends with either:

- 3060 (A) the third week after the first week for which there is a state "off" indicator; or  
3061 (B) after the 13th consecutive week of duration of that period, whichever occurs  
3062 later; however, no extended benefit period may begin by reason of a state "on"  
3063 indicator before the 14th week following the end of a prior extended benefit  
3064 period which was in effect with respect to this state.
- 3065 (b) There is a "state 'on' indicator" for this state for a week if the division determines, in  
3066 accordance with the regulations of the Secretary of Labor, that for the period  
3067 consisting of that week and the immediately preceding 12 weeks, the rate of insured  
3068 unemployment, not seasonally adjusted, under this chapter equaled or exceeded  
3069 120% of the average of the rates for the corresponding 13-week period ending in  
3070 each of the preceding two calendar years and that the rate equaled or exceeded 4%  
3071 until the weeks beginning after September 25, 1982, at which time it will become 5%.
- 3072 (c) There is a "state 'off' indicator" for this state for a week if the division determines, in  
3073 accordance with the regulations of the Secretary of Labor, that for the period  
3074 consisting of that week and the immediately preceding 12 weeks, the rate of insured  
3075 unemployment, not seasonally adjusted, under this chapter was less than 120% of the  
3076 average of the rates for the corresponding 13-week period ending in each of the  
3077 preceding two calendar years or that the rate was less than 4% until the weeks  
3078 beginning after September 25, 1982, at which time it will become 5%.
- 3079 (d) "Rate of insured unemployment," for purposes of Subsections (7)(b) and (7)(c),  
3080 means the percentage derived by dividing the average weekly number of individuals  
3081 filing claims for regular compensation in this state for weeks of unemployment with  
3082 respect to the most recent 13-consecutive-week period, as determined by the division  
3083 on the basis of its reports to the Secretary of Labor, by the average monthly  
3084 employment covered under this chapter for the first four of the most recent six  
3085 completed calendar quarters ending before the end of the 13-week period.
- 3086 (e) "Regular benefits" means benefits payable to an individual under this chapter or  
3087 under any other state law, including benefits payable to federal civilian employees  
3088 and to ex-servicemen under 5 U.S.C. Chapter 85, other than extended benefits.
- 3089 (f) "Extended benefits" means benefits, including benefits payable to federal civilian  
3090 employees and to ex-servicemen under 5 U.S.C. Chapter 85, payable to an individual  
3091 under the provisions of this section for weeks of unemployment in ~~his~~ the  
3092 individual's eligibility period.
- 3093 (g) "Eligibility period" of an individual means the period consisting of the weeks in ~~his~~

3094 the individual's benefit year which begin in an extended benefit period and, if [~~his~~] the  
 3095 individual's benefit year ends within the extended benefit period, any weeks  
 3096 thereafter which begin in that period.

3097 (h) "Exhaustee" means an individual who, with respect to any week of unemployment in [  
 3098 ~~his~~] the individual's eligibility period:

3099 (i) has received, prior to that week, all of the regular benefits that were available to [  
 3100 ~~him~~] the individual under this chapter or any other state law, including dependent's  
 3101 allowances and benefits payable to federal civilian employees and ex-servicemen  
 3102 under 5 U.S.C. Chapter 85, in [~~his~~] the individual's current benefit year that  
 3103 includes such week. An individual, for the purposes of this subsection, shall be  
 3104 deemed to have received all of the regular benefits that were available to [~~him~~] the  
 3105 individual although, as a result of a pending appeal with respect to wages or  
 3106 employment, or both, that were not considered in the original monetary  
 3107 determination in [~~his~~] the individual's benefit year, [~~he~~] the individual may  
 3108 subsequently be determined to be entitled to added regular benefits; or

3109 (ii) has no, or insufficient, wages or employment or both on the basis of which [~~he~~]  
 3110 the individual could establish a new benefit year that would include that week, [~~his~~]  
 3111 the individual's benefit year having expired prior to that week; and

3112 (iii) has no right to unemployment benefits or allowances, as the case may be, under  
 3113 the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the  
 3114 Automotive Products Trade Act of 1965, or any other federal laws as are specified  
 3115 in regulations issued by the Secretary of Labor and has not received, and is not  
 3116 seeking, unemployment benefits under the unemployment compensation law of  
 3117 the Virgin Islands or of Canada. However, if that [~~person~~] individual is seeking  
 3118 such benefits and the appropriate agency finally determines that [~~he~~] the individual  
 3119 is not entitled to benefits under that law [~~he~~] the individual is considered an  
 3120 "exhaustee," provided that the reference in this subsection to the Virgin Islands  
 3121 shall be inapplicable effective on the day on which the U. S. Secretary of Labor  
 3122 approves under Section 3304 (a) of the Internal Revenue Code of 1954, 26 U.S.C.  
 3123 3304(a), an unemployment compensation law submitted to the Secretary by the  
 3124 Virgin Islands for approval.

3125 (i) "State law" means the unemployment insurance law of any state, approved by the  
 3126 Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954, 26  
 3127 U.S.C. 3304(a).

3128 Section 143. Section **35A-4-406** is amended to read:

3129 **35A-4-406 . Claims for benefits -- Continuing jurisdiction -- Appeal -- Notice of**  
3130 **decision -- Repayment of benefits fraudulently received.**

3131 (1)(a) Claims for benefits shall be made and shall be determined by the division or  
3132 referred to an administrative law judge in accordance with rules adopted by the  
3133 department.

3134 (b) Each employer shall post and maintain in places readily accessible to individuals in [  
3135 his] the employer's service printed statements concerning benefit rights, claims for  
3136 benefits, and the other matters relating to the administration of this chapter as  
3137 prescribed by rule of the department.

3138 (c) Each employer shall supply to individuals in [his] the employer's service copies of the  
3139 printed statements or other materials relating to claims for benefits when and as the  
3140 department may by rule prescribe. The printed statements and other materials shall  
3141 be supplied by the division to each employer without cost to the employer.

3142 (2)(a) Jurisdiction over benefits shall be continuous.

3143 (b) Upon its own initiative or upon application of any party affected, the division may on  
3144 the basis of change in conditions or because of a mistake as to facts, review a  
3145 decision allowing or disallowing in whole or in part a claim for benefits.

3146 (c) The review shall be conducted in accordance with rules adopted by the department  
3147 and may result in a new decision that may award, terminate, continue, increase, or  
3148 decrease benefits, or may result in a referral of the claim to an appeal tribunal.

3149 (d) Notice of any redetermination shall be promptly given to the party applying for  
3150 redetermination and to other parties entitled to notice of the original determination, in  
3151 the manner prescribed in this section with respect to notice of an original  
3152 determination.

3153 (e) The new order shall be subject to review and appeal as provided in this section.

3154 (f) A review may not be made after one year from the date of the original determination,  
3155 except in cases of fraud or claimant fault as provided in Subsection (4).

3156 (3)(a) The claimant or any other party entitled to notice of a determination as provided  
3157 by department rule may file an appeal from the determination with the Division of  
3158 Adjudication within 10 days after the date of mailing of the notice of determination  
3159 or redetermination to the party's last-known address or, if the notice is not mailed,  
3160 within 10 days after the date of delivery of the notice.

3161 (b) Unless the appeal or referral is withdrawn with permission of the administrative law

- 3162 judge, after affording the parties reasonable opportunity for a fair hearing, the  
3163 administrative law judge shall make findings and conclusions and on that basis  
3164 affirm, modify, or reverse the determination or redetermination.
- 3165 (c) The administrative law judge shall first give notice of the pendency of an appeal to  
3166 the division, which may then be a party to the proceedings. The administrative law  
3167 judge shall receive into the record of the appeal any documents or other records  
3168 provided by the division, and may obtain or request any additional documents or  
3169 records held by the division or any of the parties that the administrative law judge  
3170 considers relevant to the proper determination of the appeal.
- 3171 (d) The parties shall be promptly notified of the administrative law judge's decision and  
3172 shall be furnished with a copy of the decision and the findings and conclusions in  
3173 support of the decision.
- 3174 (e) The decision is considered to be final unless, within 30 days after the date of mailing  
3175 of notice and a copy of the decision to the party's last-known address, or in the  
3176 absence of mailed notice, within 30 days after the delivery of the notice, further  
3177 appeal is initiated in accordance with Section 35A-4-508 and Chapter 1, Part 3,  
3178 Adjudicative Proceedings.
- 3179 (4)(a) Any person who, by reason of [his] that person's fraud, has received any sum as  
3180 benefits under this chapter to which [he] the person was not entitled shall repay the  
3181 sum to the division for the fund.
- 3182 (b) If any person, by reason of [his] that person's own fault, has received any sum as  
3183 benefits under this chapter to which under a redetermination or decision pursuant to  
3184 this section [he] the person has been found not entitled, [he] the person shall repay the  
3185 sum, or shall, in the discretion of the division, have the sum deducted from any future  
3186 benefits payable to [him] the person, or both.
- 3187 (c) In any case in which under this subsection a claimant is liable to repay to the division  
3188 any sum for the fund, the sum shall be collectible in the same manner as provided for  
3189 contributions due under this chapter.
- 3190 (5)(a) If any person has received any sum as benefits under this chapter to which under  
3191 a redetermination or decision [he] that person was not entitled, and it has been found  
3192 that [he] the person was without fault in the matter, [he] the person is not liable to  
3193 repay the sum but shall be liable to have the sum deducted from any future benefits  
3194 payable to [him] the person.
- 3195 (b) The division may waive recovery of the overpayment if it is shown to the satisfaction

3196 of the division that the claimant has the inability to meet more than the basic needs of  
 3197 survival for an indefinite period lasting at least several months.

3198 Section 144. Section **36-19-1** is amended to read:

3199 **36-19-1 . Conflict of interest -- Prohibition of benefit.**

3200 (1) A legislator, member of [his] the legislator's household, or client shall not be a party to  
 3201 or have an interest in the profits or benefits of a state contract when the state contract is  
 3202 the direct result of a bill sponsored by the legislator unless the contract is let in  
 3203 compliance with state procurement policies and is open to the general public.

3204 (2) Any person violating this section shall be guilty of a class B misdemeanor.

3205 Section 145. Section **38-2-4** is amended to read:

3206 **38-2-4 . Disposal of property by lienholder -- Procedure.**

3207 (1) Any party holding a lien upon personal property as provided in this chapter may dispose  
 3208 of the property in the manner provided in Subsection (2).

3209 (2)(a) The lienor shall give notice to the owner of the property, to the customer as  
 3210 indicated on the work order, and to all other persons claiming an interest in or lien on  
 3211 it, as disclosed by the records of the Motor Vehicle Division, lieutenant governor's  
 3212 office, or of corresponding agencies of any other state in which the property appears  
 3213 registered or an interest in or lien on it is evidenced if known by the lienor.

3214 (b) The notice shall be sent by certified mail at least 30 days before the proposed or  
 3215 scheduled date of any sale and shall contain:

3216 (i) a description of the property and its location;

3217 (ii) the name and address of the owner of the property, the customer as indicated on  
 3218 the work order, and any person claiming an interest in or lien on the property;

3219 (iii) the name, address, and telephone number of the lienor;

3220 (iv) notice that the lienor claims a lien on the property for labor and services  
 3221 performed and interest and storage fees charged, if any, and the cash sum which,  
 3222 if paid to the lienor, would be sufficient to redeem the property from the lien  
 3223 claimed by the lienor;

3224 (v) notice that the lien claimed by the lienor is subject to enforcement under this  
 3225 section and that the property may be sold to satisfy the lien;

3226 (vi) the date, time, and location of any proposed or scheduled sale of the property and  
 3227 whether the sale is private or public, except that no property may be sold earlier  
 3228 than 45 days after completion of the repair work; and

3229 (vii) notice that the owner of the property has a right to recover possession of the

- 3230 property without instituting judicial proceedings by posting bond.
- 3231 (3) If the owner of the property is unknown or [his] the property owner's whereabouts  
 3232 cannot be determined, or if the owner or any person notified under Subsection (2) fails  
 3233 to acknowledge receipt of the notice, the lienor, at least 20 days before the proposed or  
 3234 scheduled date of sale of the property, shall publish the notice required by this section  
 3235 once in a newspaper circulated in the county where the vehicle is held.
- 3236 (4) A lienee may have [his] the lienee's property released from any lien claimed on it under  
 3237 this chapter by filing with the clerk of a court a cash or surety bond, payable to the  
 3238 person claiming the lien, and conditioned for the payment of any judgment that may be  
 3239 recovered on the lien, with costs, interest, and storage fees.
- 3240 (5)(a) The lienor has 60 days after receiving notice that the lienee has filed the bond  
 3241 provided in Subsection (4) to file suit to foreclose [his] the lien.
- 3242 (b) If the lienor fails to timely file an action, the clerk of the court shall release the bond.
- 3243 (6) Property subject to lien enforcement under this section may be sold by the lienor at  
 3244 public or private sale; however, in the case of a private sale, every aspect of the sale,  
 3245 including the method, manner, time, place, and terms shall be commercially reasonable.
- 3246 (7) This section may not be construed to affect an owner's right to redeem [his] the owner's  
 3247 property from the lien at any time prior to sale by paying the amount claimed by the  
 3248 lienor for work done, interest, and storage fees charged and any costs incurred by the  
 3249 repair shop for using enforcement procedures under this section.

3250 Section 146. Section **38-3-5** is amended to read:

3251 **38-3-5 . When attachment will issue -- Determination of priorities.**

3252 Upon the filing of such complaint, affidavit and bond it shall be the duty of the court  
 3253 wherein the same are filed to issue a writ of attachment to the proper officer, commanding [him]  
 3254 the officer to seize the property of the defendant subject to such lien, or so much thereof as  
 3255 will satisfy the demand, and to make a determination of the priorities of the claims, liens, and  
 3256 security interests in such property.

3257 Section 147. Section **38-7-2** is amended to read:

3258 **38-7-2 . Notice of lien required -- Filing with district court -- Mailing to injured**  
 3259 **person, heirs or legal representative, and insurance carrier.**

3260 A hospital lien upon damages recovered or to be recovered for personal injuries or  
 3261 death shall be effective if:

- 3262 (1) a verified written notice is filed in the district court of the county in which the hospital  
 3263 asserting the lien is located containing:



- 3264 (a) an itemized statement of the services rendered to the injured person and the dates of  
 3265 the services;
- 3266 (b) the name and address of the hospital making the claim;
- 3267 (c) the name of the person, firm, or corporation alleged to be liable to the injured party  
 3268 for the injuries and damages sustained; and
- 3269 (d) the full name and address of the injured person;
- 3270 (2) the hospital sends by certified mail with return receipt requested, prior to the payment of  
 3271 any money to the injured person or [his] the injured person's attorney or heirs or legal  
 3272 representatives as compensation for the injuries and/or damages sustained, a copy of the  
 3273 written notice, together with a statement of the date of filing, to the person, firm, or  
 3274 corporation alleged to be liable to the injured party for the injuries and/or damages  
 3275 sustained; and
- 3276 (3) the hospital mails a copy of the written notice by certified mail with return receipt  
 3277 requested to the home office of any insurance carrier that has insured the person, firm, or  
 3278 corporation against liability, if the name and address is known.

3279 Section 148. Section **38-10-102.1** is amended to read:

3280 **38-10-102.1 . Perfection of lien -- Notice of subcontractor's claim -- Information**  
 3281 **required to be provided -- Payments to be held in trust.**

- 3282 (1)(a) To perfect a lien a subcontractor must comply with the requirements of this  
 3283 section and Section 38-10-105.
- 3284 (b) This section shall apply only to a subcontractor's claim or a portion of a claim for  
 3285 amounts more than \$5,000, for work performed upon or materials or equipment  
 3286 furnished for each production unit.
- 3287 (2) A subcontractor shall provide notice of a subcontractor's claim to the owner and  
 3288 operator designated by the owner within 20 days after the commencement of work or the  
 3289 furnishing of materials or equipment.
- 3290 (3) The notice shall:
- 3291 (a) be delivered, or mailed by certified mail, return receipt requested, to the:
- 3292 (i) owner; and
- 3293 (ii) operator designated by the owner;
- 3294 (b) be considered delivered when deposited in the mail; and
- 3295 (c) contain a statement setting forth the following information:
- 3296 (i) identification of the lien claimant by full name, address, and telephone number;
- 3297 (ii) the name of the person by whom [he] the subcontractor was employed or to whom [

- 3298           he] the subcontractor furnished material or equipment; and
- 3299           (iii) a description of the property comprising the production unit.
- 3300 (4) Failure to deliver or mail the notice shall discharge and satisfy the lien attaching to the
- 3301           interest of the owner to the extent the owner pays a contractor or operator [his] the
- 3302           contractor's or operator's share of all, or part, of the lien claimant's agreed contract price.
- 3303 (5)(a) Any contractor or subcontractor shall provide, in writing, to each person with
- 3304           whom [he] the contractor or subcontractor contracts:
- 3305           (i) the full name and address of the:
- 3306               (A) owner of the production unit; and
- 3307               (B) the operator designated by the owner; and
- 3308           (ii) a description of the property comprising the production unit.
- 3309 (b) Failure to provide the information required under this section within three days after
- 3310           the work is commenced or the materials and equipment are furnished shall entitle the
- 3311           claimant to an award of costs and [attorneys'] attorney fees in an action against the
- 3312           person to enforce the contract.
- 3313 (6) Any contractor, operator, or subcontractor who receives payment for work performed
- 3314           upon, or material or equipment furnished for any production unit, shall hold all
- 3315           payments in trust for the person with whom [he] the contractor, operator, or subcontractor
- 3316           contracts for work upon, or the furnishing of materials or equipment for the production
- 3317           unit, for any amount remaining unpaid under the contract.

3318           Section 149. Section **38-10-108** is amended to read:

3319           **38-10-108 . Limitation upon owner's liability.**

3320           Except as provided in Section 38-10-102 and Section 38-10-114, nothing in this chapter

3321           shall be construed to fix a greater liability against the owner than the price or sum agreed by

3322           the owner to be paid for [his] a contractor's or subcontractor's share of the work performed or

3323           the materials or equipment furnished.

3324           Section 150. Section **38-10-109** is amended to read:

3325           **38-10-109 . Limitation on liability for other owners in production unit if notice**

3326           **provided -- Contents of notice -- Filing of notice -- Time for filing -- Failure to file does**

3327           **not affect other defenses.**

- 3328 (1) Where work is performed or materials or equipment are furnished for any production
- 3329           unit under a contract with an owner of an interest in the production unit, any interest of
- 3330           any other owner in the production unit shall not be subject to a lien under this chapter, if
- 3331           such other owner gives written notice that [he] the other owner will not be responsible

- 3332 for work performed or materials or equipment provided.
- 3333 (2) Written notice shall be:
- 3334 (a) in recordable form;
- 3335 (b) filed with the county recorder of the county where the production unit is located; and
- 3336 (c) filed within 10 working days after the latter of:
- 3337 (i) the owner obtaining knowledge of the performance of such work or the providing
- 3338 of such materials or equipment; or
- 3339 (ii) the execution by the last party of:
- 3340 (A) a farmout agreement;
- 3341 (B) a lease or sublease;
- 3342 (C) an operating agreement;
- 3343 (D) an assignment of less than 100% of the lessee's interest or operating rights
- 3344 under a lease;
- 3345 (E) a sales contract; or
- 3346 (F) an option agreement.
- 3347 (3) Failure to file under this section shall not impair any other defense available to such
- 3348 owner.

3349 Section 151. Section **40-1-6** is amended to read:

3350 **40-1-6 . Affidavit of performance of annual labor or payment of maintenance fee.**

- 3351 (1) As used in this section, "assessment work" means the performance of labor or making of
- 3352 improvements on or for the benefit of a mining claim.
- 3353 (2) Within 30 days after the end of the annual period specified in 30 U.S.C. Sec. 28 the
- 3354 owner of an unpatented lode or placer mining claim, [-]or a mill or tunnel site claim or
- 3355 someone [-]on [his] the owner's behalf, shall record an affidavit in the office of the
- 3356 county recorder of the county in which the claim is located setting forth:
- 3357 (a) the name and address of the owner of the claim;
- 3358 (b) the name of the claim and the serial number, if any, assigned to the claim by the
- 3359 United States Bureau of Land Management;
- 3360 (c) if assessment work was required to be performed under 30 U.S.C. Sec. 28 or other
- 3361 federal law to maintain the claim, a statement that the annual assessment work
- 3362 required to maintain the claim was performed; and
- 3363 (d) if the assessment work was not required to be performed under 30 U.S.C. Sec. 28 or
- 3364 other federal law, a statement that it is the intention of the owner to hold the claim,
- 3365 and if a claim maintenance fee was paid as required by the Omnibus Budget

3366 Reconciliation Act of 1993, Pub. L. 103-66 or other federal law, a statement that the  
3367 fee was paid in a timely manner.

3368 (3) The affidavit, or a certified copy, shall be prima facie evidence of the facts stated in the  
3369 affidavit.

3370 (4) The amendments made in this section do not affect any act or right accruing or which  
3371 has accrued or been established or any suit or proceeding commenced before May 1,  
3372 1995.

3373 Section 152. Section **40-8-19** is amended to read:

3374 **40-8-19 . Transfer of mining operation under approved notice of intention.**

3375 Whenever an operator succeeds to the interest of another operator who holds an  
3376 approved notice of intention or revision covering a mining operation, by sale, assignment,  
3377 lease, or other means, the division may release the first operator from [his] the first operator's  
3378 responsibilities under [his] the first operator's approved notice of intention, including surety,  
3379 provided the successor assumes all of the duties of the former operator, to the satisfaction of  
3380 the division, under this approved notice of intention, including its then approved reclamation  
3381 plan and the posting of surety. Upon the satisfactory assumption of such responsibilities by the  
3382 successor operator, under conditions approved by the division, the approved notice of intention  
3383 shall be transferred to the successor operator.

3384 Section 153. Section **40-8-23** is amended to read:

3385 **40-8-23 . Effective dates -- Exceptions.**

3386 This act shall become effective 60 days after adjournment of the Legislature except as  
3387 follows:

3388 (1) Mining operations which are active on the effective date of this act will be required to  
3389 prepare and submit a notice of intention on or before July 1, 1977, and shall be  
3390 authorized to continue such existing operations until the operator obtains approval of [his]  
3391 a notice of intention. Such approval shall be obtained by the operator within 36 months  
3392 from the date of submission of this notice. Subsequent to approval of the notice of  
3393 intention, the operator shall be bound by the provisions of the approved notice of  
3394 intention and surety requirements as provided in Sections 40-8-13 and 40-8-14.

3395 (2) Mining operations which are active on the effective date of this act and which are  
3396 suspended or terminated on or before July 1, 1977, shall advise the division of this fact  
3397 before July 10, 1977, and shall not be required to submit a notice of intention.

3398 (3) Mining operations which are inactive on the effective date of this act and which resume  
3399 operations on or before July 1, 1977, shall be required to prepare and submit a notice of

3400 intention within 12 months following the effective date of this act or within six months  
3401 of the resumption of such operations, whichever is earlier, and shall be authorized to  
3402 conduct operations as described in the notice of intention until the operator obtains  
3403 approval of [his] a notice of intention. Such approval shall be obtained by the operator  
3404 within 36 months from the date of submission of the notice. Subsequent to approval of  
3405 the notice of intention the operator shall be bound by the provisions of the approved  
3406 notice of intention and surety requirements as provided in Sections 40-8-13 and 40-8-14.

3407 (4) The board and division, in the initial application of this act and until July 1, 1977, shall  
3408 not be bound by the 30 day time limitation within which to take action on a notice of  
3409 intention; but all notices of intention filed before July 1, 1977, shall be acknowledged as  
3410 received within 30 days of receipt and action shall be commenced by the division within  
3411 12 months from the date of receipt.

3412 (5) This act and the rules and regulations promulgated under it shall be fully effective for  
3413 all operators and mining operations active on the effective date of this act or commenced  
3414 or reactivated on and after July 1, 1977.

3415 Section 154. Section **40-10-5** is amended to read:

3416 **40-10-5 . Activities exempted from chapter.**

3417 This chapter does not apply to the following activities:

- 3418 (1) the extraction of coal by a landowner for [his] the landowner's own noncommercial use  
3419 from land owned or leased by [him] the landowner; or  
3420 (2) the extraction of coal as an incidental part of federal, state, or local  
3421 government-financed highway or other construction under rules established by the  
3422 division.

3423 Section 155. Section **40-10-19** is amended to read:

3424 **40-10-19 . Information provided by permittees to division -- Inspections by**  
3425 **division -- Signs required at operations entrances -- Violations reported by reclamation**  
3426 **officers -- Copies of records and reports available to public.**

- 3427 (1) For the purpose of developing, administering, and enforcing any permit under this  
3428 chapter, or of determining whether any person is in violation of any requirement of this  
3429 chapter, the division shall require any permittee to provide information relative to  
3430 surface coal mining and reclamation operations as the division deems reasonable and  
3431 necessary in the division's rules.  
3432 (2) The authorized representatives of the division, without advance notice and upon  
3433 presentation of appropriate credentials:

- 3434 (a) shall have the right of entry into, upon, or through any surface coal mining and  
 3435 reclamation operations or any premises in which any records required to be  
 3436 maintained under Subsection (2) are located; and
- 3437 (b) may at reasonable times, and without delay, have access to and copy any records,  
 3438 inspect any monitoring equipment or method of operation required under this  
 3439 chapter. As required by Subsection 40-8-17(2), this entry and access are conditions  
 3440 to obtaining an approved state permit to conduct surface mining operations.
- 3441 (3) The inspections by the division shall:
- 3442 (a) occur on an irregular basis averaging not less than one partial inspection per month  
 3443 and one complete inspection per calendar quarter for the surface coal mining and  
 3444 reclamation operation covered by each permit;
- 3445 (b) occur without prior notice to the permittee or [his] the permittee's agents or employees  
 3446 except for necessary onsite meetings with the permittee; and
- 3447 (c) include the filing of inspection reports adequate to enforce the requirements of and to  
 3448 carry out the terms and purposes of this chapter.
- 3449 (4) Each permittee shall conspicuously maintain at the entrances to the surface coal mining  
 3450 and reclamation operations a clearly visible sign which sets forth the names, business  
 3451 address, and phone number of the permittee and the permit number of the surface coal  
 3452 mining and reclamation operations.
- 3453 (5) Each reclamation officer, upon detection of each violation of any requirement of this  
 3454 chapter, shall forthwith inform the operator in writing and shall report in writing the  
 3455 violation to the division.
- 3456 (6) Copies of any records, reports, inspection materials, or information obtained under this  
 3457 chapter by the division shall be made immediately available to the public.
- 3458 Section 156. Section **40-10-20** is amended to read:
- 3459 **40-10-20 . Civil penalty for violation of chapter -- Informal conference -- Public**  
 3460 **hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties --**  
 3461 **Civil penalty for failure to correct violation.**
- 3462 (1)(a) Any permittee who violates any permit condition or other provision of this  
 3463 chapter may be assessed a civil penalty by the division. If the violation leads to the  
 3464 issuance of a cessation order under Section 40-10-22, the civil penalty shall be  
 3465 assessed.
- 3466 (b)(i) The penalty may not exceed \$5,000 for each violation.
- 3467 (ii) Each day of a continuing violation may be deemed a separate violation for

- 3468 purposes of the penalty assessments.
- 3469 (c) In determining the amount of the penalty, consideration shall be given to:
- 3470 (i) the permittee's history of previous violations at the particular surface coal mining  
3471 operation;
- 3472 (ii) the seriousness of the violation, including any irreparable harm to the  
3473 environment and any hazard to the health or safety of the public;
- 3474 (iii) whether the permittee was negligent; and
- 3475 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid  
3476 compliance after notification of the violation.
- 3477 (2)(a) Within 30 days after the issuance of a notice or order charging that a violation of  
3478 this chapter has occurred, the division shall inform the permittee of the proposed  
3479 assessment.
- 3480 (b) The person charged with the penalty shall then have 30 days to pay the proposed  
3481 assessment in full, or request an informal conference before the division.
- 3482 (c) The informal conference held by the division may address either the amount of the  
3483 proposed assessment or the fact of the violation, or both.
- 3484 (d) If the permittee who requested the informal conference and participated in the  
3485 proceedings is not in agreement with the results of the informal conference, the  
3486 permittee may, within 30 days of receipt of the decision made by the division in the  
3487 informal conference, request a hearing before the board.
- 3488 (e)(i) Prior to any review of the proposed assessment or the fact of a violation by the  
3489 board, and within 30 days of receipt of the decision made by the division in the  
3490 informal conference, the permittee shall forward to the division the amount of the  
3491 proposed assessment for placement in an escrow account.
- 3492 (ii) If the operator fails to forward the amount of the penalty to the division within 30  
3493 days of receipt of the results of the informal conference, the operator waives any  
3494 opportunity for further review of the fact of the violation or to contest the amount  
3495 of the civil penalty assessed for the violation.
- 3496 (iii) If, through administrative or judicial review, it is determined that no violation  
3497 occurred or that the amount of the penalty should be reduced, the division shall  
3498 within 30 days remit the appropriate amount to the operator with interest  
3499 accumulated.
- 3500 (3)(a) A civil penalty assessed by the division shall be final only after the person  
3501 charged with a violation described under Subsection (1) has been given an

- 3502 opportunity for a public hearing.
- 3503 (b) If a public hearing is held, the board shall make findings of fact and shall issue a  
3504 written decision as to the occurrence of the violation and the amount of the penalty  
3505 which is warranted, incorporating, when appropriate, an order requiring that the  
3506 penalty be paid.
- 3507 (c) When appropriate, the board shall consolidate the hearings with other proceedings  
3508 under Section 40-10-22.
- 3509 (d) Any hearing under this section shall be of record and shall be conducted pursuant to  
3510 board rules governing the proceedings.
- 3511 (e) If the person charged with a violation fails to [~~avail himself of~~] use the opportunity  
3512 for a public hearing, a civil penalty shall be assessed by the division after the division:  
3513 (i) has determined:  
3514 (A) that a violation did occur; and  
3515 (B) the amount of the penalty which is warranted; and  
3516 (ii) has issued an order requiring that the penalty be paid.
- 3517 (4) At the request of the board, the attorney general may bring a civil action in a court with  
3518 jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil  
3519 penalty owed under this chapter.
- 3520 (5) Any person who willfully and knowingly violates a condition of a permit issued  
3521 pursuant to this chapter or fails or refuses to comply with any order issued under Section  
3522 40-10-22 or any order incorporated in a final decision issued by the board under this  
3523 chapter, except an order incorporated in a decision under Subsection (3), shall, upon  
3524 conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not  
3525 more than one year, or both.
- 3526 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to this  
3527 chapter or fails or refuses to comply with any order incorporated in a final decision  
3528 issued by the board under this chapter, except an order incorporated in a decision issued  
3529 under Subsection (3), any director, officer, or agent of the corporation who willfully and  
3530 knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be  
3531 subject to the same civil penalties, fines, and imprisonment that may be imposed upon a  
3532 person under Subsections (1) and (5).
- 3533 (7) Whoever knowingly makes any false statement, representation, or certification, or  
3534 knowingly fails to make any statement, representation, or certification in any  
3535 application, record, report, plan, or other document filed or required to be maintained



3536 pursuant to this chapter or any order or decision issued by the board under this chapter  
 3537 shall, upon conviction, be punished by a fine of not more than \$10,000, or by  
 3538 imprisonment for not more than one year, or both.

3539 (8)(a) Any operator who fails to correct a violation for which a notice or cessation order  
 3540 has been issued under Subsection 40-10-22(1) within the period permitted for its  
 3541 correction shall be assessed a civil penalty of not less than \$750 for each day during  
 3542 which the failure or violation continues.

3543 (b) The period permitted for correction of a violation for which a notice of cessation  
 3544 order has been issued under Subsection 40-10-22(1) may not end until:

3545 (i) the entry of a final order by the board, in the case of any review proceedings  
 3546 initiated by the operator in which the board orders, after an expedited hearing, the  
 3547 suspension of the abatement requirements of the citation after determining that the  
 3548 operator will suffer irreparable loss or damage from the application of those  
 3549 requirements; or

3550 (ii) the entry of an order of the court, in the case of any review proceedings initiated  
 3551 by the operator wherein the court orders the suspension of the abatement  
 3552 requirements of the citation.

3553 Section 157. Section **40-10-29** is amended to read:

3554 **40-10-29 . Other enforcement and protection rights unaffected -- Operator to**  
 3555 **replace adversely affected water supply of legitimate users.**

3556 (1) Nothing in this chapter shall be construed as affecting in any way the right of any  
 3557 person to enforce or protect, under applicable law, [his] the person's interest in water  
 3558 resources affected by a surface coal mining operation.

3559 (2) The operator of a surface coal mine shall replace the water supply of an owner of  
 3560 interest in real property who obtains all or part of [his] the owner's supply of water for  
 3561 domestic, agricultural, industrial, or other legitimate use from an underground or surface  
 3562 source where this supply has been affected by contamination, diminution, or interruption  
 3563 proximately resulting from the surface coal mine operation.

3564 Section 158. Section **41-1a-224** is amended to read:

3565 **41-1a-224 . Registration of specially constructed, reconstructed, or foreign**  
 3566 **vehicles -- Surrender of foreign registration.**

3567 (1) If the vehicle to be registered is a specially constructed, reconstructed, or foreign  
 3568 vehicle, that fact shall be stated in the application.

3569 (2) The owner of a foreign vehicle that has been registered outside of this state shall

3570 surrender to the division all registration cards, certificates of title, or other evidence of  
3571 foreign registration in [his] the owner's possession or under [his] the owner's control,  
3572 except as provided in Section 41-1a-223.

3573 Section 159. Section **41-1a-607** is amended to read:

3574 **41-1a-607 . Assignment by lienholder.**

3575 (1)(a) Any person holding a lien or encumbrance upon a vehicle, vessel, or outboard  
3576 motor, other than a lien dependent solely upon possession, may assign [his] the  
3577 person's title or interest in or to the vehicle, vessel, or outboard motor to a person  
3578 other than the owner without the consent of and without affecting the interest of the  
3579 owner or the registration of the vehicle, vessel, or outboard motor.

3580 (b) If assignment of the lien or encumbrance in any way modifies or affects the owner's  
3581 repayment agreement, the lien or encumbrance holder shall give to the owner a  
3582 written notice of the assignment.

3583 (2) Upon request to the division and upon receipt of a certificate of title assigned by the  
3584 holder of a lien or encumbrance shown on it and giving the name and address of the  
3585 assignee, accompanied by the fee provided by law, the division shall issue a new  
3586 certificate of title.

3587 Section 160. Section **41-1a-608** is amended to read:

3588 **41-1a-608 . Release by lienholder to owner.**

3589 (1) A person holding a lien or encumbrance as shown upon a certificate of title upon a  
3590 vehicle or vessel may release the lien or encumbrance or assign [his] the person's interest  
3591 to the owner without affecting the registration of the vehicle or vessel.

3592 (2) The division shall issue a new certificate of title without a lien previously recorded upon  
3593 receiving:

3594 (a) a certificate of title:

3595 (i) upon which a lienholder has released or assigned [his] the lienholder's interest to  
3596 the owner; or

3597 (ii) not so endorsed but accompanied by a legal release from a lienholder of [his] the  
3598 lienholder's interest in or to a vehicle, vessel, or outboard motor;

3599 (b) an application properly completed; and

3600 (c) the proper fee.

3601 Section 161. Section **41-1a-708** is amended to read:

3602 **41-1a-708 . Owner not liable for negligent operation after transfer.**

3603 The owner of a vehicle or vessel who has made a bona fide sale or transfer of [his] the

3604 owner's title or interest and who has delivered to the purchaser or transferee possession of the  
 3605 vehicle or vessel, the certificate of registration, and the properly endorsed certificate of title to  
 3606 the vehicle or vessel is not liable for any damages thereafter resulting from negligent operation  
 3607 of the vehicle or vessel by another.

3608 Section 162. Section **41-1a-801** is amended to read:

3609 **41-1a-801 . Altered or changed identification number -- State assigned**  
 3610 **identification number.**

3611 (1) The owner of a vehicle required to be registered [-]under this chapter, the identification  
 3612 number of which has been altered, removed, defaced, or has not been placed on it shall  
 3613 make application in the form prescribed by the division for a state assigned  
 3614 identification number.

3615 (2) The owner shall furnish [-]information that will satisfy the division that [he] the owner is  
 3616 the owner of the vehicle and furnish information to identify the vehicle with the  
 3617 registration of the vehicle for the current year, at which time the division shall assign a  
 3618 state identification number for the vehicle.

3619 (3) A record of state assigned numbers shall be maintained by the division.

3620 (4) The state assigned identification number is the identification number of the vehicle  
 3621 when:

3622 (a) the owner has stamped the state assigned identification number upon the vehicle as  
 3623 directed by the division;

3624 (b) a qualified identification number inspector has inspected and found the state assigned  
 3625 identification number stamped upon the vehicle as directed;

3626 (c) the owner has provided the division with a certificate of inspection; and

3627 (d) the owner has submitted an application for a certificate of title.

3628 Section 163. Section **41-1a-1301** is amended to read:

3629 **41-1a-1301 . Unpaid fees and penalty -- Lien -- Seizure and sale.**

3630 (1)(a) Every registration fee and penalty not paid by the due date is a lien upon all:

3631 (i) the unexempt personal property of the owner or operator of the vehicle, vessel, or  
 3632 outboard motor; and

3633 (ii) interest or equity of the owner or operator in all personal property, including  
 3634 vehicles, vessels, or outboard motors used by the owner or operator in the conduct  
 3635 or operation of [his] the owner's or operator's business.

3636 (b) The properties and vehicles, vessels, or outboard motors may be held under warrant,  
 3637 issued by the commission, and sold in accordance with the law applicable to personal

3638 property taxes.

3639 (2) Delinquency is a ground for the issuance of a writ of attachment against the owner or  
3640 operator.

3641 Section 164. Section **41-1a-1313** is amended to read:

3642 **41-1a-1313 . Third degree felony to possess motor vehicle, trailer, semitrailer, or**  
3643 **parts without identification number -- Presumption of knowledge.**

3644 (1) It is a third degree felony for a person to have in [his] the person's possession any motor  
3645 vehicle, trailer, or semitrailer, or any part or parts of a motor vehicle, trailer, or  
3646 semitrailer, from which any identification number has been removed, defaced,  
3647 destroyed, obliterated, or so covered as to be concealed, or where the identification  
3648 number has been altered or changed in any manner.

3649 (2) A person having possession of any motor vehicle, trailer, or semitrailer or part of them  
3650 under this section is presumed prima facie to have knowledge of this condition.

3651 Section 165. Section **41-1a-1316** is amended to read:

3652 **41-1a-1316 . Receiving or transferring stolen motor vehicle, trailer, or**  
3653 **semitrailer -- Penalty.**

3654 It is a second degree felony for a person:

3655 (1) with intent to procure or pass title to a motor vehicle, trailer, or semitrailer that [he] the  
3656 person knows or has reason to believe has been stolen or unlawfully taken to receive or  
3657 transfer possession of the motor vehicle, trailer, or semitrailer from or to another; or

3658 (2) to have in [his] the person's possession any motor vehicle, trailer, or semitrailer that [he]  
3659 the person knows or has reason to believe has been stolen or unlawfully taken if [he] the  
3660 person is not a peace officer engaged at the time in the performance of [his] the peace  
3661 officer's duty.

3662 Section 166. Section **41-1a-1317** is amended to read:

3663 **41-1a-1317 . Selling or buying without identification numbers -- Penalty.**

3664 It is a second degree felony for a person to knowingly buy, receive, dispose of, sell, offer  
3665 for sale, or have in [his] that person's possession any motor vehicle, trailer, semitrailer, or  
3666 engine removed from a motor vehicle, from which the identification number has been  
3667 removed, defaced, covered, altered, or destroyed for the purpose of concealing or  
3668 misrepresenting the identity of the motor vehicle or engine.

3669 Section 167. Section **41-3-207** is amended to read:

3670 **41-3-207 . New motor vehicle dealer's license -- Change, addition, or loss of**  
3671 **franchise -- Notification -- Relinquishment of license and relicensing as used motor**

3672 **vehicle dealer -- Continuance in business to dispose of stock.**

- 3673 (1) If a dealer changes to, adds, cancels, or loses a franchise for the sale of new motor  
 3674 vehicles [he] the dealer shall immediately notify the administrator.
- 3675 (2)(a) If the dealer has cancelled or lost a franchise, the administrator shall determine  
 3676 whether the dealer should be licensed as a used motor vehicle dealer.
- 3677 (b) If the administrator determines that the dealer should be licensed as a used motor  
 3678 vehicle dealer, [he] the administrator shall issue to the dealer a used motor vehicle  
 3679 dealer's license.
- 3680 (c) A dealer relicensed as a used motor vehicle dealer may continue to sell new motor  
 3681 vehicles for up to six months from the date of the relicensing, to enable the dealer to  
 3682 dispose of [his] the dealer's existing stock of new motor vehicles.

3683 Section 168. Section **41-3-208** is amended to read:

3684 **41-3-208 . Salesperson's license -- Relinquishment upon loss or change of**  
 3685 **employment -- Notice to salesperson -- New license required.**

- 3686 (1) If a salesperson is discharged from or leaves [his] the salesperson's employer, the dealer  
 3687 who last employed the salesperson shall return the salesperson's license to the  
 3688 administrator.
- 3689 (2) The salesperson shall be notified at [his] the salesperson's last known place of residence  
 3690 that [his] the salesperson's license has been returned to the administrator.
- 3691 (3) A person may not act as a motor vehicle salesperson until a new license is procured.

3692 Section 169. Section **41-3-505** is amended to read:

3693 **41-3-505 . Special plates -- Application -- Security requirements.**

- 3694 (1) A dealer, dismantler, manufacturer, remanufacturer, or transporter may apply to the  
 3695 division upon the appropriate form for one or more special plates.
- 3696 (2) The applicant shall also submit proof of [his] the applicant's status as a licensed dealer,  
 3697 dismantler, manufacturer, remanufacturer, or transporter as required by the [-]division.
- 3698 (3) The applicant shall also establish to the satisfaction of the division that [he] the applicant  
 3699 complies with the security requirements of Sections 31A-22-302 and 31A-22-303.

3700 Section 170. Section **41-3-506** is amended to read:

3701 **41-3-506 . Special plates -- Expiration.**

- 3702 (1) A special plate issued expires:
- 3703 (a) on June 30 each year; or
- 3704 (b) upon the cancellation, suspension, or revocation of the licensee's license.
- 3705 (2) Under Subsection (1)(b), the plates shall be returned to the licensee upon reinstatement

3706 of [his] the licensee's license.

3707 (3) A new plate or plates, or renewal decal, for the ensuing year may be obtained by the  
3708 licensee submitting a new application to the division and paying the dealer, dismantler,  
3709 manufacturer, or transporter plate fee provided by law.

3710 Section 171. Section **41-3-508** is amended to read:

3711 **41-3-508 . Special plates -- Suspension or revocation -- Grounds -- Procedure --**  
3712 **Appeal -- Confiscation.**

3713 (1) The division may suspend or revoke the special plate or plates issued to a dealer,  
3714 dismantler, manufacturer, remanufacturer, or transporter if it determines that the person:

3715 (a) is not lawfully entitled to them;

3716 (b) has made or knowingly permitted illegal use of the plates;

3717 (c) has committed fraud in the registration of motor vehicles; or

3718 (d) failed to give notices of sales or transfers required under this chapter.

3719 (2)(a) Suspension or revocation of special plates takes effect immediately upon written  
3720 notification to the licensee by the division.

3721 (b) Upon notification, the licensee shall immediately return all special plates to the  
3722 division.

3723 (c) Failure to return the plates or permitting their continued use is a violation of this  
3724 chapter.

3725 (3)(a) If a licensee desires to appeal the division's suspension or revocation, [he] the  
3726 licensee shall file a written notice of appeal with the administrator within 10 days of  
3727 the suspension or revocation.

3728 (b) Upon receipt of the notice, the administrator shall schedule a hearing for not more  
3729 than 20 days from the date the written appeal is received.

3730 (c) The licensee may not continue to use or possess any special plates that have been  
3731 suspended or revoked.

3732 (d) The hearing and subsequent appeal process are in accordance with the procedures in  
3733 this chapter.

3734 (4)(a) A peace officer may confiscate any special plate that [he] the peace officer has  
3735 reason to believe is being used illegally.

3736 (b) A special plate confiscated under this chapter or Title 41, Chapter 1a, Motor Vehicle  
3737 Act, may not be returned to the licensee if the administrator determines that the plate  
3738 was being used illegally.

3739 Section 172. Section **41-3-803** is amended to read:

3740 **41-3-803 . Consignment sales.**

- 3741 (1) A consignor may take possession of [~~his~~] the consignor's consigned vehicle at any time  
3742 the consigned vehicle is in the possession of a consignee, provided that the consignor:  
3743 (a) has notified the consignee in writing that [~~he~~] the cosignor will take possession of the  
3744 consigned vehicle; and  
3745 (b) has paid all outstanding charges owing to the consignee that have been agreed to by  
3746 the consignor in accordance with Subsection (2).
- 3747 (2) The agreed upon charges under Subsection (1)(b) shall be:  
3748 (a) stated on a form designed by the department; and  
3749 (b) included with the written consignment agreement.
- 3750 (3) A consignee who sells a consigned vehicle shall report to the consignor in writing the  
3751 exact selling price of the consigned vehicle under either of the following circumstances:  
3752 (a) the consignor and consignee agree in writing that the consignor shall receive a  
3753 percentage of the selling price upon the sale of the vehicle; or  
3754 (b) the consignor and consignee renegotiate in writing the selling price of the vehicle.
- 3755 (4) When a consignee sells a consigned vehicle:  
3756 (a) the consignee, within seven calendar days of the date of sale, must give written  
3757 notice to the consignor that the consigned vehicle has been sold; and  
3758 (b) the consignee, within 21 calendar days of the date of sale, or within 15 calendar days  
3759 of receiving payment in full for the consigned vehicle, whichever date is earlier, shall  
3760 remit the payment received to the consignor, unless the agreement to purchase the  
3761 consigned vehicle has been rescinded before expiration of the 21 days.
- 3762 (5) If the agreement to purchase the consigned vehicle has for any reason been rescinded  
3763 before the expiration of 21 calendar days of the date of sale, the consignee shall within  
3764 five calendar days thereafter give written notice to the consignor that the agreement to  
3765 purchase has been rescinded.
- 3766 (6) Vehicles on consignment shall be driven with the consignee's dealer plates. All other  
3767 license plates or registration indicia must be removed from the vehicle.
- 3768 (7) Prior to driving a consigned vehicle on the consignee's dealer plates, the consignee and  
3769 the consignor shall execute a written consignment agreement that states:  
3770 (a) the party responsible for damage or misuse to a consigned vehicle; and  
3771 (b) the permitted uses a consignee may make of a consigned vehicle.
- 3772 (8) The consignee shall keep the written consignment agreement on file at [~~his~~] the  
3773 consignee's principal place of business.

3774 Section 173. Section **41-12a-104** is amended to read:

3775 **41-12a-104 . Rules of construction.**

- 3776 (1) If a person maintains owner's security under this chapter, it does not limit [his] the  
3777 person's liability to the face amount of the owner's security.
- 3778 (2) Nothing in this chapter prevents the plaintiff in any action at law from relying for relief  
3779 upon the other processes provided by law.
- 3780 (3) This chapter is cumulative with the requirements of the laws of this state requiring  
3781 policies of motor vehicle insurance against liability. This subsection does not preclude  
3782 compliance through a single policy which, by its terms or by an appropriate  
3783 endorsement, satisfies the requirements of both applicable laws.

3784 Section 174. Section **41-12a-411** is amended to read:

3785 **41-12a-411 . Duration of proof of owner's or operator's security.**

- 3786 (1) Except as otherwise provided under this section, any person required to give proof of  
3787 owner's or operator's security shall maintain that proof with the department for a period  
3788 of three years from the date the filing of proof was last requested. Subject to Subsection  
3789 (2), the department shall:
- 3790 (a) upon request, consent to the immediate cancellation of any bond or certificate of  
3791 insurance;
- 3792 (b) direct the state treasurer to return to the person entitled to it any money or securities  
3793 deposited pursuant to this chapter as proof of owner's or operator's security; or
- 3794 (c) waive the requirement of filing proof, if the person on whose behalf the proof was  
3795 filed dies or becomes permanently incapacitated to operate a motor vehicle or if the  
3796 person who has given proof surrenders [his] the person's registration to the  
3797 department, except that if [he] that person applies for a registration within three years  
3798 from the date proof was originally required, the application shall be refused unless  
3799 the applicant reestablishes proof of owner's or operator's security and maintains the  
3800 proof for the remainder of the three-year period.
- 3801 (2)(a) The department may not consent to the cancellation of any bond or the return of  
3802 any money or securities if any action for damages upon a liability covered by that  
3803 proof is then pending, if:
- 3804 (i) any judgment of liability is unsatisfied; or
- 3805 (ii) the person who filed the bond or deposited the money or securities has, within  
3806 one year immediately preceding the request, been involved as an operator or  
3807 owner in any motor vehicle accident resulting in injury or damage to the person or



3808 property of others.

3809 (b) An affidavit of the applicant is sufficient evidence in the absence of contrary  
3810 evidence in the records of the department if the affidavit declares:

3811 (i) the nonexistence of liability or accidents;

3812 (ii) that the person has been released from all liability; or

3813 (iii) that the person has been finally adjudicated not to be liable for the injury or  
3814 damage.

3815 Section 175. Section **41-12a-503** is amended to read:

3816 **41-12a-503 . Conditions to license, registration, and privilege renewal.**

3817 The license, registration, and nonresident's operating privilege suspended under  
3818 Subsection 41-12a-501(3) remain suspended and may not be renewed nor may that license or  
3819 registration be issued until one of the following is satisfied:

3820 (1) The person deposits or has deposited on [~~his~~] that person's behalf the post-accident  
3821 security required under Subsection 41-12a-501(1).

3822 (2) One year has elapsed following the effective date of the suspension and evidence  
3823 satisfactory to the department has been filed that during that period no action for  
3824 damages arising out of the accident has been commenced.

3825 (3) Evidence satisfactory to the department has been filed with it of a release from liability,  
3826 of a final adjudication of nonliability, or of a duly acknowledged written agreement  
3827 providing for the payment of an agreed amount in installments with respect to all claims  
3828 for injuries or damages resulting from the accident. In the event of default in the  
3829 payment of any installment under such an agreement, upon receiving notice of the  
3830 default, the department shall suspend the license and registration or nonresident's  
3831 operating privilege of the person defaulting. This license, registration, or nonresident's  
3832 operating privilege may not be restored until either:

3833 (a) The person deposits and thereafter maintains security as required under Subsection  
3834 41-12a-501(1).

3835 (b) One year has elapsed following the date when the security was required and during  
3836 that period no action upon the agreement has been instituted in a Utah court.

3837 Section 176. Section **41-12a-506** is amended to read:

3838 **41-12a-506 . Application to persons without license or registration.**

3839 If the operator or the owner of a motor vehicle involved in an accident in Utah has no  
3840 license or registration in Utah, or is a nonresident, [~~he~~] the operator or owner may not obtain a  
3841 license or registration in Utah until [~~he~~] the operator or owner has complied with the

3842 requirements of this chapter to the extent that would be necessary if, at the time of the  
3843 accident, [he] the operator or owner held a Utah license and registration.

3844 Section 177. Section **41-12a-507** is amended to read:

3845 **41-12a-507 . Cooperation with other states.**

3846 (1) When a nonresident's operating privilege is suspended under this chapter, the  
3847 department shall send a certified copy of the record of the action to the official in charge  
3848 of the issuance of licenses and registration certificates in the state in which the  
3849 nonresident resides, if the law of the other state provides for action similar to that  
3850 provided for in Subsection (2).

3851 (2) Upon receipt of certification from the official of another state that the operating  
3852 privilege of a Utah resident has been suspended in the other state for failure to deposit  
3853 post-accident security for the payment of judgments arising out of a motor vehicle  
3854 accident, under circumstances which would require the deposit in Utah, the department  
3855 shall suspend the license of the resident if [he] the resident was the operator, and all of [  
3856 his] the resident's registrations if [he] the resident was the owner of a motor vehicle  
3857 involved in the accident. These suspensions continue until the Utah resident furnishes  
3858 evidence of [his] the resident's compliance with the law of the other state relating to the  
3859 deposit of post-accident security.

3860 Section 178. Section **41-12a-509** is amended to read:

3861 **41-12a-509 . Custody and terms of post-accident security deposits.**

3862 Post-accident security deposited in compliance with Subsection 41-12a-501(1) shall be  
3863 placed by the department in the custody of the state treasurer and may be applied only to the  
3864 payment of judgments rendered against the persons on whose behalf the deposit was made, for  
3865 damages arising out of the accident in question in an action at law, begun not later than one  
3866 year after the date of the accident, or within one year after the date of deposit of any security  
3867 under Subsection 41-12a-503(3)(a), or to the payment in settlement, agreed to by the depositor,  
3868 of claims arising out of the accident. The deposit or any balance of it shall be returned to the  
3869 depositor or [his] the depositor's personal representative when evidence satisfactory to the  
3870 department has been provided that the conditions of either Subsection 41-12a-503(2) or (3)  
3871 have been satisfied.

3872 Section 179. Section **41-12a-511** is amended to read:

3873 **41-12a-511 . Failure to satisfy judgment.**

3874 (1) Whenever any person fails within 60 days to satisfy any judgment, it is the duty of the  
3875 clerk of the court or of the judge of a court which has no clerk in which any such

3876 judgment is rendered in Utah, upon the written request of the judgment creditor or [his]  
3877 the creditor's attorney, to forward to the department immediately after the expiration of  
3878 the 60 days, a certified copy of the judgment.

3879 (2) The department, upon the receipt of a certified copy of a judgment, shall suspend the  
3880 license and registration and any nonresident's operating privilege of any person against  
3881 whom the judgment was rendered, except as provided in Subsection (5) and Section  
3882 41-12a-513.

3883 (3) Except as provided under Subsection (5) and Section 41-12a-513, a license, registration,  
3884 and nonresident's operating privilege suspended under Subsection (2) remains suspended  
3885 and may not be renewed nor may that license or registration be thereafter issued in the  
3886 name of the same person, including a person not previously licensed, unless every such  
3887 judgment is stayed or satisfied in full within the meaning of Section 41-12a-512, and  
3888 until the person files proof of owner's or operator's security.

3889 (4) If the judgment debtor named in any certified copy of a judgment reported to the  
3890 department is a nonresident, the department shall transmit a certified copy of the  
3891 judgment to the official in charge of the issuance of licenses and registration certificates  
3892 of the state of which the judgment debtor is a resident.

3893 (5) If the judgment creditor consents in writing, in a form the department prescribes, that  
3894 the judgment debtor be allowed license and registration or nonresident's operating  
3895 privilege, they may be allowed by the department for six months from the date of the  
3896 consent and thereafter until that consent is revoked in writing, notwithstanding the  
3897 default in the payment of the judgment or of any installments thereof prescribed in  
3898 Section 41-12a-513, if the judgment debtor furnishes proof of owner's security.

3899 Section 180. Section **41-12a-604** is amended to read:

3900 **41-12a-604 . Suspension of license.**

3901 (1) A person convicted of a class A or a class B misdemeanor under this chapter, in  
3902 addition to any other penalties which are imposed by law, shall have [his] the person's  
3903 operator's license suspended by the department.

3904 (2) Whenever any person is convicted of an offense for which this chapter mandates the  
3905 suspension of [his] that person's license or the registration of [his] that person's motor  
3906 vehicle, and that person does not produce proof of owner's or operator's security at the  
3907 time of [his] that person's appearance, the court in which the conviction takes place shall  
3908 require the surrender to it of all pertinent evidences of registration, including all  
3909 registration cards, license plates, nonresident temporary permits, and other similar

3910 materials then held by the person so convicted. This court shall then forward the  
 3911 registration materials to the Motor Vehicle Division of the State Tax Commission and  
 3912 send the Driver License Division a record of the conviction. If the person so convicted  
 3913 secures a judgment of acquittal or reversal of this conviction in any appellate court, the  
 3914 department shall reinstate [his] that person's driver license or privilege and the Motor  
 3915 Vehicle Division shall reinstate the registration of [his] that person's motor vehicle  
 3916 immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

3917 (3) If the owner has surrendered the owner's registration materials to the Motor Vehicle  
 3918 Division, the owner may, unless otherwise prohibited by law, apply for a new  
 3919 registration, by providing proof of owner's security.

3920 Section 181. Section **42-3-1** is amended to read:

3921 **42-3-1 . Commissioner of agriculture and food to register names.**

3922 Any owner of a farm in this state may have the name of [his] the owner's farm, together  
 3923 with a brief description of [his] the owner's lands to which such name applies, recorded in a  
 3924 register kept for the purpose in the office of the commissioner of agriculture and food, and the  
 3925 commissioner of agriculture and food shall furnish to such landowner a proper certificate  
 3926 setting forth such name and a brief description of such lands. When any name shall have been  
 3927 so recorded it shall not be recorded as the name of any other farm.

3928 Section 182. Section **45-2-2** is amended to read:

3929 **45-2-2 . Libel and slander defined.**

3930 As used in this chapter:

3931 (1) "Libel" means a malicious defamation, expressed either by printing or by signs or  
 3932 pictures or the like, tending to blacken the memory of [one] an individual who is dead, or  
 3933 to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of [  
 3934 one] an individual who is alive, and thereby to expose [him] the individual to public  
 3935 hatred, contempt or ridicule.

3936 (2) "Slander" means any libel communicated by spoken words.

3937 Section 183. Section **45-2-7** is amended to read:

3938 **45-2-7 . Limitations and restrictions -- Immune from liability -- Due care.**

3939 Except as provided in Section 45-2-1.5, nothing in this act contained shall be construed  
 3940 to relieve any person broadcasting over a radio or television station from liability under the  
 3941 law of libel, slander, or defamation. Nor shall anything else in this act be construed to relieve  
 3942 any person, firm, or corporation owning or operating a radio or television broadcasting station  
 3943 or network from liability under the law of libel, slander, or defamation on account of any

3944 broadcast prepared or made by any such person, firm, or corporation or by any officer or  
 3945 employee thereof in the course of [~~his~~] the officer's or employee's employment. In no event,  
 3946 however, shall any such person, firm, or corporation be liable for any damages for any  
 3947 defamatory statement or act published or uttered in or as a part of a visual or sound broadcast  
 3948 unless it shall be alleged and proved by the complaining party that such person, firm, or  
 3949 corporation has failed to exercise due care to prevent the publication or utterance of such  
 3950 statement or act in such broadcast. Bona fide compliance with any federal law or the regulation  
 3951 of any federal regulatory agency shall be deemed to constitute such due care as hereinabove  
 3952 mentioned.

3953 Section 184. Section **47-1-5** is amended to read:

3954 **47-1-5 . Order of abatement -- Execution -- Sale of personal property --**  
 3955 **Padlocking.**

3956 If the existence of the nuisance is established in an action as provided in this chapter, an  
 3957 order of abatement shall be entered as a part of the judgment in the case. The order shall direct  
 3958 the removal from the building or place of all fixtures, furniture, musical instruments, and  
 3959 movable property used in conducting the nuisance, and shall direct the sale thereof in the  
 3960 manner provided for the sale of chattels under execution, and shall further direct the effective  
 3961 closing of the building or place against its use for any purpose, and the keeping of it so closed  
 3962 for a period of one year, unless sooner released. If any person shall break and enter or use a  
 3963 building, structure, or place so directed to be closed, [~~he~~] that person shall be punished as for  
 3964 contempt as provided in Section 47-1-4. For removing and selling the movable property the  
 3965 officer shall be entitled to charge and receive the same fees as for levying upon and selling like  
 3966 property on execution; and for closing the premises and keeping them closed a reasonable sum  
 3967 shall be allowed by the court.

3968 Section 185. Section **47-2-6** is amended to read:

3969 **47-2-6 . Owners may reclaim -- Damages -- Taxes.**

3970 Any person owning any horses which are running at large in any county in which the  
 3971 county executive has given notice of intention to make a drive, as provided in this chapter,  
 3972 may within 30 days after the posting or the first publication of the notice mentioned in Section  
 3973 47-2-4 file with the county executive a description of such horses claimed by [~~him~~] the person,  
 3974 giving the marks and brands, if any, which appear thereon, and, if the county executive shall  
 3975 take into its possession any horses so claimed, it shall by registered letter addressed to the  
 3976 owner or claimant of such horses notify [~~him~~] the owner or claimant that the same may be  
 3977 claimed within 10 days from the mailing of such notice; and such owner or claimant shall be

3978 permitted upon application to the county legislative body to take possession of such horses  
 3979 upon payment of the expense of caring for the same from the date of capture. If any horses are  
 3980 killed by order of the county executive under the provisions of this chapter, a description of  
 3981 which has been reported by the owner thereof to the county legislative body, and ownership of  
 3982 such animals can be satisfactorily established, such owner shall receive as damage therefor a  
 3983 sum not exceeding \$10 for each animal; provided, that [he] the owner has paid all taxes  
 3984 assessed against said animal; provided further, that payment of such claims may be made only  
 3985 from proceeds of sales of captured horses.

3986 Section 186. Section **51-7-9** is amended to read:

3987 **51-7-9 . Quarterly reports by state treasurer -- Audit of accounts of state**  
 3988 **treasurer -- Report of audit -- Employment of investment staff and services.**

3989 The state treasurer shall report not less often than quarterly to each participating state  
 3990 officer, board, commission, institution, department, division, agency, or other similar  
 3991 instrumentality, or political subdivision, the activities, investments, and performance of [his]  
 3992 the state treasurer's office during the preceding period. The accounts of the state treasurer shall  
 3993 be audited annually under the direction of the state auditor. The report of this audit shall be  
 3994 open for inspection by the public in the offices of the state auditor and the state treasurer and a  
 3995 copy of it shall be submitted to the legislature through the Office of the Legislative Fiscal  
 3996 Analyst. The state treasurer is authorized, within the limits of available appropriations, to  
 3997 employ such investment staff and secure such financial, investment, and other technical  
 3998 services [he] the state treasurer considers necessary to properly carry out [his] the state  
 3999 treasurer's responsibilities under this chapter.

4000 Section 187. Section **51-7-18.1** is amended to read:

4001 **51-7-18.1 . Qualified depositories list -- Reports -- Treatment of confidential**  
 4002 **information -- Powers -- Staff -- Limits on powers.**

4003 (1)(a) The council shall provide a list of qualified depositories to each public treasurer  
 4004 at least semiannually.

4005 (b) The list shall include:

4006 (i) the name of each qualified depository; and

4007 (ii) the maximum amount of public funds that each qualified depository is eligible to  
 4008 hold.

4009 (2) In determining the maximum amount of public deposits for a qualified depository, the  
 4010 council may not designate a maximum amount for any qualified depository that is more  
 4011 than twice that depository's capital as defined by council rule.

- 4012 (3)(a) The council may require each qualified depository to submit monthly reports to  
4013 the commissioner of Financial Institutions disclosing the amount of public funds held  
4014 by the depository at the close of business on a day designated by the council.
- 4015 (b) The council may also require the qualified depository to include in the report:  
4016 (i) information about the character and condition of the qualified depository's assets;  
4017 (ii) information about the qualified depository's deposits and other liabilities;  
4018 (iii) information about the qualified depository's capital; and  
4019 (iv) any other information that the council considers necessary in order for it to fulfill  
4020 its responsibilities under this chapter.
- 4021 (c) The council shall require that any reports submitted be verified by the oath or  
4022 affirmation of the president or vice-president of the qualified depository.
- 4023 (d) Any officer of a qualified depository who knowingly makes or causes to be made  
4024 any false statement or report to the council or any false entry in the books or accounts  
4025 of the qualified depository is guilty of a class A misdemeanor.
- 4026 (4)(a) Notwithstanding Section 7-1-802, the commissioner may disclose necessary  
4027 information about the condition of any qualified depository to the council to assist it  
4028 in evaluating the eligibility of any qualified depository to receive and hold public  
4029 funds.
- 4030 (b) If the secretary of the council or any member of the council discloses confidential  
4031 information obtained from the commissioner under this subsection, [~~he~~] the secretary  
4032 or council member is guilty of a class A misdemeanor.
- 4033 (c) If any member of the council discloses confidential information obtained from the  
4034 commissioner under this subsection, the governor shall remove [~~him~~] the council  
4035 member from [~~his~~] the council member's position.
- 4036 (5) Upon the vote of at least three of the council members, the commissioner shall require  
4037 any qualified depository to:  
4038 (a) surrender deposits of public funds that exceed the amount that the qualified  
4039 depository may legally hold under authority of this chapter and council rule; or  
4040 (b) pledge collateral security for those excess deposits.
- 4041 (6)(a) If the commissioner orders the qualified depository to pledge collateral security  
4042 for the excess deposits, the collateral security pledged shall have a market value  
4043 determined upon the last day of the month of:  
4044 (i) 110% of the amount of the excess deposits, if the collateral consists of obligations  
4045 of or fully guaranteed by the United States or its agencies as to principal and

- 4046 interest, a segregated earmarked deposit account, or notes, drafts, bills of  
 4047 exchange, or bankers' acceptances that are eligible for rediscount or purchase by a  
 4048 federal reserve bank;
- 4049 (ii) 120% of the amount of the excess deposits, if the collateral consists of obligations  
 4050 of the state of Utah or any of its political subdivisions; and
- 4051 (iii) 130% of the amount of the excess deposits, if the collateral consists of  
 4052 obligations of other readily marketable bonds, notes, or debentures.
- 4053 (b) The qualified depository shall deposit any collateral pledged to secure excess  
 4054 deposits with the state treasurer.
- 4055 (c) The state treasurer may not release the collateral until [~~he~~] the state treasurer has  
 4056 received written confirmation from the commissioner that the qualified depository:  
 4057 (i) has relinquished the excess deposits; or  
 4058 (ii) is in compliance with this chapter and council rules.
- 4059 (7) Any qualified depository that fails to comply with a written order issued by the  
 4060 commissioner under authority of this section within 15 days of receipt of the order is  
 4061 ineligible to receive or renew any deposits or investments of public funds until it  
 4062 receives written authorization to do so from the council.
- 4063 (8) In addition to the requirements set forth by rule, in order to be certified as a qualified  
 4064 depository as defined in Section 51-7-3, a depository institution shall pay to the  
 4065 commissioner an annual certification fee of \$250 due April 1 of each year.

4066 Section 188. Section **53-7-211** is amended to read:

4067 **53-7-211 . Fire investigations by fire marshal.**

- 4068 (1) If the division is of the opinion that further investigation of a fire is necessary, the state  
 4069 fire marshal, [~~his~~] or the state fire marshal's deputy[;] or representative, may:  
 4070 (a) join the investigation in cooperation with the fire officers who have been conducting  
 4071 it;  
 4072 (b) upon the request of the chief fire official of the political subdivision, assume control  
 4073 of the investigation and direct it; or  
 4074 (c) conduct an independent investigation if necessary.
- 4075 (2) A fire officer who has conducted or is conducting the investigation shall cooperate in  
 4076 every possible way with the state fire marshal, [~~his~~] the state fire marshal's deputy, and  
 4077 the state fire marshal's representative to further the purpose of the investigation.
- 4078 (3) The county attorney or district attorney of the county in which the fire occurred shall,  
 4079 upon the request of the state fire marshal, [~~his~~] or the state fire marshal's deputy[;] or



4080 representative, assist in the investigation.

4081 Section 189. Section **53-7-212** is amended to read:

4082 **53-7-212 . Powers of fire marshal in respect to investigation.**

4083 In investigating any fire the state fire marshal and [~~his~~] the state fire marshal's deputy  
4084 may:

4085 (1) subpoena witnesses;

4086 (2) compel their attendance and testimony; and

4087 (3) require the production of books, papers, documents, records, and other tangible items  
4088 that constitute or may contain evidence relevant to the investigation in the judgment of  
4089 the state fire marshal or [~~his~~] the state fire marshal's deputy.

4090 Section 190. Section **53-7-213** is amended to read:

4091 **53-7-213 . Criminal charges resulting from investigation -- Procedure.**

4092 If the state fire marshal, [~~his~~] or the state fire marshal's deputy[;] or representative, or any  
4093 other officer participating in the investigation of any fire[-] believes that there is evidence  
4094 sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer,  
4095 or a similar crime, [~~he~~] the officer participating in the investigation shall furnish the county  
4096 attorney or district attorney of the county in which the crime occurred with [~~his~~-]evidence and  
4097 request the county attorney or district attorney to commence the proper procedures to charge  
4098 the person with the appropriate crime.

4099 Section 191. Section **53-7-214** is amended to read:

4100 **53-7-214 . Insurance company reports of fires.**

4101 (1) The state fire marshal, [~~his~~] the state fire marshal's deputy, and investigator may, in  
4102 writing, require any insurance company transacting business in this state to release to the  
4103 state fire marshal all relevant information or evidence found important by the state fire  
4104 marshal, [~~his~~] the state fire marshal's deputy, and investigator that the company may have  
4105 in its possession, relating to any fire loss in this state in which the company has an  
4106 insuring interest. Relevant information includes:

4107 (a) insurance policy information related to a fire loss under investigation and any  
4108 application for the policy;

4109 (b) available policy premium payment records;

4110 (c) history of previous claims made by the insured; and

4111 (d) material relating to the investigation of the loss, including statements of any person,  
4112 proof of loss, and any other evidence related to the investigation.

4113 (2)(a) Every insurance company transacting business in the state must file with the

- 4114 division a report of any fire of suspicious origin.
- 4115 (b) The report shall show:
- 4116 (i) the name of the insured;
- 4117 (ii) the location of the property burned;
- 4118 (iii) the probable cause of the fire;
- 4119 (iv) the occupancy of the property burned;
- 4120 (v) the construction of the building or structure burned;
- 4121 (vi) the market value of the property involved;
- 4122 (vii) the actual loss;
- 4123 (viii) the insurance carried;
- 4124 (ix) the insurance paid;
- 4125 (x) the apportionment of loss where more than one company was on the risk; and
- 4126 (xi) if a motor vehicle or building is involved in any fire loss, a description of the
- 4127 motor vehicle or building.
- 4128 (c) In case of a fire of suspicious or incendiary origin, a preliminary report shall be made
- 4129 immediately through some officer or representative of the insurance company,
- 4130 showing:
- 4131 (i) the name of the insured;
- 4132 (ii) the date of the fire;
- 4133 (iii) the location;
- 4134 (iv) occupancy; and
- 4135 (v) other facts and circumstances tending to establish the cause or origin of the fire.
- 4136 (3) All persons making an adjustment occasioned by a loss due to a fire of suspicious or
- 4137 incendiary origin in this state shall, upon written request, send to the division a copy of
- 4138 the final adjustment immediately after the adjustment is made, signed by the person
- 4139 making the adjustment.
- 4140 (4) Any insurance company or person acting in its behalf or any person making adjustments
- 4141 occasioned by a loss due to fire who releases information, whether oral or written,
- 4142 pursuant to Subsection (1), (2), or (3) is immune from any liability for the release of this
- 4143 information arising out of a civil action or penalty resulting from a criminal prosecution.
- 4144 Section 192. Section **53-9-112** is amended to read:
- 4145 **53-9-112 . Issuance of license and identification card to applicant -- License**
- 4146 **period -- Expiration of application -- Transfer of license prohibited.**
- 4147 (1) The commissioner shall issue a license to an applicant who complies with the provisions

- 4148 of this chapter. Each license issued under this chapter shall:
- 4149 (a) contain the name and address of the licensee and the number of the license, its  
4150 agency, registrant, or apprentice license designation; and
- 4151 (b) be issued for a period of two years.
- 4152 (2) On the issuance of a license, an identification card shall:
- 4153 (a) be issued without charge to the licensee; and
- 4154 (b) state on its face whether the bearer holds an agency, registrant, or apprentice license.
- 4155 (3)(a) A registrant identification card shall state that the licensee is under the direction  
4156 of a licensed agency and may not do investigative work independently for the public.
- 4157 (b) An apprentice identification card shall state that the licensee is under the direct  
4158 supervision of a licensed agency and may not do investigative work independently  
4159 for the public.
- 4160 (4) Upon request by any person, the licensee shall immediately identify the name, business  
4161 address, and phone number of the licensed agency for which the licensee is an employee  
4162 or independent contractor.
- 4163 (5)(a) On notification by the commissioner to an applicant that the license is not  
4164 complete, or is not ready for issuance pending additional information, the applicant  
4165 shall complete the application process and provide the additional information within  
4166 90 days.
- 4167 (b) Failure to complete the process shall result in the application being cancelled and all  
4168 fees forfeited.
- 4169 (c) Subsequent application by the same applicant requires the payment of all application  
4170 and license fees prescribed in Section 53-9-111.
- 4171 (6) A licensee shall notify the commissioner of any change in the name or address of [his]  
4172 the licensee's business within 60 days of the change and failure to so notify will result in  
4173 the automatic suspension of the license. To relieve the suspension, the licensee must  
4174 apply for reinstatement and pay the fee prescribed in Section 53-9-111.
- 4175 (7) A license issued under this chapter is not transferable or assignable.
- 4176 Section 193. Section **53-9-116** is amended to read:
- 4177 **53-9-116 . Divulging investigative information -- False reports prohibited.**
- 4178 (1) Except as otherwise provided by this chapter, a licensee may not divulge or release to  
4179 anyone other than [his] the licensee's client or employer the contents of an investigative  
4180 file acquired in the course of licensed investigative activity. However, the board shall  
4181 have access to investigative files if the client for whom the information was acquired, or [

4182 his] the client's lawful representative, alleges a violation of this chapter by the licensee or  
4183 if the prior written consent of the client to divulge or release the information has been  
4184 obtained.

4185 (2) A licensee may not willfully make a false statement or report to a client, employer, the  
4186 board, or any authorized representative of the department, concerning information  
4187 acquired in the course of activities regulated by this chapter.

4188 (3) The licensee shall submit investigative reports to a client at times and in the manner  
4189 agreed upon between the licensee and the client.

4190 (4) Upon demand by the client, the licensee shall divulge to the client the results of an  
4191 investigation if payment in full has been tendered for the charges levied.

4192 (5) The licensee has full right to withdraw from any case and refund any portion of a  
4193 retainer for which investigative work has not been completed.

4194 Section 194. Section **53-10-206** is amended to read:

4195 **53-10-206 . Collection of information.**

4196 The commissioner and persons designated by [~~him~~] the commissioner may require all  
4197 peace officers, the warden of the state prison, the keeper of any jail or correctional institution,  
4198 or superintendent of the state hospital to obtain information that will aid in establishing the  
4199 records required to be kept.

4200 Section 195. Section **53-10-207** is amended to read:

4201 **53-10-207 . Peace officers, prosecutors, and magistrates to supply information to**  
4202 **state and F.B.I. -- Notification of arrest based on warrant.**

4203 (1) Every peace officer shall:

4204 (a) cause fingerprints of persons [~~he~~] the peace officer has arrested to be taken on forms  
4205 provided by the division and the Federal Bureau of Investigation;

4206 (b) supply information requested on the forms; and

4207 (c) forward without delay both copies to the division, which shall forward the F.B.I.  
4208 copy to the Identification Division of the Federal Bureau of Investigation.

4209 (2) If, after fingerprints have been taken in accordance with Subsection (1), the prosecutor  
4210 declines to prosecute, or investigative action as described in Section 77-2-3 is  
4211 terminated, the prosecutor or law enforcement agency shall notify the division of this  
4212 action within 14 working days.

4213 (3) At the preliminary hearing or arraignment of a felony case, the prosecutor shall ensure  
4214 that each felony defendant has been fingerprinted and an arrest and fingerprint form is  
4215 transmitted to the division. In felony cases where fingerprints have not been taken, the

- 4216 judge shall order the chief law enforcement officer of the jurisdiction or the sheriff of  
 4217 the county to:
- 4218 (a) cause fingerprints of each felony defendant to be taken on forms provided by the  
 4219 division;
- 4220 (b) supply information requested on the forms; and
- 4221 (c) forward without delay both copies to the division.
- 4222 (4) If an arrest is based upon information about the existence of a criminal warrant of arrest  
 4223 or commitment under Rule 6, Utah Rules of Criminal Procedure, every peace officer  
 4224 shall without delay notify the division of the service of each warrant of arrest or  
 4225 commitment, in a manner specified by the division.

4226 Section 196. Section **53-11-107** is amended to read:

4227 **53-11-107 . Licenses -- Classifications -- Prohibited acts.**

- 4228 (1) Licenses under this chapter are issued in the classifications of:
- 4229 (a) bail enforcement agent;
- 4230 (b) bail recovery agent; or
- 4231 (c) bail recovery apprentice.
- 4232 (2) A person may not:
- 4233 (a) act or assume to act as, or [~~represent himself~~] claim to be, a licensee unless [he] the  
 4234 person is licensed under this chapter; or
- 4235 (b) falsely represent that [he] the person is employed by a licensee.
- 4236 (3) The commissioner shall issue licenses to applicants who qualify for them under this  
 4237 chapter.
- 4238 (4) A license issued under this chapter is not transferable or assignable.

4239 Section 197. Section **53-11-108** is amended to read:

4240 **53-11-108 . Licensure -- Basic qualifications.**

4241 An applicant for licensure under this chapter shall meet the following qualifications:

- 4242 (1) An applicant shall be:
- 4243 (a) at least 21 years [~~of age~~] old;
- 4244 (b) a citizen or legal resident of the United States; and
- 4245 (c) of good moral character.
- 4246 (2) An applicant may not:
- 4247 (a) have been convicted of:
- 4248 (i) a felony;
- 4249 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

- 4250 (iii) any act of personal violence or force on any person or convicted of threatening to  
4251 commit any act of personal violence or force against another person;
- 4252 (iv) any act constituting dishonesty or fraud;
- 4253 (v) impersonating a peace officer; or
- 4254 (vi) any act involving moral turpitude;
- 4255 (b) be on probation, parole, community supervision, or named in an outstanding arrest  
4256 warrant; or
- 4257 (c) be employed as a peace officer.
- 4258 (3) If previously or currently licensed in another state or jurisdiction, the applicant shall be  
4259 in good standing within that state or jurisdiction.
- 4260 (4)(a) The applicant shall also have completed a training program of not less than 16  
4261 hours that is approved by the board and includes:
- 4262 (i) instruction on the duties and responsibilities of a licensee under this chapter,  
4263 including:
- 4264 (A) search, seizure, and arrest procedure;
- 4265 (B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and
- 4266 (C) specific duties and responsibilities regarding entering an occupied structure to  
4267 carry out functions under this chapter;
- 4268 (ii) the laws and rules relating to the bail bond business;
- 4269 (iii) the rights of the accused; and
- 4270 (iv) ethics.
- 4271 (b) The program may be completed after the licensure application is submitted, but shall  
4272 be completed before a license may be issued under this chapter.
- 4273 (5) If the applicant desires to carry a firearm as a licensee, the applicant shall:
- 4274 (a) successfully complete a course regarding the specified types of weapons [~~he~~] the  
4275 applicant plans to carry. The course shall:
- 4276 (i) be not less than 16 hours;
- 4277 (ii) be conducted by any national, state, or local firearms training organization  
4278 approved by the Criminal Investigations and Technical Services Division created  
4279 in Section 53-10-103; and
- 4280 (iii) provide training regarding general familiarity with the types of firearms to be  
4281 carried, including:
- 4282 (A) the safe loading, unloading, storage, and carrying of the types of firearms to  
4283 be concealed; and

4284 (B) current laws defining lawful use of a firearm by a private citizen, including  
 4285 lawful self-defense, use of deadly force, transportation, and concealment; and

4286 (b) shall hold a valid license to carry a concealed weapon, issued under Section 53-5-704.

4287 Section 198. Section **53-11-111** is amended to read:

4288 **53-11-111 . Licensure -- Bail recovery agent -- Requirements and limitations.**

4289 (1)(a) In addition to the requirements in Sections 53-11-108 and 53-11-113, an  
 4290 applicant for licensure as a bail recovery agent shall meet all of the requirements  
 4291 under Section 53-11-109, but instead of the experience requirement under Subsection  
 4292 53-11-109(1)(a), a bail recovery agent applicant shall have a minimum of 1,000  
 4293 hours of experience consisting of either actual bail recovery work, or work as a law  
 4294 enforcement officer for a federal, state, or local governmental agency.

4295 (b) The applicant shall substantiate the experience claimed under Subsection (1) as  
 4296 qualifying experience and shall provide:

4297 (i) the exact details as to the character and nature of the experience on a form  
 4298 prescribed by the department; and

4299 (ii) certification by the applicant's employers, which is subject to independent  
 4300 verification by the board.

4301 (c) If an applicant is unable to supply written certification of experience from an  
 4302 employer in whole or in part, an applicant may offer written certification from  
 4303 persons other than an employer covering the same subject matter for consideration by  
 4304 the board.

4305 (d) The burden of proving completion of the required experience is on the applicant.

4306 (2) An applicant for license renewal shall have completed not less than eight hours of  
 4307 continuing classroom instruction.

4308 (3) A bail recovery agent may work as a licensee under this chapter only as an employee of  
 4309 or as an independent contractor with a bail bond agency. A bail recovery agent may not:

4310 (a) advertise [~~his~~] the agent's services;

4311 (b) provide services as a licensee under this chapter directly for members of the public;  
 4312 or

4313 (c) employ or hire as independent contractors bail enforcement agents, bail recovery  
 4314 agents, or bail recovery apprentices.

4315 Section 199. Section **53-11-116** is amended to read:

4316 **53-11-116 . Issuance of license and card to applicant -- License period --**

4317 **Expiration of application -- Transfer of license prohibited.**

- 4318 (1)(a) The board shall issue a license to an applicant who complies with the provisions  
4319 of this chapter.
- 4320 (b) Each license shall:
- 4321 (i) contain the name and address of the licensee, the classification of license, and the  
4322 number of the license; and
- 4323 (ii) be issued for a period of two years.
- 4324 (2)(a) When the board issues the license, it shall also issue an identification card the  
4325 design of which shall be approved by the commissioner in accordance with Section  
4326 53-11-116.5.
- 4327 (b) The identification card shall be issued without charge to the licensee if an individual,  
4328 or if the licensee is an agency, to each of its licensed employees and contract  
4329 employees, and is evidence the licensee and ~~[his]~~ the licensee's employees and  
4330 contract employees are licensed under this chapter.
- 4331 (3)(a) If an identification card issued to a person states on it any bail bond agencies for  
4332 which the cardholder works, that person shall return the card to the employer upon  
4333 termination of ~~[his]~~ the person's work relationship with the bail bond agency licensee.
- 4334 (b) Within five days the licensee shall mail or deliver the card to the commissioner for  
4335 cancellation.
- 4336 (4)(a) When the commissioner notifies an applicant that licensure as a bail bond  
4337 recovery agency is ready for issuance, the applicant shall complete the application  
4338 process within 90 days.
- 4339 (b) Failure to complete the process results in cancellation of the application and  
4340 forfeiture of all fees paid to that point.
- 4341 (c) Subsequent application by the same applicant requires the payment of all application  
4342 and license fees prescribed in Section 53-11-115.
- 4343 (5) A bail bond agency licensee shall notify the commissioner of any change in the name or  
4344 address of ~~[his]~~ the bail bond agency licensee's business and of any change of employees  
4345 or contract employees within 30 days after the change.
- 4346 (6)(a) All new employees and contract employees of an agency who are licensed under  
4347 this chapter shall submit applications on forms prescribed by the board.
- 4348 (b) Upon board approval, identification cards shall be issued without charge.
- 4349 Section 200. Section **53-11-122** is amended to read:
- 4350 **53-11-122 . Requirements during search and seizure -- Notification of law**  
4351 **enforcement agency.**



4352 A bail enforcement agent, bail recovery agent, or bail recovery apprentice shall observe  
4353 the following requirements before taking action authorized under this chapter:

4354 (1) identify himself or herself as a "bail enforcement agent," "bail recovery agent," or "bail  
4355 recovery apprentice"; and

4356 (2) comply with the notification requirements of Section 53-11-123.

4357 Section 201. Section **53-11-123** is amended to read:

4358 **53-11-123 . Notification of local law enforcement.**

4359 (1)(a) A bail enforcement agent or bail recovery agent who is searching for or planning  
4360 to apprehend a person shall notify the local law enforcement agency if the search or  
4361 apprehension will be conducted in an occupied structure within that law enforcement  
4362 agency's jurisdiction.

4363 (b) When possible, notification shall be provided before taking action, but always within  
4364 24 hours of taking action.

4365 (c) When a bail enforcement agent or bail recovery agent is preparing to enter an  
4366 occupied structure to carry out an arrest, [~~he~~] the agent shall verbally advise the local  
4367 law enforcement agency of [~~his~~] the agent's location and intended action prior to  
4368 acting.

4369 (2) A bail enforcement agent, bail recovery agent, and bail recovery apprentice shall each  
4370 carry[~~-with him~~] a written document providing proof and cause for the actions [~~he~~] the  
4371 agent or apprentice is taking as a licensee, and shall make the document available to  
4372 local law enforcement agencies upon request.

4373 Section 202. Section **53-13-113** is amended to read:

4374 **53-13-113 . Authority of peace officers to administer oaths.**

4375 A peace officer, as defined in Section 53-1-102, who is acting within the scope of [~~his or~~  
4376 ~~her~~] the peace officer's official duties may administer oaths.

4377 Section 203. Section **53B-13-102** is amended to read:

4378 **53B-13-102 . Definitions.**

4379 As used in this chapter:

4380 (1) "Bonds" means the bonds authorized to be issued by the board under this chapter, and  
4381 may consist of bonds, notes, or debt obligations evidencing an obligation to repay  
4382 borrowed money and payable solely from revenues and other money of the board  
4383 pledged for repayment.

4384 (2) "Eligible borrower" means a person, or the parent of a person, who is eligible to borrow  
4385 under regulations applicable to the student loan program.

- 4386 (3) "Eligible institution" means an institution which is approved by the board and the  
 4387 United States Secretary of Education for purposes of the guaranteed loan program.
- 4388 (4) "Obligations" means student loan notes and other debt obligations reflecting loans to  
 4389 students which the board may take, acquire, buy, sell, or endorse under this chapter, and  
 4390 may include a direct or indirect interest in the whole or any part of the notes or  
 4391 obligations.
- 4392 (5) "Resolution," when used in relation to the issuance of bonds, means the resolution or  
 4393 trust agreement securing the bonds.
- 4394 (6) "Student" means a person who, under rules promulgated by the board, is enrolled or  
 4395 accepted for enrollment at an eligible institution and who is making suitable progress in [  
 4396 his] the person's education toward obtaining a degree or other appropriate certification in  
 4397 accordance with standards acceptable to the board.

4398 Section 204. Section **53B-13-110** is amended to read:

4399 **53B-13-110 . Default by board -- Appointment of a trustee -- Powers of the**  
 4400 **trustee and bondholders.**

- 4401 (1) If the board defaults in the payment of principal of or interest on an issue of bonds after  
 4402 the issue becomes due, whether at maturity or upon call for redemption, and the default  
 4403 continues for 30 days, or if the board fails or refuses to comply with this chapter, or  
 4404 defaults in an agreement made with the holders of an issue of bonds, the holders of 25%  
 4405 of the aggregate principal amount of the bonds of the issue then outstanding, may  
 4406 appoint a trustee to represent all holders of that issue of bonds for the purposes provided  
 4407 in this section.
- 4408 (2) The trustee may, and upon written request of the holders of 25% of the aggregate  
 4409 principal amount of the bonds of the issue then outstanding shall, in [his] the trustee's  
 4410 own name by action or proceeding enforce all rights of the bondholders including the  
 4411 following:
- 4412 (a) bringing an action to require the board to collect fees, charges, interest, and  
 4413 amortization payments of loans made by it adequate to carry out the agreement as to,  
 4414 or pledge of, the fees, charges, interest, and amortization payment on the loans and  
 4415 other properties;
- 4416 (b) bringing an action to require the board to carry out other agreements with the holders  
 4417 of the bonds and to perform its duties under this chapter;
- 4418 (c) bringing an action upon the bonds; or
- 4419 (d) bringing an action to require the board to account as if it were the trustee of an

4420 express trust for the holders of the bonds due and payable, and if all defaults are  
 4421 made good, then, with the consent of the holders of 25% of the principal amount of  
 4422 the issue of bonds then outstanding, to annul the declaration and its consequences.

4423 (3) The holders of bonds and the trustee authorized by this section shall have all of the  
 4424 rights to which they are entitled by virtue of provisions included in the bonds or  
 4425 otherwise available to them under law.

4426 Section 205. Section **53B-13-114** is amended to read:

4427 **53B-13-114 . Mandamus in Supreme Court -- Precedence.**

4428 (1) If an official required by the proceeding authorizing bonds under this chapter to sign the  
 4429 bonds refuses to affix [~~his~~] the official's signature to [~~them~~] the bonds, or if the attorney  
 4430 general refuses to certify the bonds as legal obligations, alleging illegality of the bonds,  
 4431 the board may bring an original action in mandamus in the Supreme Court of Utah.

4432 (2) The importance to the state and its inhabitants of the program of loans to eligible  
 4433 borrowers is such that this action brought in the Supreme Court should be given  
 4434 precedence over the other matters pending before the court, and the court is requested to  
 4435 give this action precedence and to render its decision concerning it at the earliest  
 4436 possible time.

4437 Section 206. Section **53C-1-301** is amended to read:

4438 **53C-1-301 . Director -- Term -- Compensation -- Removal from office.**

4439 (1)(a) The board, with the consent of the governor, shall select the director on the basis  
 4440 of outstanding professional qualifications pertinent to the purposes and activities of  
 4441 the trust.

4442 (b) If the governor withholds [~~his~~] consent from a candidate agreed upon by the board, [  
 4443 ~~he~~] the governor shall give [~~his~~] reasons in writing to the board.

4444 (2) The director shall serve a term of four years, or until a successor is selected and  
 4445 qualified.

4446 (3) When a vacancy occurs in the office of the director, the vacancy shall be filled pursuant  
 4447 to Subsection (1) for the remainder of the term.

4448 (4)(a) The board:

4449 (i) shall establish the compensation of the director; and

4450 (ii) annually report the director's compensation to the Legislature.

4451 (b) The compensation and performance of the director shall be examined each year as  
 4452 part of the board's budget review process.

4453 (5)(a) The board may remove the director from office for cause by a majority vote of

4454 the board.

4455 (b)(i) The governor may petition the board for removal of the director for cause.

4456 (ii) The board shall hold a hearing on the governor's petition within 60 days after its  
4457 receipt.

4458 (iii) If after the hearing the board finds by a preponderance of the evidence cause for  
4459 removal, it shall remove the director from office by a majority vote.

4460 Section 207. Section **53C-2-412** is amended to read:

4461 **53C-2-412 . Land subject to federal mineral lease.**

4462 (1) With respect to any tract of land in which the trust acquires or has acquired any interest  
4463 subject to an outstanding federal mineral lease or prospecting permit, the lessee or  
4464 permittee may submit a petition seeking extension of the permit or lease or any other  
4465 action as may be necessary to give to the lessee or permittee any and all rights,  
4466 privileges, and benefits which [he] the lessee or permittee would have had under the  
4467 permit or lease had the trust not acquired its interest in the tract.

4468 (2) In consideration of the voluntary termination by the federal lessee or permittee of [his]  
4469 the lease or permit as it relates to that tract, the director may issue to that lessee or  
4470 permittee a lease of the acquired tract or any portion of that tract for recovery of the  
4471 same mineral substances, granting the lessee or permittee all the rights, privileges, and  
4472 benefits with reference to that tract which [he] the lessee or permittee would have had by  
4473 reason of [his] the lessee's lease or permittee's permit from the United States had the state  
4474 not acquired its interest in the tract.

4475 Section 208. Section **53C-5-101** is amended to read:

4476 **53C-5-101 . Management of range resources.**

4477 (1) The director is responsible for the efficient management of all range resources on lands  
4478 under the director's administration, consistent with [his] the director's fiduciary duties of  
4479 financial support to the beneficiaries.

4480 (2) This management shall be based on sound resource management principles.

4481 Section 209. Section **54-7-3** is amended to read:

4482 **54-7-3 . Subpoena -- Witness fees -- Depositions.**

4483 (1)(a) The commission and each commissioner may administer oaths, certify to all  
4484 official acts, and issue subpoenas for the attendance of witnesses and the production  
4485 of papers, waybills, books, accounts, documents, and other evidence in any inquiry,  
4486 investigation, hearing, or proceeding in any part of the state.

4487 (b)(i) Each witness who appears by order of the commission or a commissioner shall

- 4488 receive the same fees and mileage for [his] the witness's attendance that are  
4489 allowed by law to a witness in the district court.
- 4490 (ii) The party at whose request the witness is subpoenaed shall pay the witness and  
4491 mileage fee.
- 4492 (iii) When any witness who has not been required to attend at the request of any party  
4493 is subpoenaed by the commission, [his] the witness's fees and mileage shall be paid  
4494 from the funds appropriated for the use of the commission in the same manner as  
4495 other expenses of the commission are paid.
- 4496 (iv) Any witness subpoenaed, except one whose fees and mileage may be paid from  
4497 the funds of the commission, may at the time of service, demand the fee to which [  
4498 he] the witness is entitled for travel to and from the place at which [he] the witness  
4499 is required to appear and one day's attendance.
- 4500 (v) If the witness demands the fees at the time of service and [~~they~~] the fees are not  
4501 paid at that time, [he] the witness is not required to attend the hearing.
- 4502 (vi) All fees or mileage to which any witness is entitled under the provisions of this  
4503 section may be collected by action instituted by the person to whom the fees are  
4504 payable.
- 4505 (vii) No witness furnished with free transportation receives mileage for the distance [  
4506 he] the witness may have traveled.
- 4507 (2) The commission or any commissioner or any party may in any investigation before the  
4508 commission cause the depositions of witnesses residing within or without the state to be  
4509 taken in the manner prescribed by law for depositions in civil actions in the district  
4510 courts of this state, and may compel the attendance of witnesses and the production of  
4511 books, waybills, documents, papers, and accounts.
- 4512 Section 210. Section **54-7-25** is amended to read:
- 4513 **54-7-25 . Violations by utilities -- Penalty.**
- 4514 (1) Any public utility that violates or fails to comply with this title or any rule or order  
4515 issued under this title, in a case in which a penalty is not otherwise provided for that  
4516 public utility, is subject to a penalty of not less than \$500 nor more than \$2,000 for each  
4517 offense.
- 4518 (2) Any violation of this title or any rule or order of the commission by any corporation or  
4519 person is a separate and distinct offense. In the case of a continuing violation, each day's  
4520 continuance of the violation shall be a separate and distinct offense.
- 4521 (3) In construing and enforcing the provisions of this title relating to penalties, the act,

4522 omission, or failure of any officer, agent, or employee of any public utility acting within  
4523 the scope of [~~his~~] the officer's, agent's, or employee's official duties or employment shall  
4524 in each case be deemed to be the act, omission, or failure of that public utility.

4525 Section 211. Section **56-1-21.5** is amended to read:

4526 **56-1-21.5 . Railroad special agents.**

- 4527 (1)(a) A railroad company may appoint one or more persons to be designated by the  
4528 railroad company as a railroad special agent for the protection of railroad property  
4529 and the protection of the persons and property of railroad passengers and employees.
- 4530 (b) While engaged in the conduct of employment, each appointed railroad special agent  
4531 may possess and exercise the powers of a special function officer.
- 4532 (c) The special function officer authority may be exercised only:
- 4533 (i) in the protection of passengers and employees on or about railroad premises and in  
4534 the protection of property belonging to passengers, or belonging to or under the  
4535 control of the railroad employing the special agents; and
- 4536 (ii) in preventing and making arrest for a violation of law upon the premises or in  
4537 connection with the property.
- 4538 (2)(a) A person appointed by a railroad company to act as a railroad special agent shall,  
4539 prior to appointment, meet the qualifications established for special function officers,  
4540 pursuant to Section 53-13-105, or as otherwise provided by law.
- 4541 (b)(i) Before the appointee performs any duties as a special agent, the railroad  
4542 company shall file the name of the appointee with the commissioner of the  
4543 Department of Public Safety.
- 4544 (ii) If the appointee meets qualifications for a special function officer, the  
4545 commissioner of the Department of Public Safety shall issue to the special agent a  
4546 certificate of authority to act as a peace officer, to continue in effect during [~~his~~]  
4547 the special agent's employment by the railroad unless revoked by the  
4548 commissioner for cause.
- 4549 (3)(a) A railroad company appointing a special agent is responsible for any liability  
4550 arising from the acts or omissions of the special agent within the scope of railroad  
4551 employment, but is entitled to any defense to liability that may be available to other  
4552 peace officers.
- 4553 (b) Neither the state nor any of its political subdivisions is liable for any act or omission  
4554 of a railroad special agent.
- 4555 Section 212. Section **57-1-14** is amended to read:

4556 **57-1-14 . Form of mortgage -- Effect.**4557 A mortgage of land may be substantially ~~MORTGAGE~~ **MORTGAGE** form:

4558 \_\_\_\_ (here insert name), mortgagor, of \_\_\_\_ (insert place of residence), hereby  
 4560 mortgages to \_\_\_\_ (insert name), mortgagee, of \_\_\_\_ (insert place of residence), for the sum of  
 4561 \_\_\_\_ dollars, the following described tract \_\_\_\_ of land in \_\_\_\_ County, Utah, to wit: (here  
 4562 describe the premises).

4563 This mortgage is given to secure the following indebtedness (here state amount and form  
 4564 of indebtedness, maturity, rate of interest, by and to whom payable, and where).

4565 The mortgagor agrees to pay all taxes and assessments on said premises, and the sum of  
 4566 \_\_\_\_ dollars [attorneys'] attorney fee in case of foreclosure.

4567 Witness the hand of said mortgagor this \_\_\_\_\_(month\day\year).

4568 A mortgage when executed as required by law shall have the effect of a conveyance of  
 4569 the land therein described, together with all the rights, privileges and appurtenances thereunto  
 4570 belonging, to the mortgagee, [his] the mortgagee's heirs, assigns, and legal representatives, as  
 4571 security for the payment of the indebtedness thereon set forth, with covenants from the  
 4572 mortgagor of general warranty of title, and that all taxes and assessments levied and assessed  
 4573 upon the land described, during the continuance of the mortgage, will be paid previous to the  
 4574 day appointed for the sale of such lands for taxes; and may be foreclosed as provided by law  
 4575 upon any default being made in any of the conditions thereof as to payment of either principal,  
 4576 interest, taxes, or assessments.

4577 Section 213. Section **57-1-19** is amended to read:

4578 **57-1-19 . Trust deeds -- Definitions of terms.**

4579 As used in Sections 57-1-20 through 57-1-36:

- 4580 (1) "Beneficiary" means the person named or otherwise designated in a trust deed as the  
 4581 person for whose benefit a trust deed is given, or [his] that person's successor in interest.
- 4582 (2) "Trustor" means the person conveying real property by a trust deed as security for the  
 4583 performance of an obligation.
- 4584 (3) "Trust deed" means a deed executed in conformity with Sections 57-1-20 through  
 4585 57-1-36 and conveying real property to a trustee in trust to secure the performance of an  
 4586 obligation of the trustor or other person named in the deed to a beneficiary.
- 4587 (4) "Trustee" means a person to whom title to real property is conveyed by trust deed, or [  
 4588 his] that person's successor in interest.
- 4589 (5) "Real property" has the same meaning as set forth in Section 57-1-1.
- 4590 (6) "Trust property" means the real property conveyed by the trust deed.

4591 Section 214. Section **57-1-37** is amended to read:

4592 **57-1-37 . Failure to disclose not a basis for liability.**

4593 (1) The failure of an owner of real property to disclose that the property being offered for  
4594 sale is stigmatized is not a material fact that must be disclosed in the transaction of real  
4595 property.

4596 (2) Neither an owner nor [his] the owner's agent is liable for failing to disclose that the  
4597 property is stigmatized.

4598 Section 215. Section **57-2-13** is amended to read:

4599 **57-2-13 . Form for certificate of proof.**

4600 The certificate of proof shall be substantially in the following form, to wit:

4601 State of Utah, County of \_\_\_\_

4602 On this \_\_\_\_\_(month\day\year), before me personally appeared \_\_\_\_, personally  
4603 known to me (or satisfactorily proved to me by the oath of \_\_\_\_, a competent and credible  
4604 witness for that purpose, by me duly sworn) to be the same person whose name is subscribed  
4605 to the above instrument as a witness thereto, who, being by me duly sworn, deposed and said [  
4606 ~~that he~~] \_\_\_\_\_ resides in \_\_\_\_, county of \_\_\_\_, and state of Utah; that [he] as a subscribing  
4607 witness was present and saw \_\_\_\_, personally known to [him] the subscribing witness to be the  
4608 signer of the above instrument as a party thereto, sign and deliver the same, and heard [him] the  
4609 party acknowledge that [he] the party executed the same, and that [~~he, the deponent,~~] the  
4610 subscribing witness thereupon signed [his] his/her name as a subscribing witness thereto at the  
4611 request of said \_\_\_\_.

4612 Section 216. Section **57-2a-2** is amended to read:

4613 **57-2a-2 . Definitions.**

4614 As used in this chapter:

4615 (1) "Acknowledged before me" means:

4616 (a) that the person acknowledging appeared before the person taking the  
4617 acknowledgment;

4618 (b) [~~that he acknowledged he executed the document~~] that the person acknowledging  
4619 executed the document;

4620 (c) that, in the case of:

4621 (i) a natural person, [he] the natural person executed the document for the purposes  
4622 stated in it;

4623 (ii) a corporation, the officer or agent acknowledged [he] the officer or agent held the  
4624 position or title set forth in the document or certificate, [he] the officer or agent



- 4625 signed the document on behalf of the corporation by proper authority, and the  
4626 document was the act of the corporation for the purpose stated in it;
- 4627 (iii) a partnership, the partner or agent acknowledged [~~he~~] the partner or agent signed  
4628 the document on behalf of the partnership by proper authority, and [~~he~~] the partner  
4629 or agent executed the document as the act of the partnership for the purposes  
4630 stated in it;
- 4631 (iv) a person acknowledging as principal by an attorney in fact, [~~he~~] that person  
4632 executed the document by proper authority as the act of the principal for the  
4633 purposes stated in it; or
- 4634 (v) a person acknowledging as a public officer, trustee, administrator, guardian, or  
4635 other representative, [~~he~~] that person signed the document by proper authority, and [  
4636 ~~he~~] that person executed the document in the capacity and for the purposes stated  
4637 in it; and
- 4638 (d) that the person taking the acknowledgment:
- 4639 (i) either knew or had satisfactory evidence that the person acknowledging was the  
4640 person named in the document or certificate; and
- 4641 (ii) in the case of a person executing a document in a representative capacity, either  
4642 had satisfactory evidence or received the sworn statement or affirmation of the  
4643 person acknowledging that the person had the proper authority to execute the  
4644 document.
- 4645 (2) "Notarial act" means any act a notary public is authorized by state law to perform,  
4646 including administering oaths and affirmations, taking acknowledgments of documents,  
4647 and attesting documents.
- 4648 Section 217. Section **57-2a-3** is amended to read:
- 4649 **57-2a-3 . Persons authorized to perform notarial acts.**
- 4650 (1) Notarial acts performed in this state shall be performed by:
- 4651 (a) a judge or court clerk having a seal;
- 4652 (b) a notary public; or
- 4653 (c) a county clerk or county recorder.
- 4654 (2) The following persons authorized under the laws and regulations of other governments  
4655 may perform notarial acts outside this state for use in this state with the same effect as if  
4656 performed by a notary public of this state:
- 4657 (a) a notary public authorized to perform notarial acts in the place where the act is  
4658 performed;

- 4659 (b) a judge, clerk, or deputy clerk of any court of record in the place where the notarial  
 4660 act is performed;
- 4661 (c) an officer of the foreign service of the United States, a consular agent, or any other  
 4662 person authorized by regulation of the United States Department of State to perform  
 4663 notarial acts in the place where the act is performed;
- 4664 (d) a commissioned officer in active service with the Armed Forces of the United States  
 4665 and any other person authorized by regulation of the Armed Forces to perform  
 4666 notarial acts if the notarial act is performed for any of [his] that person's dependents, a  
 4667 merchant seaman of the United States, a member of the Armed Forces of the United  
 4668 States, or any other person serving with or accompanying the Armed Forces of the  
 4669 United States; or
- 4670 (e) any other person authorized to perform notarial acts in the place where the act is  
 4671 performed.

4672 Section 218. Section **57-3-102** is amended to read:

4673 **57-3-102 . Record imparts notice -- Change in interest rate -- Validity of**  
 4674 **document -- Notice of unnamed interests -- Conveyance by grantee.**

- 4675 (1) Each document executed, acknowledged, and certified, in the manner prescribed by this  
 4676 title, each original document or certified copy of a document complying with Section  
 4677 57-4a-3, whether or not acknowledged, each copy of a notice of location complying with  
 4678 Section 40-1-4, and each financing statement complying with Section 70A-9a-502,  
 4679 whether or not acknowledged shall, from the time of recording with the appropriate  
 4680 county recorder, impart notice to all persons of their contents.
- 4681 (2) If a recorded document was given as security, a change in the interest rate in accordance  
 4682 with the terms of an agreement pertaining to the underlying secured obligation does not  
 4683 affect the notice or alter the priority of the document provided under Subsection (1).
- 4684 (3) This section does not affect the validity of a document with respect to the parties to the  
 4685 document and all other persons who have notice of the document.
- 4686 (4) The fact that a recorded document recites only a nominal consideration, names the  
 4687 grantee as trustee, or otherwise purports to be in trust without naming beneficiaries or  
 4688 stating the terms of the trust does not charge any third person with notice of any interest  
 4689 of the grantor or of the interest of any other person not named in the document.
- 4690 (5) The grantee in a recorded document may convey the interest granted to [him] the grantee  
 4691 free and clear of all claims not disclosed in the document in which [he] the grantee  
 4692 appears as grantee or in any other document recorded in accordance with this title that

4693 sets forth the names of the beneficiaries, specifies the interest claimed, and describes the  
4694 real property subject to the interest.

4695 Section 219. Section **57-4a-4** is amended to read:

4696 **57-4a-4 . Presumptions.**

4697 (1) A recorded document creates the following presumptions regarding title to the real  
4698 property affected:

4699 (a) the document is genuine and was executed voluntarily by the person purporting to  
4700 execute it;

4701 (b) the person executing the document and the person on whose behalf it is executed are  
4702 the persons they purport to be;

4703 (c) the person executing the document was neither incompetent nor a minor at any  
4704 relevant time;

4705 (d) delivery occurred notwithstanding any lapse of time between dates on the document  
4706 and the date of recording;

4707 (e) any necessary consideration was given;

4708 (f) the grantee, transferee, or beneficiary of an interest created or described by the  
4709 document acted in good faith at all relevant times;

4710 (g) a person executing a document as an agent, attorney in fact, officer of an  
4711 organization, or in a fiduciary or official capacity:

4712 (i) held the position [~~he~~] that the person executing the document purported to hold and  
4713 acted within the scope of [his] that person's authority;

4714 (ii) in the case of an officer of an organization, was authorized under all applicable  
4715 laws to act on behalf of the organization; and

4716 (iii) in the case of an agent, [~~his~~] the agent's agency was not revoked, and [~~he~~] the agent  
4717 acted for a principal who was neither incompetent nor a minor at any relevant  
4718 time;

4719 (h) a person executing the document as an individual:

4720 (i) was unmarried on the effective date of the document; or

4721 (ii) if it otherwise appears from the document that the person was married on the  
4722 effective date of the document, the grantee was a bona fide purchaser and the  
4723 grantor received adequate and full consideration in money or money's worth so  
4724 that the joinder of the nonexecuting spouse was not required under Sections  
4725 75-2-201 through 75-2-207;

4726 (i) if the document purports to be executed pursuant to or to be a final determination in a

4727 judicial or administrative proceeding, or to be executed pursuant to a power of  
 4728 eminent domain, the court, official body, or condemnor acted within its jurisdiction  
 4729 and all steps required for the execution of the document were taken; and

4730 (j) recitals and other statements of fact in a document, including without limitation  
 4731 recitals concerning mergers or name changes of organizations, are true.

4732 (2) The presumptions stated in Subsection (1) arise even though the document purports only  
 4733 to release a claim or to convey any right, title, or interest of the person executing it or the  
 4734 person on whose behalf it is executed.

4735 Section 220. Section **57-8-6** is amended to read:

4736 **57-8-6 . Ownership and possession rights.**

4737 Each unit owner shall be entitled to the exclusive ownership and possession of [~~his~~] that  
 4738 unit owner's unit. The owner of a time period condominium unit shall be entitled to the  
 4739 exclusive ownership and possession of the physical unit to which [~~his~~] that owner's time period  
 4740 relates and shall be entitled to the use and enjoyment of the common areas and facilities  
 4741 during, but only during, such annually recurring part or parts of a year as describe and define  
 4742 the time period unit concerned in the declaration.

4743 Section 221. Section **57-8-8** is amended to read:

4744 **57-8-8 . Compliance with covenants, bylaws and/or house rules and**  
 4745 **administrative provisions.**

4746 Subject to reasonable compliance therewith by the manager and the management  
 4747 committee, each unit owner shall reasonably comply with the covenants, conditions, and  
 4748 restrictions as set forth in the declaration or in the deed to [~~his~~] that unit owner's unit, and with  
 4749 the bylaws and/or house rules and with the administrative rules and regulations drafted  
 4750 pursuant thereto, as either of the same may be lawfully amended from time to time, and failure  
 4751 to comply shall be ground for an action to recover sums due for damages or injunctive relief or  
 4752 both, maintainable by the manager or management committee on behalf of the unit owners, or  
 4753 in a proper case, by an aggrieved unit owner.

4754 Section 222. Section **57-8-13.14** is amended to read:

4755 **57-8-13.14 . Easement rights -- Sales offices and model units -- Damage to**  
 4756 **property.**

4757 (1) Subject to any restrictions and limitations the declaration may specify, the declarant  
 4758 shall have a transferable easement over and on the common areas and facilities for the  
 4759 purpose of making improvements on the land within the project or on any additional  
 4760 land under the declaration and this act, and for the purpose of doing all things reasonably

4761 necessary and proper in connection with the same.

4762 (2) The declarant and [his] the declarant's duly authorized agents, representatives, and  
 4763 employees may maintain sales offices or model units on the land within the project if the  
 4764 declaration provides for the same and specifies the rights of the declarant about the  
 4765 number, size, location, and relocation of them. Any sales office or model unit which is  
 4766 not designated a unit by the declaration shall become a common area and facility as soon  
 4767 as the declarant ceases to be a unit owner, and the declarant shall cease to have any  
 4768 rights concerning it unless the sales office or model unit is removed immediately from  
 4769 the land included within the project in accordance with a right reserved in the  
 4770 declaration to make this removal.

4771 (3) To the extent that damage is inflicted on any part of the condominium project by any  
 4772 person or persons utilizing the easements reserved by the declaration or created by  
 4773 Subsections (1) and (2) of this section, the declarant, together with the person or persons  
 4774 causing the same, shall be jointly and severally liable for the prompt repair of the  
 4775 damage and for the restoration of the same to a condition compatible with the remainder  
 4776 of the condominium project.

4777 Section 223. Section **57-8-32.5** is amended to read:

4778 **57-8-32.5 . Property taken by eminent domain -- Allocation of award --**

4779 **Reallocation of interests.**

4780 (1) If any portion of the common areas and facilities is taken by eminent domain, the award  
 4781 for it shall be allocated to the unit owners in proportion to their respective undivided  
 4782 interests in the common areas and facilities.

4783 (2) If any units are taken by eminent domain, the undivided interest in the common areas  
 4784 and facilities appertaining to these units shall thenceforth appertain to the remaining  
 4785 units, being allocated to them in proportion to their respective undivided interests in the  
 4786 common areas and facilities. The court shall enter a decree reflecting the reallocation of  
 4787 undivided interests so produced, and the award shall include, without limitation, just  
 4788 compensation to the unit owner of any unit taken for [his] the unit owner's undivided  
 4789 interest in the common areas and facilities as well as for [his] the unit owner's unit.

4790 (3) If portions of any unit are taken by eminent domain, the court shall determine the fair  
 4791 market value of the portions of the unit not taken, and the undivided interest in the  
 4792 common areas and facilities appertaining to any such units shall be reduced, in the case  
 4793 of each unit, in proportion to the diminution in the fair market value of the unit resulting  
 4794 from the taking. The portions of undivided interest in the common areas and facilities

4795 thus divested from the unit owners of these units shall be reallocated among these units  
 4796 and the other units in the condominium project in proportion to their respective  
 4797 undivided interests in the common areas and facilities, with any units partially taken  
 4798 participating in the reallocation on the basis of their undivided interests as reduced in  
 4799 accordance with the preceding sentence. The court shall enter a decree reflecting the  
 4800 reallocation of undivided interests produced by this, and the award shall include, without  
 4801 limitation, just compensation to the unit owner of any unit partially taken for that portion  
 4802 of [his] the unit owner's undivided interest in the common areas and facilities divested  
 4803 from [him] the unit owner by operation of the first sentence of this Subsection (3), and  
 4804 not revested in [him] the unit owner by operation of the following sentence, as well as for  
 4805 that portion of [his] the unit owner's unit taken by eminent domain.

4806 (4) The court shall enter a decree reflecting the reallocation of undivided interests produced  
 4807 by this, and the award shall include, without limitation, just compensation to the unit  
 4808 owner of any unit partially taken for that portion of [his] the unit owner's undivided  
 4809 interest in the common areas and facilities divested from [him] the unit owner and also  
 4810 not revested in [him] the unit owner under this Subsection (4), as well as for that portion  
 4811 of [his] the unit owner's unit taken by eminent domain.

4812 (5) If, however, the taking of a portion of any unit makes it impractical to use the remaining  
 4813 portion of that unit for any lawful purpose permitted by the declaration, then the entire  
 4814 undivided interest in the common areas and facilities appertaining to that unit shall  
 4815 thenceforth appertain to the remaining units, being allocated to them in proportion to  
 4816 their respective undivided interest in the common areas and facilities, and the remaining  
 4817 portion of that unit shall thenceforth be a common area and facility. The court shall enter  
 4818 a decree reflecting the reallocation of undivided interests produced by this, and the  
 4819 award shall include, without limitation, just compensation to the unit owner of the unit  
 4820 for [his] the unit owner's entire undivided interest in the common areas and facilities and  
 4821 for [his] the unit owner's entire unit.

4822 Section 224. Section **57-12-6** is amended to read:

4823 **57-12-6 . Buildings, structures, or other improvements.**

- 4824 (1) Where any interest in real property is acquired, an equal interest in all buildings,  
 4825 structures, or other improvements located upon the real property so acquired and which  
 4826 is required to be removed from the real property or which is determined to be adversely  
 4827 affected by the use to which the real property will be put, shall be acquired.
- 4828 (2) For the purpose of determining the just compensation to be paid for any building,

4829 structure, or other improvement required to be acquired under Subsection (1), the  
4830 building, structure, or other improvement shall be deemed to be a part of the real  
4831 property to be acquired, notwithstanding the right or obligation of a tenant, as against the  
4832 owner of any other interest in the real property, to remove the building, structure, or  
4833 improvement at the expiration of [his] the tenant's term; and the fair market value which  
4834 the building, structure, or improvement contributes to the fair market value of the  
4835 property to be acquired, or the fair market value of the building, structure, or  
4836 improvement for removal from the real property, whichever is the greater, shall be paid  
4837 to the tenant therefor.

4838 (3) Payment for the buildings, structures, or improvements as set forth in Subsection (2)  
4839 shall not result in duplication of any payments otherwise authorized by state law. No  
4840 payment shall be made unless the owner of the land involved disclaims all interest in the  
4841 improvements of the tenant. In consideration for any payment, the tenant shall assign,  
4842 transfer, and release all [his] the tenant's right, title and interest in and to the  
4843 improvements. Nothing with regard to this acquisition of buildings, structures, or other  
4844 improvements shall be construed to deprive the tenants of any rights to reject payment  
4845 and to obtain payment for these property interests in accordance with other laws of this  
4846 state.

4847 Section 225. Section **57-12-7** is amended to read:

4848 **57-12-7 . Replacement property.**

4849 (1) No person shall be required to move or be relocated from land used for [his] the person's  
4850 residence and acquired under any of the condemnation or eminent domain laws of this  
4851 state until [he] the person has been offered a comparable replacement dwelling, including  
4852 the curtilage, which is a decent, safe, clean, and sanitary dwelling, including the  
4853 curtilage, adequate to accommodate the occupants, available on the private market, and  
4854 reasonably accessible to public services and places of employment.

4855 (2) If a program or project cannot proceed to actual construction because comparable sale  
4856 or rental housing is not available and cannot otherwise be made available, such action  
4857 shall be taken as is necessary or appropriate to provide this housing by use of funds  
4858 authorized for the project.

4859 (3) No person shall be required to move from [his] the person's dwelling, including the  
4860 curtilage, after the effective date of this act because of any project of the agency, unless  
4861 replacement housing is available to, and offered to the property owner.

4862 (4) The agency shall assist owners of small businesses and family farms in identifying

4863 replacement properties available on the private market, located within the jurisdiction of  
4864 the agency.

4865 Section 226. Section **57-19-17** is amended to read:

4866 **57-19-17 . Administrative procedures.**

- 4867 (1) The director may summarily deny an application for registration under any of the  
4868 provisions of Section 57-19-13 or 57-19-16. If a registration is denied, the applicant  
4869 may, within 10 days after receipt of notice of the denial, request a hearing before an  
4870 administrative law judge. The director shall schedule the hearing within 30 days after  
4871 receipt of the applicant's request and give notice of the hearing in writing to the  
4872 applicant, specifying the reasons for denial of the registration. If, as a result of the  
4873 hearing, it is determined that the applicant is qualified to be registered, the registration  
4874 shall be issued.
- 4875 (2) Before an existing registration is suspended or revoked, or a fine imposed, the director  
4876 shall schedule a hearing before an administrative law judge and give notice in writing to  
4877 the affected person as prescribed in Title 13, Chapter 1, Department of Commerce, and  
4878 the rules of procedure for hearings before the Department of Commerce. If, as a result  
4879 of the hearing, the administrative law judge finds that there has been a violation of this  
4880 chapter, the registration shall be suspended or revoked, or a fine imposed, by written  
4881 order of the director in concurrence with the executive director.
- 4882 (3) The developer or salesperson has the right to appear at the hearing, in person or by  
4883 counsel, to be heard and to examine witnesses appearing in connection with the  
4884 complaint. At the hearing, all witnesses shall be sworn by the administrative law judge,  
4885 and stenographic notes or a tape recording of the proceeding shall be taken and filed as a  
4886 part of the record in the case. Any party to the proceeding shall be furnished a copy of  
4887 the stenographic notes or tape recording at a reasonable cost. The administrative law  
4888 judge shall render a decision within 60 days after the completion of the hearing. The  
4889 executive director and the director shall concurrently make the final decision and  
4890 promptly notify the parties to the proceedings, in writing, of the ruling, order, or  
4891 decision.
- 4892 (4) The developer or salesperson, or any person aggrieved, may appeal any adverse ruling,  
4893 order, or decision of the executive director and the director to the district court for the  
4894 county in which the hearing was held, within 30 days from the date of service of notice  
4895 of the ruling, order, or decision upon [him] the developer, salesperson, or aggrieved  
4896 person. At the time of filing the notice of appeal, the appellant shall file with the notice



4897 a bond for costs on appeal in the amount of \$200, conditioned to secure the payment of  
4898 costs if the appeal is dismissed or the judgment affirmed.

4899 Section 227. Section **57-19-18** is amended to read:

4900 **57-19-18 . Investigation -- Publication.**

4901 (1) The director may make any investigations or requests for information, within or outside  
4902 of this state, that [he] the director considers necessary:

4903 (a) to determine whether any registration under this chapter should be granted, denied,  
4904 or revoked;

4905 (b) to determine whether any person has violated or is about to violate any of the  
4906 provisions of this chapter or any rule or order under this chapter; or

4907 (c) to aid in the enforcement of this chapter.

4908 (2) The director may publish information concerning any violation of this chapter or any  
4909 rule or order under this chapter.

4910 Section 228. Section **57-19-23** is amended to read:

4911 **57-19-23 . Prosecution.**

4912 The director may refer any available evidence concerning violations of this chapter or of  
4913 any rule or order under this chapter to the attorney general or the proper prosecuting attorney,  
4914 who may, in [his] the attorney's discretion, with or without such a referral, institute the  
4915 appropriate civil or criminal proceedings under this chapter.

4916 Section 229. Section **57-22-3** is amended to read:

4917 **57-22-3 . Duties of owners and renters -- Generally.**

4918 (1) Each owner and [his] the owner's agent renting or leasing a residential rental unit shall  
4919 maintain that unit in a condition fit for human habitation and in accordance with local  
4920 ordinances and the rules of the board of health having jurisdiction in the area in which  
4921 the residential rental unit is located. Each residential rental unit shall have electrical  
4922 systems, heating, plumbing, and hot and cold water.

4923 (2) Each renter shall cooperate in maintaining [his] the renter's residential rental unit in  
4924 accordance with this chapter.

4925 (3) This chapter does not apply to breakage, malfunctions, or other conditions which do not  
4926 materially affect the physical health or safety of the ordinary renter.

4927 (4) Any duty in this act may be allocated to a different party by explicit written agreement  
4928 signed by the parties.

4929 Section 230. Section **58-1-105** is amended to read:

4930 **58-1-105 . Employment of staff.**

4931 The director, with the approval of the executive director, may employ necessary staff,  
4932 including specialists and professionals, to assist ~~[him]~~ the director in performing the duties,  
4933 functions, and responsibilities of the division.

4934 Section 231. Section **58-3a-603** is amended to read:

4935 **58-3a-603 . Seal -- Authorized use.**

4936 ~~[(+)]~~ An architect may only affix the architect's seal to a plan and a specification when the  
4937 plan and the specification:

4938 ~~[(a)]~~ (1) was personally prepared by the architect;

4939 ~~[(b)]~~ (2) was prepared by an employee, subordinate, associate, or drafter under the  
4940 supervision of a licensee, provided the licensee or a principal affixing ~~[his]~~ the seal  
4941 assumes responsibility;

4942 ~~[(e)]~~ (3) was prepared by a licensed architect, professional engineer, or professional  
4943 structural engineer in this state or any other state provided:

4944 ~~[(+)]~~ (a) the licensee in this state affixing the seal performs a thorough review of all work  
4945 for compliance with all applicable laws and rules and the standards of the profession;  
4946 and

4947 ~~[(ii)]~~ (b) makes any necessary corrections before submitting the final plan and  
4948 specification:

4949 ~~[(A)]~~ (i) to a building official for the purpose of obtaining a building permit; or

4950 ~~[(B)]~~ (ii) to a client who has contracted with an architect for the design of a building,  
4951 when the architect represents, or could reasonably expect the client to consider,  
4952 the plans and a specification to be complete and final;

4953 ~~[(+)]~~ (4) was prepared in part by a licensed architect, professional engineer, or professional  
4954 structural engineer in this state or any other state provided:

4955 ~~[(+)]~~ (a) the licensee in this state clearly identifies that portion of the plans and  
4956 specification for which the licensee is responsible;

4957 ~~[(ii)]~~ (b) the licensee in this state affixing the seal performs a thorough review of that  
4958 portion of the plan and specification for which the licensee is responsible for  
4959 compliance with the standards of the profession; and

4960 ~~[(iii)]~~ (c) makes any necessary corrections before submitting the final plan and  
4961 specification for which the licensee is responsible:

4962 ~~[(A)]~~ (i) to a building official for the purpose of obtaining a building permit; or

4963 ~~[(B)]~~ (ii) to a client who has contracted with an architect for the design of a building,  
4964 when the architect represents, or could reasonably expect the client to consider,

4965 the plans and specifications to be complete and final;  
 4966 [(e)] (5) was prepared by a person exempt from licensure as an architect, professional  
 4967 engineer, or professional structural engineer provided that:  
 4968 [(i)] (a) the licensee in this state affixing the seal performs a thorough review for  
 4969 compliance with all applicable laws and rules and the standards of the profession; and  
 4970 [(ii)] (b) makes any necessary corrections before submitting the final plan and  
 4971 specification:  
 4972 [(A)] (i) to a building official for the purpose of obtaining a building permit; or  
 4973 [(B)] (ii) to a client who has contracted with an architect for the design of a building,  
 4974 when the architect represents, or could reasonably expect the client to consider,  
 4975 the plan and specification to be complete and final; or  
 4976 [(f)] (6) meet any additional requirements established by rule by the division in  
 4977 collaboration with the board.

4978 Section 232. Section **58-16a-201** is amended to read:

4979 **58-16a-201 . Creation of board -- Board duties and functions.**

- 4980 (1) There is created an Optometrist Licensing Board consisting of five optometrists and two  
 4981 members from the general public who do not provide eye care services.  
 4982 (2) The board shall be appointed and serve in accordance with Section 58-1-201.  
 4983 (3) The board's duties and responsibilities shall be in accordance with Sections 58-1-202  
 4984 and 58-1-203, and as provided under this Subsection (3).  
 4985 (4) The board shall designate one of its members on a permanent or rotating basis to:  
 4986 (a) assist the division in reviewing complaints concerning the unlawful or unprofessional  
 4987 conduct of a licensee; and  
 4988 (b) advise the division in its investigation of these complaints.  
 4989 (5) A board member who has, under Subsection (4), reviewed a complaint or advised in its  
 4990 investigation may be disqualified from participating with the board when the board  
 4991 serves as a presiding officer in an adjudicative proceeding concerning the complaint.  
 4992 The board member may be disqualified:  
 4993 (a) on [his] the board member's own motion, due to actual or perceived bias or lack of  
 4994 objectivity; or  
 4995 (b) upon challenge for cause raised on the record by any party to the adjudicative  
 4996 proceeding.

4997 Section 233. Section **58-16a-701** is amended to read:

4998 **58-16a-701 . Form of practice.**

- 4999 (1) An optometrist licensed under this chapter may engage in practice as an optometrist or  
5000 in the practice of optometry only as an individual licensee. However, as an individual  
5001 licensee[~~he~~] , the optometrist may be:
- 5002 (a) an individual operating as a business proprietor;  
5003 (b) an employee of another person or corporation;  
5004 (c) a partner in a lawfully organized partnership;  
5005 (d) a lawfully formed professional corporation;  
5006 (e) a lawfully organized limited liability company;  
5007 (f) a lawfully organized business corporation; or  
5008 (g) any other form of organization recognized by the state and which is not prohibited by  
5009 division rule made in collaboration with the board.
- 5010 (2) Regardless of the form in which a licensee engages in the practice of optometry, the  
5011 licensee may only permit the practice of optometry in that form of practice to be  
5012 conducted by an individual:
- 5013 (a) licensed in Utah as an optometrist under Section 58-16a-301; and  
5014 (b) who is able to lawfully and competently engage in the practice of optometry.
- 5015 Section 234. Section **58-22-603** is amended to read:  
5016 **58-22-603 . Seal -- Authorized use.**
- 5017 (1) A professional engineer or professional structural engineer may only affix the licensee's  
5018 seal to a plan, specification, and report when the plan, specification, and report:  
5019 (a) was personally prepared by the licensee;  
5020 (b) was prepared by an employee, subordinate, associate, or drafter under the  
5021 supervision of a licensee, provided the licensee or a principal affixing [his] the seal  
5022 assumes responsibility;  
5023 (c) was prepared by a licensed professional engineer, professional structural engineer, or  
5024 architect in this state or any other state provided:  
5025 (i) the licensee in this state affixing the seal performs a thorough review of all work  
5026 for compliance with all applicable laws and rules and the standards of the  
5027 profession; and  
5028 (ii) makes any necessary corrections before submitting the final plan, specification, or  
5029 report:  
5030 (A) to a building official for the purpose of obtaining a building permit; or  
5031 (B) to a client who has contracted with a professional engineer or professional  
5032 structural engineer for the design of a building or structure, when the licensee

- 5033 represents, or could reasonably expect the client to consider, the plan,  
5034 specification, or report to be complete and final;
- 5035 (d) was prepared in part by a licensed professional engineer, professional structural  
5036 engineer, or architect in this state or any other state provided:
- 5037 (i) the licensee in this state clearly identifies that portion of the plan, specification, or  
5038 report for which the licensee is responsible;
- 5039 (ii) the licensee in this state affixing the seal performs a thorough review of that  
5040 portion of the plan, specification, or report for which the licensee is responsible  
5041 for compliance with the standards of the profession; and
- 5042 (iii) makes any necessary corrections before submitting the final plan, specification,  
5043 or report for which the licensee is responsible:
- 5044 (A) to a building official for the purpose of obtaining a building permit; or  
5045 (B) to a client who has contracted with a professional engineer or professional  
5046 structural engineer for the design of a building or structure, when the licensee  
5047 represents, or could reasonably expect the client to consider, the plans,  
5048 specifications, or reports to be complete and final;
- 5049 (e) was prepared by a person exempt from licensure as a professional engineer,  
5050 professional structural engineer, or architect provided that:
- 5051 (i) the licensee in this state affixing the seal performs a thorough review for  
5052 compliance with all applicable laws and rules and the standards of the profession;  
5053 and
- 5054 (ii) makes any necessary corrections before submitting the final plan, specification, or  
5055 report:
- 5056 (A) to a building official for the purpose of obtaining a building permit; or  
5057 (B) to a client who has contracted with a professional engineer, professional  
5058 structural engineer, or architect for the design of a building or structure, when  
5059 the licensee represents, or could reasonably expect the client to consider, the  
5060 plan, specification, or report to be complete and final; or
- 5061 (f) meet any additional requirements established by rule by the division in collaboration  
5062 with the board.
- 5063 (2) A professional land surveyor may only affix the licensee's seal to a plan, map, sketch,  
5064 survey, drawing, document, plat, and report when the plan, map, sketch, survey,  
5065 drawing, document, plat, and report:
- 5066 (a) was personally prepared by the licensee; or

5067 (b) was prepared by an employee, subordinate, associate, or drafter under the  
5068 supervision of a professional land surveyor, provided the professional land surveyor  
5069 or a principal affixing [his] the seal assumes responsibility.

5070 Section 235. Section **58-31b-801** is amended to read:

5071 **58-31b-801 . Practice within limits of competency.**

5072 (1) Each person licensed under this chapter is responsible for confining [his] the person's  
5073 practice as a nurse to those acts and practices permitted by law.

5074 (2) A person licensed under this act may not engage in any act or practice for which [he] the  
5075 person is not competent.

5076 Section 236. Section **58-37-15** is amended to read:

5077 **58-37-15 . Burden of proof in proceedings on violations -- Enforcement officers**  
5078 **exempt from liability.**

5079 (1) It is not necessary for the state to negate any exemption or exception set forth in this act  
5080 in any complaint, information, indictment or other pleading or trial, hearing, or other  
5081 proceeding under this act, and the burden of proof of any exemption or exception is  
5082 upon the person claiming its benefit.

5083 (2) In absence of proof that a person is the duly authorized holder of an appropriate license,  
5084 registration, order form, or prescription issued under this act, [he] a person shall be  
5085 presumed not to be the holder of a license, registration, order form, or prescription, and  
5086 the burden of proof is upon [him] the person to rebut the presumption.

5087 (3) No liability shall be imposed upon any duly authorized state or federal officer engaged  
5088 in the enforcement of this act who is engaged in the enforcement of any law, municipal  
5089 ordinance, or regulation relating to controlled substances.

5090 Section 237. Section **58-41-16** is amended to read:

5091 **58-41-16 . Privileged communication.**

5092 A person licensed under this chapter may not be examined or required to reveal any  
5093 findings, examinations, or representation made [~~by his client to him~~] to the licensed person by  
5094 the licensed person's client, or any advice or treatment given to [his] the client in the course of  
5095 professional practice, without the consent of [his] the client or the client's representative. A  
5096 person employed by a person licensed under this chapter may not be examined without the  
5097 consent of the employer concerning any fact of which the employee has acquired knowledge in [  
5098 his] the employee's professional capacity.

5099 Section 238. Section **58-49-7** is amended to read:

5100 **58-49-7 . Certificates -- Display -- Surrender.**

5101 (1) Any person who meets the certification qualifications of this chapter shall receive a  
5102 certificate stating that [he] the person has met these qualifications.

5103 (2) Each certified dietitian shall:

5104 (a) display the certificate in an appropriate, conspicuous, and public manner; and

5105 (b) keep the division informed of [his] the certified dietitian's current address.

5106 (3) A certificate issued by the division is the property of the division and shall be  
5107 surrendered on demand.

5108 Section 239. Section **58-50-5** is amended to read:

5109 **58-50-5 . Qualifications for licensure.**

5110 An applicant for licensure as a private probation provider shall:

5111 (1) have a baccalaureate degree in a program approved by the division in collaboration with  
5112 the board or have a combination of equivalent education and training as determined by  
5113 the division in collaboration with the board;

5114 (2) submit evidence that a business license to engage in private probation has been issued  
5115 by the political subdivision of the state in which the applicant intends to establish [his] a  
5116 business office or offices; and

5117 (3) apply for licensure and pay the required fees.

5118 Section 240. Section **58-55-601** is amended to read:

5119 **58-55-601 . Payment -- Account designated.**

5120 When making any payment to a materialman, supplier, contractor, or subcontractor with  
5121 whom [he] a contractor has a running account, or with whom [he] the contractor has more than  
5122 one contract, or to whom [he] the contractor is otherwise indebted, the contractor shall  
5123 designate the contract under which the payment is made or the items of account to which it is  
5124 to be applied. When a payment for materials or labor is made to a subcontractor or  
5125 materialman, the subcontractor or materialman shall demand of the person making the  
5126 payment a designation of the account and the items of account to which the payment is to  
5127 apply. In cases where a lien is claimed for materials furnished or labor performed by a  
5128 subcontractor or materialman, it is a defense to the claim that a payment was made by the  
5129 owner to the contractor for the materials and was so designated and paid over to the  
5130 subcontractor or materialman, if when the payment was received by the subcontractor or  
5131 materialman, [he] the subcontractor or materialman did not demand a designation of the  
5132 account and of the items of account to which the payment was to be applied.

5133 Section 241. Section **58-55-603** is amended to read:

5134 **58-55-603 . Payment to subcontractors and suppliers.**

- 5135 (1) When a contractor receives any construction funds from an owner or another contractor  
 5136 for work performed and billed, [he] the contractor receiving funds shall pay each of [his]  
 5137 that contractor's subcontractors and suppliers in proportion to the percentage of the work  
 5138 they performed under that billing, unless otherwise agreed by contract.
- 5139 (2) If, under this section and without reasonable cause, or unless otherwise agreed by  
 5140 contract, the contractor fails to pay for work performed by [his-]subcontractors or  
 5141 suppliers within 30 consecutive days after receiving construction funds from the owner  
 5142 or another contractor for work performed and billed, or after the last day payment is due  
 5143 under the terms of the billing, whichever is later, [he] the contractor receiving funds shall  
 5144 pay to the subcontractor or supplier, in addition to the payment, interest in the amount of  
 5145 1% per month of the amount due, beginning on the day after payment is due, and  
 5146 reasonable costs of any collection and [attorney's] attorney fees.
- 5147 (3) When a subcontractor receives any construction payment under this section,  
 5148 Subsections (1) and (2) apply to that subcontractor.

5149 Section 242. Section **58-67-802** is amended to read:

5150 **58-67-802 . Form of practice.**

- 5151 (1) A physician and surgeon licensed under this chapter may engage in practice as a  
 5152 physician and surgeon, or in the practice of medicine only as an individual licensee; but  
 5153 as an individual licensee, [he] a physician and surgeon may be:
- 5154 (a) an individual operating as a business proprietor;
  - 5155 (b) an employee of another person;
  - 5156 (c) a partner in a lawfully organized partnership;
  - 5157 (d) a lawfully formed professional corporation;
  - 5158 (e) a lawfully organized limited liability company;
  - 5159 (f) a lawfully organized business corporation; or
  - 5160 (g) any other form of organization recognized by the state which is not prohibited by  
 5161 division rule made in collaboration with the board.
- 5162 (2) Regardless of the form in which a licensee engages in the practice of medicine, the  
 5163 licensee may only permit the practice of medicine in that form of practice to be  
 5164 conducted by an individual:
- 5165 (a) licensed in Utah as a physician and surgeon under Section 58-67-301 or as an  
 5166 osteopathic physician and surgeon under Section 58-68-301; and
  - 5167 (b) who is able to lawfully and competently engage in the practice of medicine.

5168 Section 243. Section **58-69-804** is amended to read:



5169           **58-69-804 . Form of practice.**

5170   (1) A dentist licensed under this chapter may engage in practice as a dentist, or in the  
 5171       practice of dentistry only as an individual licensee, but as an individual licensee, [he] the  
 5172       individual licensee may be:

5173       (a) an individual operating as a business proprietor;

5174       (b) an employee of another person;

5175       (c) a partner in a lawfully organized partnership;

5176       (d) a lawfully formed professional corporation;

5177       (e) a lawfully organized limited liability company;

5178       (f) a lawfully organized business corporation; or

5179       (g) any other form of organization recognized by the state which is not prohibited by  
 5180       rule adopted by division rules made in collaboration with the board.

5181   (2) Regardless of the form in which a licensee engages in the practice of dentistry, the  
 5182       licensee may not permit another person who is not licensed in Utah as a dentist and is  
 5183       not otherwise competent to engage in the practice of dentistry to direct, or in any other  
 5184       way participate in, or interfere in the licensee's practice of dentistry.

5185       Section 244. Section **59-1-701** is amended to read:

5186           **59-1-701 . Grounds for termination and jeopardy assessment -- Notice --**5187   **Collection -- Reopening period -- Bond.**

5188   (1) If the commission finds that a taxpayer intends quickly to depart from this state or to  
 5189       remove [his] the taxpayer's property therefrom, or to conceal [~~himself or his~~] the taxpayer  
 5190       or the taxpayer's property therein, or to do any other act (including in the case of a  
 5191       taxpayer selling or otherwise distributing all or a part of its assets in liquidation or  
 5192       otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings  
 5193       to collect any tax or penalty in lieu of tax for the current or the preceding taxable period,  
 5194       unless such proceedings be brought without delay, the commission may declare the  
 5195       taxable period for such taxpayer immediately terminated whether or not the time  
 5196       otherwise allowed by law for filing returns and paying the liability has expired. The  
 5197       commission shall immediately make a determination of tax for the current taxable period  
 5198       or for the preceding period, or both, and notwithstanding any other provision of law, the  
 5199       tax shall become immediately due and payable. The commission shall immediately  
 5200       assess the amount of the tax so determined (together with all interest, penalties,  
 5201       additional amounts, and additions to the tax provided by law) for the current taxable  
 5202       period or such preceding taxable period, or both, and shall give the notice of

5203 determination and assessment to the taxpayer, together with a demand for immediate  
5204 payment of the tax.

5205 (2) In the case of a current taxable period, the commission shall determine the tax for the  
5206 period beginning on the first day of the current taxable period and ending on the date of  
5207 the determination under Subsection (1) as though the period were a taxable period of the  
5208 taxpayer. The commission shall take into account any prior determination made under  
5209 this subsection with respect to such current taxable period. Any amounts collected as a  
5210 result of any assessments under this subsection shall be treated as a partial payment of  
5211 tax for the taxable period.

5212 (3) Notwithstanding the termination of the taxable period of the taxpayer as provided in  
5213 Subsection (1), the commission may reopen such taxable period each time the taxpayer  
5214 is found by the commission to have incurred additional liabilities, within the current  
5215 taxable period, since the termination of such period. A taxable period so terminated by  
5216 the commission may be reopened by the taxpayer if [he] the taxpayer files a true and  
5217 accurate return, as required under [~~Title 59, Chapter 2, Property Tax Act,~~] Chapter 2,  
5218 Property Tax Act, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10,  
5219 Individual Income Tax Act, or Chapter 12, Sales and Use Tax Act, for the taxable  
5220 period, together with such other information as the commission may by rule prescribe.

5221 (4) Payment of taxes may not be enforced by any proceedings under Subsection (1) prior to  
5222 the expiration of the time otherwise allowed for paying such taxes if the taxpayer  
5223 furnishes, under rules prescribed by the commission, a bond to ensure the timely making  
5224 of returns with respect to, and payment of, the taxes, penalties, or interest for prior  
5225 periods.

5226 Section 245. Section **59-1-707** is amended to read:

5227 **59-1-707 . Writ of mandate requiring taxpayer to file return.**

5228 (1)(a) If a taxpayer fails to file any return required pursuant to [~~Title 59, Revenue and~~  
5229 ~~Taxation,~~] this title within 60 days of the time prescribed, the commission may  
5230 petition for a writ of mandate to compel the taxpayer to file the return. The petition  
5231 may be filed, in the discretion of the commission, in the Tax Division of the Third  
5232 Judicial District or in the district court for the county in which the taxpayer resides or  
5233 has [~~his~~] a principal place of business. In the case of a nonresident taxpayer the  
5234 petition shall be filed in the Third District Court.

5235 (b) The court shall grant a hearing on the petition for a writ of mandate within 20 days  
5236 after the filing of the petition or as soon thereafter as the court may determine, having

5237 regard for the rights of the parties and the necessity of a speedy determination of the  
5238 petition.

5239 (c) Upon a finding of failure to file a return within 60 days of the time prescribed  
5240 pursuant to [~~Title 59, Revenue and Taxation,~~] this title the court shall issue a writ of  
5241 mandate requiring the taxpayer to file a return. The order of the court shall include  
5242 an award of [~~attorneys' fees~~] attorney fees, court costs, witness fees, and all other  
5243 costs in favor of the prevailing party.

5244 (2) Nothing in this section shall limit the remedies otherwise available to the commission  
5245 under [~~Title 59, Revenue and Taxation,~~] this title or other laws of this state.

5246 Section 246. Section **59-1-1002** is amended to read:

5247 **59-1-1002 . Audit interviews.**

5248 (1) During any audit interview, the commission shall:

- 5249 (a) require reasonable scheduling of its audit interviews;
- 5250 (b) permit recording of audit interviews;
- 5251 (c) explain its audit and collection process before the first interview; and
- 5252 (d) allow a taxpayer to be represented at an interview by an attorney or other  
5253 representative with power of attorney.

5254 (2) The commission may not require a taxpayer to bring [~~his~~] an attorney or other  
5255 representative to interviews.

5256 Section 247. Section **59-1-1004** is amended to read:

5257 **59-1-1004 . Installment payments.**

5258 (1) The commission may enter into agreements with taxpayers on installment payments of  
5259 taxes, penalties, and interest. The commission may revise, accelerate, or cancel the  
5260 installment agreement if any of the following occurs:

- 5261 (a) the commission determines that the financial condition of the taxpayer has  
5262 substantially changed;
- 5263 (b) the commission determines that the taxpayer provided inaccurate information  
5264 concerning [~~his~~] the taxpayer's financial condition; or
- 5265 (c) the taxpayer fails to make timely payments pursuant to the terms of the installment  
5266 agreement.

5267 (2) The commission shall give the taxpayer reasonable notice of its intent to revise or  
5268 cancel an installment agreement entered into under this section.

5269 Section 248. Section **59-2-326** is amended to read:

5270 **59-2-326 . Assessment roll delivered to county treasurer.**

5271 Before November 1, the county auditor must deliver the corrected assessment roll to the  
 5272 county treasurer, together with a signed statement subscribed by [him] the county auditor in a  
 5273 form substantially as follows:

5274 I, \_\_\_\_ county auditor of the county of \_\_\_\_, do swear that I received the accompanying  
 5275 assessment roll of the taxable property of the county from the assessor, and that I have  
 5276 corrected it and made it conform to the requirements of the county board of equalization and  
 5277 commission, that I have reckoned the respective sums due as taxes and have added up the  
 5278 columns of valuations, taxes, and acreage as required by law.

5279 Section 249. Section **59-10-512** is amended to read:

5280 **59-10-512 . Signing of returns and other documents.**

- 5281 (1) Except as otherwise provided by Subsection (2), any return, statement, or other  
 5282 document required to be made under any provision of this chapter shall be signed in  
 5283 accordance with forms or rules prescribed by the commission.
- 5284 (2) The return of a partnership made under Section 59-10-507 shall be signed by any one of  
 5285 the partners. The fact that a partner's name is signed on the return shall be prima facie  
 5286 evidence that such partner is authorized to sign the return on behalf of the partnership.
- 5287 (3) The fact that an individual's name is signed on a return, statement, or other document  
 5288 shall be prima facie evidence for all purposes that the return, statement, or other  
 5289 document was actually signed by [him] the individual.

5290 Section 250. Section **59-12-112** is amended to read:

5291 **59-12-112 . Tax a lien when selling business -- Liability of purchaser.**

5292 The tax imposed by this chapter shall be a lien upon the property of any person who  
 5293 sells out [his] the person's business or stock of goods or quits business. Such person shall  
 5294 complete the return provided for under Section 59-12-107, within 30 days after the date [he]  
 5295 the person sold [his] the business or stock of goods, or quit business. Such person's successor  
 5296 in business shall withhold enough of the purchase money to cover the amount of taxes due  
 5297 and unpaid until the former owner produces a receipt from the commission showing that the  
 5298 taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or  
 5299 stock of goods fails to withhold such purchase money and the taxes are due and unpaid after  
 5300 the 30-day period allowed, [he] the purchaser is personally liable for the payment of the taxes  
 5301 collected and unpaid by the former owner.

5302 Section 251. Section **59-18-104** is amended to read:

5303 **59-18-104 . Duties and powers of trustee.**

5304 Except as provided in Section 59-18-106, the trustee of a private foundation trust or a

5305 split interest trust has the duties and powers conferred upon [~~him~~] the trustee by the provisions  
5306 of this chapter.

5307 Section 252. Section **59-18-105** is amended to read:

5308 **59-18-105 . Trustee's fiduciary obligations and duty not to deprive trust of tax**  
5309 **exemption, deduction, or credit.**

5310 (1) In the exercise of [~~his~~] a trustee's powers including the powers granted by this chapter, a  
5311 trustee has a duty to act with due regard to [~~his~~] the trustee's obligation as a fiduciary,  
5312 including a duty not to exercise any power in such a way as to deprive the trust of an  
5313 otherwise available tax exemption, deduction, or credit for tax purposes or deprive a  
5314 donor of a trust asset of a tax deduction or credit or operate to impose a tax upon a  
5315 donor, trust, or other person. The word "tax" includes, but is not limited to any federal,  
5316 state, or local excise, income, gift, estate, or inheritance tax.

5317 (2) A trustee of a private foundation trust, except as provided in Section 59-18-106, shall  
5318 make distributions at such time and in such manner as not to subject the trust to tax  
5319 under Section 4942.

5320 (3) A trustee of a private foundation trust or a split interest trust, to the extent that the split  
5321 interest trust is subject to the provisions of Section 4947(a)(2), in the exercise of [~~his~~] the  
5322 trustee's powers, except as provided in Subsection (4) of this section and Section  
5323 59-18-106, shall not:

5324 (a) engage in any act of self dealing (as defined in Section 4941(d));

5325 (b) retain any excess business holdings (as defined in Section 4943(c));

5326 (c) make any investments in such manner as to subject the foundation to tax under  
5327 Section 4944; and

5328 (d) make any taxable expenditures (as defined in Section 4945(d)).

5329 (4) Subsections (3)(b) and (c) do not apply to a split interest trust if:

5330 (a) all the income interest (and none of the remainder interest) of such trust is devoted  
5331 solely to one or more of the purposes described in Section 170(c)(2)(B), and all  
5332 amounts in such trust for which a deduction was allowed under Section 170,  
5333 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have aggregate fair market  
5334 value not more than 60% of the aggregate fair market value of all amounts in such  
5335 trust; or

5336 (b) a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055,  
5337 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every  
5338 remainder beneficiary but not to any income beneficiary.

5339 Section 253. Section **59-18-108** is amended to read:

5340 **59-18-108 . Court's power to relieve trustee from restrictions on powers and**  
5341 **duties.**

5342 This chapter does not affect the power of a court of competent jurisdiction for cause  
5343 shown and upon petition of the trustee, attorney general, or affected beneficiary, and upon  
5344 appropriate notice to the affected parties to relieve a trustee from any restrictions on [his] the  
5345 trustee's powers and duties that are placed upon [him] the trustee by the governing instrument  
5346 or applicable law.

5347 Section 254. Section **63B-2-117** is amended to read:

5348 **63B-2-117 . Report to Legislature.**

5349 The governor shall report the commission's proceedings to each annual general session  
5350 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
5351 remain outstanding.

5352 Section 255. Section **63B-2-217** is amended to read:

5353 **63B-2-217 . Report to Legislature.**

5354 The governor shall report the commission's proceedings to each annual general session  
5355 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
5356 remain outstanding.

5357 Section 256. Section **63B-3-117** is amended to read:

5358 **63B-3-117 . Report to Legislature.**

5359 The governor shall report the commission's proceedings to each annual general session  
5360 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
5361 remain outstanding.

5362 Section 257. Section **63B-3-217** is amended to read:

5363 **63B-3-217 . Report to Legislature.**

5364 The governor shall report the commission's proceedings to each annual general session  
5365 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
5366 remain outstanding.

5367 Section 258. Section **63B-4-117** is amended to read:

5368 **63B-4-117 . Report to Legislature.**

5369 The governor shall report the commission's proceedings to each annual general session  
5370 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
5371 remain outstanding.

5372 Section 259. Section **63B-5-117** is amended to read:

5373           **63B-5-117 . Report to Legislature.**

5374           The governor shall report the commission's proceedings to each annual general session  
5375 of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter  
5376 remain outstanding.

5377           Section 260. Section **63B-6-117** is amended to read:

5378           **63B-6-117 . Report to Legislature.**

5379           The governor shall report the commission's proceedings to each annual general session  
5380 of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter  
5381 remain outstanding.

5382           Section 261. Section **63B-6-217** is amended to read:

5383           **63B-6-217 . Report to Legislature.**

5384           The governor shall report the commission's proceedings to each annual general session  
5385 of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter  
5386 remain outstanding.

5387           Section 262. Section **63B-6-302** is amended to read:

5388           **63B-6-302 . Authorization, terms, and procedures.**

5389 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of  
5390 bond anticipation notes, including, but not limited to, flexible notes and short-term series  
5391 notes, in the form and with the terms that [~~he~~] the state treasurer determines.

5392 (2) The state treasurer may:

5393 (a) enter into whatever agreements with other persons that [~~he~~] the state treasurer  
5394 considers necessary or appropriate in connection with the issuance, sale, and resale  
5395a of

5395 the notes; and

5396 (b) resell or retire any notes purchased by the state before the stated maturity of those  
5397 notes.

5398 (3)(a) The notes and renewals of the notes shall:

5399 (i) bear the interest rate or rates as determined by the state treasurer; and

5400 (ii) mature within a period not to exceed three years.

5401 (b) The notes and renewals of notes may:

5402 (i) bear a variable interest rate; and

5403 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with  
5404 the provisions of the notes relating to redemption prior to maturity.

5405 (4) The proceeds from the sale of the notes may be used only for:

- 5406 (a) the purposes established in Section 63B-6-202;
- 5407 (b) the payment of principal of and, if not otherwise provided, interest on, bond
- 5408 anticipation notes;
- 5409 (c) the payment of costs of issuance; or
- 5410 (d) any combination of Subsections (4)(a), (b), and (c).
- 5411 (5)(a) All of the notes and any renewals of the notes shall be payable from the proceeds
- 5412 of the sale of bonds.
- 5413 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of
- 5414 which the original note was issued.
- 5415 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in
- 5416 anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
- 5417 (a) issue renewal notes for that purpose;
- 5418 (b) pay the notes from state money legally available for paying those notes; or
- 5419 (c) any combination of Subsections (6)(a) and (b).
- 5420 (7) Each note and any renewal of any note, with the interest on the note or renewal,
- 5421 constitute general obligations of the state.
- 5422 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
- 5423 (a) secured by the full faith, credit, and resources of the state in the manner provided in
- 5424 Part 2, 1997 Highway General Obligation Bond Authorization;
- 5425 (b) payable from:
- 5426 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
- 5427 (ii) money of the state on hand and legally available for that purpose; or
- 5428 (iii) any combination of Subsections (8)(b)(i) and (ii); and
- 5429 (c) payable within five years from the date of original issue.
- 5430 (9) The total amount of notes or renewals of notes issued and outstanding at any one time
- 5431 may not exceed the lesser of:
- 5432 (a) the total amount of bonds authorized to be issued but not yet issued; or
- 5433 (b) \$260,000,000.
- 5434 (10) The state treasurer shall, in ~~his~~ the state treasurer's annual report to the governor,
- 5435 include a detailed statement of all notes and bonds issued during the year and of ~~his~~ the
- 5436 state treasurer's actions in relation to them.
- 5437 Section 263. Section **63B-6-417** is amended to read:
- 5438 **63B-6-417 . Report to Legislature.**
- 5439 The governor shall report the commission's proceedings to each annual general session



5440 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
5441 remain outstanding.

5442 Section 264. Section **63B-7-117** is amended to read:

5443 **63B-7-117 . Report to Legislature.**

5444 The governor shall report the commission's proceedings to each annual general session  
5445 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
5446 remain outstanding.

5447 Section 265. Section **63B-7-217** is amended to read:

5448 **63B-7-217 . Report to Legislature.**

5449 The governor shall report the commission's proceedings to each annual general session  
5450 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
5451 remain outstanding.

5452 Section 266. Section **63B-7-302** is amended to read:

5453 **63B-7-302 . Authorization, terms, and procedures.**

5454 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of  
5455 bond anticipation notes, including, but not limited to, flexible notes and short-term series  
5456 notes, in the form and with the terms that [he] the state treasurer determines.

5457 (2) The state treasurer may:

5458 (a) enter into whatever agreements with other persons that [he] the state treasurer  
5459 considers necessary or appropriate in connection with the issuance, sale, and resale  
5460a of

5460 the notes; and

5461 (b) resell or retire any notes purchased by the state before the stated maturity of those  
5462 notes.

5463 (3)(a) The notes and renewals of the notes shall:

5464 (i) bear the interest rate or rates as determined by the state treasurer; and

5465 (ii) mature within a period not to exceed three years.

5466 (b) The notes and renewals of notes may:

5467 (i) bear a variable interest rate; and

5468 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with  
5469 the provisions of the notes relating to redemption prior to maturity.

5470 (4) The proceeds from the sale of the notes may be used only for:

5471 (a) the purposes established in Section 63B-7-202;

5472 (b) the payment of principal of and, if not otherwise provided, interest on, bond

- 5473 anticipation notes;
- 5474 (c) the payment of costs of issuance; or
- 5475 (d) any combination of Subsections (4)(a), (b), and (c).
- 5476 (5)(a) All of the notes and any renewals of the notes shall be payable from the proceeds
- 5477 of the sale of bonds.
- 5478 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of
- 5479 which the original note was issued.
- 5480 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in
- 5481 anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
- 5482 (a) issue renewal notes for that purpose;
- 5483 (b) pay the notes from state money legally available for paying those notes; or
- 5484 (c) any combination of Subsections (6)(a) and (b).
- 5485 (7) Each note and any renewal of any note, with the interest on the note or renewal,
- 5486 constitute general obligations of the state.
- 5487 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
- 5488 (a) secured by the full faith, credit, and resources of the state in the manner provided in
- 5489 Part 2, 1998 Highway General Obligation Bond Authorization;
- 5490 (b) payable from:
- 5491 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
- 5492 (ii) money of the state on hand and legally available for that purpose; or
- 5493 (iii) any combination of Subsections (8)(b)(i) and (ii); and
- 5494 (c) payable within five years from the date of original issue.
- 5495 (9)(a) As used in this Subsection (9), "total amount of bonds authorized to be issued but
- 5496 not yet issued" includes bonds authorized to be issued only if one or more conditions
- 5497 are met.
- 5498 (b) The total amount of notes or renewals of notes issued and outstanding at any one
- 5499 time may not exceed the total amount of bonds authorized to be issued but not yet
- 5500 issued.
- 5501 (10) The state treasurer shall, in [his] the state treasurer's annual report to the governor,
- 5502 include a detailed statement of all notes and bonds issued during the year and of [his] the
- 5503 state treasurer's actions in relation to them.
- 5504 Section 267. Section **63B-7-417** is amended to read:
- 5505 **63B-7-417 . Report to Legislature.**
- 5506 The governor shall report the commission's proceedings to each annual general session

5507 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
 5508 remain outstanding.

5509 Section 268. Section **63B-8-117** is amended to read:

5510 **63B-8-117 . Report to Legislature.**

5511 The governor shall report the commission's proceedings to each annual general session  
 5512 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
 5513 remain outstanding.

5514 Section 269. Section **63B-8-217** is amended to read:

5515 **63B-8-217 . Report to Legislature.**

5516 The governor shall report the commission's proceedings to each annual general session  
 5517 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter  
 5518 remain outstanding.

5519 Section 270. Section **63B-8-302** is amended to read:

5520 **63B-8-302 . Authorization, terms, and procedures.**

5521 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of  
 5522 bond anticipation notes, including flexible notes and short-term series notes, in the form  
 5523 and with the terms that [he] the state treasurer determines.

5524 (2) The state treasurer may:

5525 (a) enter into whatever agreements with other persons that [he] the state treasurer  
 5526 considers necessary or appropriate in connection with the issuance, sale, and resale  
 5527a of  
 5527 the notes; and

5528 (b) resell or retire any notes purchased by the state before the stated maturity of those  
 5529 notes.

5530 (3)(a) The notes and renewals of the notes shall:

5531 (i) bear the interest rate or rates as determined by the state treasurer; and  
 5532 (ii) mature within a period not to exceed three years.

5533 (b) The notes and renewals of notes may:

5534 (i) bear a variable interest rate; and  
 5535 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with  
 5536 the provisions of the notes relating to redemption prior to maturity.

5537 (4) The proceeds from the sale of the notes may be used only for:

5538 (a) the purposes established in Section 63B-8-202;

5539 (b) the payment of principal of and, if not otherwise provided, interest on, bond

- 5540 anticipation notes;
- 5541 (c) the payment of costs of issuance, credit enhancement, and liquidity support; or
- 5542 (d) any combination of Subsections (4)(a), (b), and (c).
- 5543 (5)(a) All of the notes and any renewals of the notes shall be payable from the proceeds
- 5544 of the sale of bonds.
- 5545 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of
- 5546 which the original note was issued.
- 5547 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in
- 5548 anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
- 5549 (a) issue renewal notes for that purpose;
- 5550 (b) pay the notes from state money legally available for paying those notes; or
- 5551 (c) any combination of Subsections (6)(a) and (b).
- 5552 (7) Each note and any renewal of any note, with the interest on the note or renewal,
- 5553 constitute general obligations of the state.
- 5554 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
- 5555 (a) secured by the full faith, credit, and resources of the state in the manner provided in
- 5556 Part 2, 1999 Highway General Obligation Bond Authorization;
- 5557 (b) payable from:
- 5558 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
- 5559 (ii) money of the state on hand and legally available for that purpose; or
- 5560 (iii) any combination of Subsections (8)(b)(i) and (ii); and
- 5561 (c) payable within five years from the date of original issue.
- 5562 (9) The total amount of notes or renewals of notes issued and outstanding at any one time
- 5563 may not exceed the total amount of bonds authorized to be issued but not yet issued.
- 5564 (10) The state treasurer shall, in [his] the state treasurer's annual report to the governor,
- 5565 include a detailed statement of all notes and bonds issued during the year and of [his] the
- 5566 state treasurer's actions in relation to them.

5567 Section 271. Section **63B-8-417** is amended to read:

5568 **63B-8-417 . Report to Legislature.**

5569 The governor shall report the commission's proceedings to each annual general session

5570 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter

5571 remain outstanding.

5572 Section 272. Section **64-13-15** is amended to read:

5573 **64-13-15 . Property of offender -- Storage and disposal.**

- 5574 (1)(a) Offenders may retain personal property at correctional facilities only as  
5575 authorized by the department. An offender's property which is retained by the  
5576 department shall be inventoried and placed in storage by the department and a receipt  
5577 for the property shall be issued to the offender. Offenders shall be required to arrange  
5578 for disposal of property retained by the department within a reasonable time under  
5579 department rules. Property retained by the department shall be returned to the  
5580 offender at discharge, or in accordance with Title 75, Utah Uniform Probate Code, in  
5581 the case of death prior to discharge.
- 5582 (b) If property is not claimed within one year of discharge, or it is not disposed of by the  
5583 offender within a reasonable time after the department's order to arrange for disposal,  
5584 it becomes property of the state and may be used for correctional purposes or donated  
5585 to a charity within the state.
- 5586 (c) If an inmate's property is not claimed within one year of [his] the inmate's death, it  
5587 becomes the property of the state in accordance with Section 75-2-105.
- 5588 (d) Funds which are contraband and in the physical custody of any prisoner, whether in  
5589 the form of currency and coin which are legal tender in any jurisdiction or negotiable  
5590 instruments drawn upon a personal or business account, shall be subject to forfeiture  
5591 following a hearing which accords with prevailing standards of due process. All such  
5592 forfeited funds shall be used by the department for purposes which promote the  
5593 general welfare of prisoners in the custody of the department. Money and negotiable  
5594 instruments taken from offenders' mail under department rule and which are not  
5595 otherwise contraband shall be placed in an account administered by the department,  
5596 to the credit of the offender who owns the money or negotiable instruments.
- 5597 (2) Upon discharge from a secure correctional facility, the department may give an inmate  
5598 transition funds in an amount established by the department with the approval of the  
5599 director of the Division of Finance. At its discretion, the department may spend the  
5600 funds directly on the purchase of necessities or transportation for the discharged inmate.
- 5601 Section 273. Section **64-13-32** is amended to read:
- 5602 **64-13-32 . Discipline of offenders -- Use of force.**
- 5603 (1) If an offender offers violence to an officer or other employee of the Department of  
5604 Corrections, or to another offender, or to any other person; attempts to damage or  
5605 damages any corrections property; attempts to escape; or resists or refuses to obey any  
5606 lawful and reasonable command; the officers and other employees of the department  
5607 may use all reasonable means, including the use of weapons, to defend themselves and

5608 department property and to enforce the observance of discipline and prevent escapes.  
5609 (2) An inmate who is housed in a secure correctional facility and is in the act of escaping  
5610 from that secure correctional facility or from the custody of a peace or correctional  
5611 officer is presumed to pose a threat of death or serious bodily injury to an officer or  
5612 others if apprehension is delayed. Notwithstanding Section 76-2-404, a peace or  
5613 correctional officer is justified in using deadly force if ~~[he]~~ the peace or correctional  
5614 officer reasonably believes deadly force is necessary to apprehend the inmate.

5615 Section 274. Section **64-13d-106** is amended to read:

5616 **64-13d-106 . Monitoring contracts.**

- 5617 (1) The executive director or ~~[his]~~ the executive director's designee shall monitor the  
5618 performance of all facilities incarcerating inmates under the jurisdiction of the  
5619 department.
- 5620 (2) The executive director or ~~[his]~~ the executive director's designee shall have unlimited  
5621 access to all facilities, records, and staff for monitoring purposes.
- 5622 (3) The executive director may appoint a monitor to inspect a facility. The monitor shall  
5623 have unlimited access to all facilities, records, and staff for monitoring purposes.
- 5624 (4) The department shall be reimbursed by the entity operating the facility for that portion  
5625 of the salary and expenses of the monitor attributable to monitoring the particular  
5626 facility.
- 5627 (5) Monitoring consists of ensuring that:
- 5628 (a) all state laws, department rules, and contractual obligations applicable to the facility  
5629 are being met; and
- 5630 (b) all operations are effective, efficient, and economical.

5631 Section 275. Section **65A-6-11** is amended to read:

5632 **65A-6-11 . Land subject to a federal mineral lease.**

- 5633 (1) With respect to any tract of land in which the state acquires or has acquired any interest  
5634 subject to an outstanding federal mineral lease or prospecting permit, the lessee or  
5635 permittee may submit a petition seeking extension of the permit or lease or any other  
5636 action as may be necessary to give to the lessee or permittee any and all rights,  
5637 privileges, and benefits which ~~[he]~~ the lessee or permittee would have had under the  
5638 permit or lease had the state not acquired its interest in the tract.
- 5639 (2) In consideration of the voluntary termination by the federal lessee or permittee of ~~[his]~~  
5640 the lease or permit as it relates to that tract, the division may issue to that lessee or  
5641 permittee a lease of the acquired tract or any portion of that tract for recovery of the

5642 same mineral substances upon terms that the lessee or permittee shall have all the rights,  
 5643 privileges, and benefits with reference to that tract which [he] the lessee or permittee  
 5644 would have had by reason of [his] the lease or permit from the United States had the  
 5645a state  
 5645 not acquired its interest in the tract.

5646 Section 276. Section **67-1-1** is amended to read:

5647 **67-1-1 . General powers and duties.**

5648 In addition to those prescribed by the constitution, the governor[~~has the following~~  
 5649 ~~powers and must perform the following duties~~]:

- 5650 (1) [He-]shall supervise the official conduct of all executive and ministerial officers[-] ;  
 5651 (2) [He-]shall see that all offices are filled and the duties thereof performed, or in default  
 5652 thereof, apply such remedy as the law allows, and, if the remedy is imperfect, acquaint  
 5653 the Legislature therewith at its next session[-] ;  
 5654 (3) [He-]shall make appointments and fill vacancies as required by law[-] ;  
 5655 (4) [He-]is the sole official organ of communication between the government of this state  
 5656 and the government of any other state and of the United States[-] ;  
 5657 (5) [~~Whenever~~] whenever any suit or legal proceeding is pending against this state, or which  
 5658 may affect the title of this state to any property, or which may result in any claim against  
 5659 the state, [he-]may direct the attorney general to appear on behalf of the state, and may  
 5660 employ such additional counsel as [he] the governor may judge expedient[-] ;  
 5661 (6) [He-]may require the attorney general or the county attorney or district attorney of any  
 5662 county to inquire into the affairs or management of any corporation doing business in  
 5663 this state[-] ;  
 5664 (7) [He-]may require the attorney general to aid any county attorney or district attorney in  
 5665 the discharge of [his] the county attorney's or district attorney's duties[-] ;  
 5666 (8) [He-]may offer rewards, not exceeding \$1,000 each, payable out of the general fund, for  
 5667 the apprehension of any convict who has escaped from the state prison, or any person  
 5668 who has committed, or is charged with the commission of, a felony[-] ;  
 5669 (9) [~~He must-~~] shall perform such duties respecting fugitives from justice as are prescribed  
 5670 by law[-] ;  
 5671 (10) [~~He must-~~] shall issue and transmit election proclamations as prescribed by law[-] ;  
 5672 (11) [~~He must-~~] shall issue land warrants and patents as prescribed by law[-] ;  
 5673 (12) [~~He must-~~] shall, prior to each regular meeting of the Legislature, deliver to the Division  
 5674 of Archives for publication all biennial reports of officers, commissions, and boards for

- 5675 the two preceding years[-] ;
- 5676 (13) [~~He may~~] shall require any officer, commission, or board to make special reports to [~~him~~] the governor in writing[-] ;
- 5677
- 5678 (14) [~~He must~~] shall discharge the duties of a member of all boards of which [~~he~~] the
- 5679 governor is or may be made a member by the constitution or by law[-] ;
- 5680 (15) [~~He~~] shall each year issue a proclamation recommending the observance of Arbor day,
- 5681 by the planting of trees, shrubs, and vines, in the promotion of forest growth and culture,
- 5682 and in the adornment of public and private grounds, places and ways, and in such other
- 5683 efforts and undertakings as shall be in harmony with the general character of such
- 5684 holiday[-] ; and
- 5685 (16) [~~He~~] has such other powers and must perform such other duties as are devolved upon [~~him~~] the governor by law.
- 5686

5687 Section 277. Section **67-5-5** is amended to read:

5688 **67-5-5 . Hiring of legal counsel for agencies -- Costs.**

5689 Except where specifically authorized by the Utah Constitution, or statutes, no agency

5690 shall hire legal counsel, and the attorney general alone shall have the sole right to hire legal

5691 counsel for each such agency. Where the Legislature has provided by statute for separate

5692 agency counsel, no such counsel may act as an assistant attorney general nor as a special

5693 assistant attorney general unless the attorney general shall so authorize. Unless [~~he~~] the

5694 attorney general hires such legal counsel from outside [~~his~~] the attorney general's office, the

5695 attorney general shall remain the sole legal counsel for that agency. If outside counsel is hired

5696 for an agency, then the costs of any services to be rendered by this counsel shall be approved

5697 by the attorney general before these costs are incurred. The attorney general shall approve all

5698 billing statements from outside counsel and shall pay the full costs of this counsel unless the

5699 agency by legislative appropriation or in the form of costs, fees, fines, penalties, forfeitures or

5700 proceeds reserved or designated for the payment of legal fees receives from any other source

5701 the equivalent cost or a portion thereof, in which case the attorney general may bill the agency

5702 for the services; provided, the agency may deduct any unreimbursed costs and expenses

5703 incurred by the agency in connection with the legal service rendered.

5704 Section 278. Section **67-9-1** is amended to read:

5705 **67-9-1 . Appointment -- Powers.**

5706 The state auditor, the state treasurer, the attorney general, and the superintendent of

5707 public instruction may each appoint a deputy, who may, during the absence or disability of the

5708 principal, perform all the duties pertaining to the office, except those required of the principal



5709 as a member of any board. The principal shall be answerable for neglect or misconduct in  
5710 office of [his] the deputy, and may require from [him] the deputy a bond for [his own] security.  
5711 The appointment of a deputy shall be in writing, and shall be revocable at the pleasure of the  
5712 principal; and all such appointments and revocations shall be filed with the lieutenant governor.

5713 Section 279. Section **67-16-2** is amended to read:

5714 **67-16-2 . Purpose of chapter.**

5715 The purpose of this chapter is to set forth standards of conduct for officers and  
5716 employees of the state of Utah and its political subdivisions in areas where there are actual or  
5717 potential conflicts of interest between their public duties and their private interests. In this  
5718 manner the Legislature intends to promote the public interest and strengthen the faith and  
5719 confidence of the people of Utah in the integrity of their government. It does not intend to  
5720 deny any public officer or employee the opportunities available to all other citizens of the state  
5721 to acquire private economic or other interests so long as this does not interfere with [his] the  
5722 full and faithful discharge of [his] a public officer's or employee's public duties.

5723 Section 280. Section **70C-2-207** is amended to read:

5724 **70C-2-207 . Referral sales.**

5725 With respect to a consumer credit sale, the seller may not give or offer to give a rebate or  
5726 discount or otherwise pay or offer to pay value to the buyer as an inducement for a sale in  
5727 consideration of [his] the buyer giving to the seller the names of prospective purchasers or  
5728 otherwise aiding the seller in making a sale to another person, if the earning of the rebate,  
5729 discount, or other value is contingent upon the occurrence of an event subsequent to the time  
5730 the buyer agrees to buy. If a buyer is induced by a violation of this section to enter into a  
5731 consumer credit sale, the agreement is unenforceable by the seller and the buyer may rescind  
5732 the agreement and retain any goods delivered until all payments made by the debtor have been  
5733 fully refunded to [him] the buyer. The buyer may retain the benefit of any services performed  
5734 without any obligation to pay for them. This section does not apply if any goods delivered to  
5735 the buyer are damaged while in the buyer's possession or are not delivered to the seller at the  
5736 buyer's residence, or at any other place agreed on by the parties, within a reasonable time after  
5737 the seller tenders or delivers a full refund of all payments to the buyer.

5738 Section 281. Section **70C-5-101** is amended to read:

5739 **70C-5-101 . Definition -- Home solicitation sale.**

5740 As used in this chapter, "home solicitation sale" means a consumer credit sale of goods  
5741 or services in which the seller or a person acting for [him] the seller engages in a face-to-face  
5742 solicitation of the sale at a residence or place of employment of the buyer and the buyer's

5743 agreement or offer to purchase is there given to the seller or a person acting for [him] the seller.  
5744 It does not include a sale made pursuant to preexisting open-end accounts, or a sale made  
5745 between the parties at a business establishment at a fixed location where goods or services are  
5746 offered or exhibited for sale.

5747 Section 282. Section **70C-5-103** is amended to read:

5748 **70C-5-103 . Form of agreement or offer -- Statement of buyer's rights.**

5749 (1) In a home solicitation sale, unless the buyer requests the seller to provide goods or  
5750 services without delay in an emergency, the seller shall present to the buyer and obtain [  
5751 his] the buyer's signature to a written agreement or offer to purchase which designates as  
5752 the date of the transaction the date on which the buyer actually signs and contains a  
5753 statement of the buyer's rights which complies with Subsection (2).

5754 (2) The statement shall:

5755 (a) appear under the conspicuous caption: "BUYER'S RIGHT TO CANCEL"; and

5756 (b) read as follows:

5757 "If this agreement was solicited at your residence or place of employment and you do  
5758 not want the goods or services, you may cancel this agreement by mailing a notice to the  
5759 seller. The notice must say that you do not want the goods or services and must be mailed  
5760 before midnight on the third business day after you sign this agreement. The notice must be  
5761 mailed to: \_\_\_\_\_ (insert name and mailing address of seller)."

5762 (3) Compliance with any notice of cancellation or similar requirement of any rule of the  
5763 Federal Trade Commission which by its terms applies to a home solicitation sale  
5764 covered by this title is deemed compliance with Subsection (2)(b) if compliance is  
5765 totally consistent with this title.

5766 (4) Until the seller has complied with this section the buyer may cancel the home  
5767 solicitation sale by notifying the seller in any manner and by any means of [his] the  
5768 buyer's intention to cancel.

5769 Section 283. Section **70C-5-104** is amended to read:

5770 **70C-5-104 . Restoration of down payment.**

5771 (1) Within 10 days after a home solicitation sale has been canceled or an offer to purchase  
5772 revoked the seller shall tender to the buyer any payments made by the buyer and any  
5773 note or other evidence of indebtedness.

5774 (2) If the down payment includes goods traded in, the goods shall be tendered in  
5775 substantially as good condition as when received by the seller. If the seller fails to tender  
5776 the goods as provided by this section, the buyer may recover an amount equal to the

5777 trade-in allowance stated in the agreement.

5778 (3) A provision permitting the seller to keep all or any part of any payment, note, or  
5779 evidence of indebtedness is in violation of this section and unenforceable.

5780 (4) Until the seller has complied with the obligations imposed by this section, the buyer  
5781 may retain possession of goods delivered to ~~[him]~~ the buyer by the seller and has a lien  
5782 on the goods in ~~[his]~~ the buyer's possession or control for any recovery to which ~~[he]~~ the  
5783 buyer is entitled.

5784 Section 284. Section **70C-5-105** is amended to read:

5785 **70C-5-105 . Duty of buyer -- No compensation for services prior to cancellation.**

5786 (1) Except as provided by the provisions on retention of goods by the buyer under  
5787 Subsection 70C-5-104(4), within a reasonable time after a home solicitation sale has  
5788 been canceled or an offer to purchase revoked, the buyer upon demand shall tender to  
5789 the seller any goods delivered by the seller pursuant to the sale, but ~~[he]~~ the buyer is not  
5790 obligated to tender at any place other than ~~[his]~~ the buyer's residence or place of  
5791 employment. If the seller fails to demand possession of goods within a reasonable  
5792 period of time after cancellation or revocation, the goods become the property of the  
5793 buyer without obligation to pay for them. For the purpose of this section, 40 days is a  
5794 reasonable period of time.

5795 (2) The buyer has a duty to take reasonable care of the goods in ~~[his]~~ the buyer's possession  
5796 before cancellation or revocation and for a reasonable time thereafter, during which time  
5797 the goods are otherwise at the seller's risk.

5798 (3) If the seller has performed any services pursuant to a home solicitation sale prior to its  
5799 cancellation, the seller is entitled to no compensation.

5800 Section 285. Section **70C-6-104** is amended to read:

5801 **70C-6-104 . Conditions applying to insurance to be provided by creditor.**

5802 If a creditor agrees with a debtor to provide insurance:

5803 (1) the insurance shall be evidenced by an individual policy or certificate of insurance  
5804 delivered to the debtor, or sent to ~~[him]~~ the debtor at ~~[his]~~ the debtor's address as stated by [  
5805 ~~him]~~ the debtor, within 30 days after the term of the insurance commences under the  
5806 agreement between the creditor and debtor; or

5807 (2) the creditor shall promptly notify the debtor of any failure or delay in providing the  
5808 insurance.

5809 Section 286. Section **70C-6-106** is amended to read:

5810 **70C-6-106 . Refund or credit required -- Amount.**

- 5811 (1) A debtor or [his] a debtor's estate is entitled to any rebate or refund due from an insurer  
 5812 and to any unearned part of a separate charge for insurance previously paid by the  
 5813 debtor, resulting from the prepayment of a consumer credit debt, except when all  
 5814 refunds and credits due to the debtor under this title amount to less than \$5.
- 5815 (2) A creditor shall promptly make or cause to be made an appropriate refund or credit to  
 5816 the debtor with respect to any separate charge made to [him] the debtor for insurance if:  
 5817 (a) the insurance is not provided or is provided for a shorter term than that for which the  
 5818 charge to a debtor for insurance was computed; or  
 5819 (b) the insurance terminates prior to the end of the term for which it was written because  
 5820 of prepayment in full or otherwise.
- 5821 (3) All refunds or credit required by this section shall be computed according to a method  
 5822 prescribed or approved by the Insurance Department or formula filed by the insurer with  
 5823 the Insurance Department at least 30 days before any debtor's right to a refund or credit  
 5824 becomes determinable, unless the method or formula is employed after the Insurance  
 5825 Department notifies the insurer that the method or formula has been disapproved.
- 5826 (4) Except as provided in Subsection (1), a creditor is not obligated to account to a debtor  
 5827 for any portion of a separate charge for insurance when:  
 5828 (a) the insurance is terminated by performance of the insurer's obligation;  
 5829 (b) the creditor pays or accounts for premiums to the insurer in amounts and at times  
 5830 determined by the agreement between them; or  
 5831 (c) the creditor receives directly or indirectly under any policy of insurance a gain or  
 5832 advantage not prohibited by law.

5833 Section 287. Section **70C-6-304** is amended to read:

5834 **70C-6-304 . Cancellation by creditor.**

5835 A creditor may not request cancellation of a policy of property or liability insurance  
 5836 except after the debtor's default or in accordance with a written authorization by the debtor,  
 5837 and in either case the cancellation does not take effect until written notice is delivered to the  
 5838 debtor or mailed to [him] the debtor at [his] the debtor's address as stated by [him] the debtor.  
 5839 The notice shall state that the policy may be cancelled on a date not less than 10 days after the  
 5840 notice is delivered, or, if the notice is mailed, not less than 13 days after it is mailed.

5841 Section 288. Section **70C-7-104** is amended to read:

5842 **70C-7-104 . No discharge from employment for garnishment.**

5843 No employer may discharge any employee because [his] the employee's earnings have  
 5844 been subject to garnishment in connection with any one judgment.

5845 Section 289. Section **70C-7-201** is amended to read:

5846 **70C-7-201 . Effect of violations by creditors -- Penalties -- Debtor's rights.**

5847 (1) A debtor is not obligated to pay a charge in excess of that allowed by this title, and if [he]  
5848 the debtor has paid an excess charge[~~he~~] , the debtor has a right to a refund. A refund  
5849 may be made in whole or in part by reducing the debtor's obligation by the amount of  
5850 the excess charge. If the debtor has paid an amount in excess of the lawful obligation  
5851 under the agreement, the debtor may recover the excess amount from the party who  
5852 made the excess charge or from an assignee of the creditor's rights who undertakes direct  
5853 collection of payments from or enforcement of rights against the debtor with respect to  
5854 the debt.

5855 (2) If a debtor is entitled to a refund and a party liable to the debtor in bad faith refuses to  
5856 make a refund within a reasonable time after demand, the debtor may recover from that  
5857 party a penalty in an amount to be determined by a court not exceeding the greater of  
5858 either the amount of the finance charge or 10 times the amount of the excess charge. If  
5859 the creditor has made an excess charge in deliberate violation of or in reckless disregard  
5860 for this title, the penalty may be recovered even though the creditor has refunded the  
5861 excess charge.

5862 Section 290. Section **72-2-104** is amended to read:

5863 **72-2-104 . Budget.**

5864 (1) The department shall prepare and submit to the governor, to be included in [his] the  
5865 governor's budget to be submitted to the Legislature, a budget of the requirements for  
5866 the operation of the department for the fiscal year following the convening of the  
5867 Legislature.

5868 (2) This budget shall be so separated, in relation to the various functions of the department,  
5869 so as to allow the separate determination of funds for deposit into the Transportation  
5870 Fund and into any other special funds which are required by law to be utilized for  
5871 specific purposes and which are separately maintained by the department for those  
5872 purposes.

5873 Section 291. Section **72-5-107** is amended to read:

5874 **72-5-107 . United States patents -- Patentee and county to assert claims to roads**  
5875 **crossing land.**

5876 (1)(a) If any person acquires title from the United States to any land in this state over  
5877 which any public highway extends that has not been duly platted, and that has not  
5878 been continuously used as a public highway for a period of 10 years, the person shall

5879 within three months after receipt of the person's patent assert the person's claim for  
 5880 damages in writing to the county executive of the county in which the land is situated.

5881 (b) The county legislative body shall have an additional period of three months in which  
 5882 to begin proceedings to condemn the land according to law.

5883 (2)(a) The highway shall continue open as a public highway during the periods  
 5884 described under Subsection (1).

5885 (b) If no action is begun by the county executive within the period described under  
 5886 Subsection (1)(b), the highway shall be considered to be abandoned by the public.

5887 (3) In case of a failure by the person so acquiring title to public lands to assert [his] the  
 5888 person's claim for damage during the three months from the time the person received a  
 5889 patent to the lands, the person shall thereafter be barred from asserting or recovering any  
 5890 damages by reason of the public highway, and the public highway shall remain open.

5891 Section 292. Section **72-9-303** is amended to read:

5892 **72-9-303 . Cease and desist orders -- Registration sanctions.**

5893 (1) The department may issue cease and desist orders to any person:

5894 (a) who engages in or represents himself or herself to be engaged in a motor carrier  
 5895 operation that is in violation of this chapter;

5896 (b) to prevent the violation of any of the provisions of this title; and

5897 (c) who otherwise violates this chapter or any rules adopted under this chapter.

5898 (2)(a) The department shall notify the Motor Vehicle Division of the State Tax  
 5899 Commission upon having reasonable grounds to believe that a motor carrier is in  
 5900 violation of this chapter. Upon receiving notice by the department, the Motor  
 5901 Vehicle Division shall refuse registration or shall suspend or revoke a registration as  
 5902 provided in Sections 41-1a-109 and 41-1a-110.

5903 (b) The department shall notify the Motor Vehicle Division immediately upon being  
 5904 satisfied that a motor carrier, reported as being in violation under Subsection (2)(a), is  
 5905 in compliance with this chapter. Upon receiving notice by the department, the Motor  
 5906 Vehicle Division shall remove any restriction made on a registration under this  
 5907 chapter.

5908 Section 293. Section **72-9-703** is amended to read:

5909 **72-9-703 . Civil penalties for violations -- Compromise.**

5910 (1) In addition to any other penalties, a motor carrier that fails or neglects to comply with  
 5911 any provision of the Constitution of this state, statute, or any rule or order of the  
 5912 department is subject to a civil penalty of not less than \$500 nor more than \$2,000 for

5913 each offense.

5914 (2) Every violation of any provision of the constitution of this state, statute, or any rule or  
5915 order of the department, is a separate and distinct offense. Each day's continuance of the  
5916 violation is a separate and distinct offense.

5917 (3)(a) The civil penalty may be compromised by the department and a determination of  
5918 compromise is appealable by the person alleged to have committed the violation. In  
5919 determining the amount of the penalty or the amount agreed upon in compromise, the  
5920 department shall consider the:

5921 (i) gravity of the violation; and

5922 (ii) good faith of the person charged in attempting to achieve compliance after  
5923 notification of the violation.

5924 (b) The amount of the penalty when finally determined or the amount agreed upon in  
5925 compromise may be deducted from any sums owing by the state to the person  
5926 charged or may be recovered in a civil action in the courts of this state.

5927 (4) In construing and enforcing the provisions of this chapter relating to penalties, the act,  
5928 omission, or failure of any officer, agent, or employee of any motor carrier, acting  
5929 within the scope of [~~his~~] the officer's, agent's, or employee's official duties or  
5930 employment, is deemed to be the act, omission, or failure of the motor carrier.

5931 Section 294. Section **73-2-10** is amended to read:

5932 **73-2-10 . Knowledge of waterways and irrigation -- Suggestions as to amendment**  
5933 **or enactment of laws.**

5934 The state engineer shall become conversant with the waterways of the state and its needs  
5935 as to irrigation matters; and [~~he~~] the state engineer shall make such suggestions as to the  
5936 amendment of existing laws or the enactment of new laws as [~~his~~] the state engineer's  
5937 information and experience shall suggest.

5938 Section 295. Section **73-2-12** is amended to read:

5939 **73-2-12 . Seal.**

5940 The state engineer shall have a seal which [~~he~~] the state engineer shall affix to all  
5941 certificates issued from [~~his~~] the state engineer's office, and [~~he~~] the state engineer shall file a  
5942 description and an impression of the same with the Division of Archives.

5943 Section 296. Section **73-2-13** is amended to read:

5944 **73-2-13 . Attorney general and county attorneys to counsel.**

5945 In all matters requiring legal advice in the performance of [~~his~~] the state engineer's duties  
5946 and the prosecution or defense of any action growing out of the performance of [~~his~~] the state

5947 engineer's duties, the attorney general or county attorney of the county in which any legal  
 5948 question arises, shall be the legal advisers of the state engineer, and [~~they~~]are hereby required  
 5949 to perform any and all legal services required [~~of them~~]by [~~him~~] the state engineer without  
 5950 other compensation than their salaries.

5951 Section 297. Section **73-2-23.1** is amended to read:

5952 **73-2-23.1 . Assistance of state engineer in management of flood waters.**

5953 In addition to [~~his~~] the state engineer's other flood management authority under Sections  
 5954 73-2-22 and 73-2-23, the state engineer may assist in the management of flood waters pursuant  
 5955 to court judgments and decrees.

5956 Section 298. Section **73-3-5.5** is amended to read:

5957 **73-3-5.5 . Temporary applications to appropriate water -- Approval by engineer**  
 5958 **-- Expiration -- Proof of appropriation not required.**

5959 (1) The state engineer may issue temporary applications to appropriate water for beneficial  
 5960 purposes.

5961 (2) The provisions of this chapter governing regular applications to appropriate water shall  
 5962 apply to temporary applications with the following exceptions:

5963 (a)(i) The state engineer shall undertake a thorough investigation of the proposed  
 5964 appropriation, and if the temporary application complies with the provisions of  
 5965 Section 73-3-8, may make an order approving the application.

5966 (ii) If the state engineer finds that the appropriation sought might impair other rights,  
 5967 before approving the application, the state engineer shall give notice of the  
 5968 application to all persons whose rights may be affected by the temporary  
 5969 appropriations.

5970 (b) The state engineer may issue a temporary application for a period of time not  
 5971 exceeding one year.

5972 (c)(i) The state engineer, in the approval of a temporary application, may make  
 5973 approval subject to whatever conditions and provisions [~~he~~] the state engineer  
 5974 considers necessary to fully protect prior existing rights.

5975 (ii) If the state engineer determines that it is necessary to have a water commissioner  
 5976 distribute the water under a temporary application for the protection of other  
 5977 vested rights, the state engineer may assess the distribution costs against the  
 5978 holder of the temporary application.

5979 (d)(i) A temporary application does not vest in its holder a permanent vested right to  
 5980 the use of water.



- 5981 (ii) A temporary application automatically expires and is cancelled according to its  
5982 terms.
- 5983 (e) Proof of appropriation otherwise required under this chapter is not required for  
5984 temporary applications.
- 5985 Section 299. Section **73-3a-108** is amended to read:
- 5986 **73-3a-108 . Approval of applications -- Criteria.**
- 5987 (1) The state engineer shall:
- 5988 (a) undertake an investigation of any application made under this chapter; and
- 5989 (b) approve the application, if [he] the state engineer finds that:
- 5990 (i) the proposed appropriation or change:
- 5991 (A) satisfies Section 73-3-3, 73-3-5.5, or 73-3-8, whichever is applicable;
- 5992 (B) is consistent with Utah's reasonable water conservation policies or objectives;
- 5993 (C) is not contrary to the public welfare; and
- 5994 (D) does not impair the ability of the state of Utah to comply with its obligation  
5995 under any interstate compact or judicial decree which apportions water among  
5996 Utah and other states; and
- 5997 (ii) the water can be transported, measured, delivered, and beneficially used in the  
5998 recipient state.
- 5999 (2) In reviewing the criteria of Subsections (1)(b)(i)(B) and (1)(b)(i)(C), the state engineer  
6000 shall consider the following factors:
- 6001 (a) the supply and quality of water available to the state of Utah;
- 6002 (b) the current and reasonably anticipated water demands of the state of Utah;
- 6003 (c) whether there are current or reasonably anticipated water shortages within Utah;
- 6004 (d) whether the water that is the subject of the application could feasibly be used to  
6005 alleviate current or reasonably anticipated water shortages within Utah;
- 6006 (e) the alternative supply and sources of water available to the applicant in the state  
6007 where the applicant intends to use the water; and
- 6008 (f) the demands placed on the applicant's alternate water supply in the state where the  
6009 applicant intends to use the water.
- 6010 (3) If any application fails to meet any criteria of Subsection (1), it shall be rejected.
- 6011 (4) The state engineer may condition any approval to ensure that the use of the water in  
6012 another state:
- 6013 (a) is subject to the same laws, rules, and controls that may be imposed upon water use  
6014 within the state of Utah; or

6015 (b) is consistent with the terms and conditions of any applicable interstate compact to  
6016 which the state of Utah is a party.

6017 Section 300. Section **73-3b-303** is amended to read:

6018 **73-3b-303 . Modification of recharge or recovery permits.**

6019 (1) The state engineer, on [~~his~~] the state engineer's own initiative or at the request of any  
6020 person holding a recharge or recovery permit, may modify the conditions of the  
6021 respective permit, if [~~he~~] the state engineer finds that modifications are necessary and  
6022 will not impair existing water rights or the water quality of the aquifer.

6023 (2) Before any permit condition is modified, the state engineer may require notice to  
6024 potentially impaired water users if [~~he~~] the state engineer finds that the modification  
6025 under consideration may impair existing water rights.

6026 Section 301. Section **73-5a-203** is amended to read:

6027 **73-5a-203 . Review of plans.**

6028 (1) The state engineer shall establish a formal written procedure for the review of plans  
6029 submitted pursuant to Section 73-5a-202. Plans shall be reviewed according to:

6030 (a) design criteria which the state engineer shall specify in rules; and

6031 (b) data or criteria generally accepted by the general dam design community.

6032 (2) Upon review of the plans, the state engineer will:

6033 (a) approve them with appropriate conditions;

6034 (b) reject them; or

6035 (c) return them for correction.

6036 (3) The state engineer shall document each review indicating:

6037 (a) how the plans were reviewed; and

6038 (b) [~~his~~] the state engineer's evaluation of the plans.

6039 Section 302. Section **73-5a-301** is amended to read:

6040 **73-5a-301 . Inspections to insure compliance with plans -- Duties and costs of**  
6041 **owners -- Weekly reports.**

6042 (1) During construction, enlargement, repair, alteration, or removal of any dam:

6043 (a) the state engineer, [~~his~~] the state engineer's staff, or an independent consultant shall  
6044 make periodic inspections of the work for the purpose of ascertaining compliance  
6045 with the approved plans and specifications; and

6046 (b) the owner of the dam shall:

6047 (i) conduct tests that the state engineer determines are necessary;

6048 (ii) provide adequate supervision of the work by an engineer licensed by the state

- 6049                   who has experience in dam design and construction; and
- 6050                   (iii) disclose information sufficient to enable the state engineer to determine that the
- 6051                   work is being done in conformance with the approved plans and specifications.
- 6052 (2) Costs of any work or tests required by the state engineer shall be paid by the owner of
- 6053                   the dam.
- 6054 (3) The engineer who is supervising the work pursuant to Subsection (1)(b)(ii) is required
- 6055                   to submit a report weekly to the state engineer. Each report shall show the work
- 6056                   accomplished during the previous week and summarize the results of any material
- 6057                   testing.

6058                   Section 303. Section **73-5a-302** is amended to read:

6059                   **73-5a-302 . Failure to conform to plans.**

- 6060 (1) If at any time during construction, enlargement, repair, alteration, or removal of any
- 6061                   dam the state engineer finds that the work is not being done in accordance with the
- 6062                   approved plans and specifications, [~~he~~] the state engineer shall:
- 6063                   (a) notify the owner of the failure to comply;
- 6064                   (b) order the owner to effect compliance with the plans and specifications; or
- 6065                   (c) approve the modification to the approved plans and specifications.
- 6066 (2) The state engineer may order that no further work be done until compliance has been
- 6067                   effected and approved by [~~him~~] the state engineer.
- 6068 (3) A failure to comply with the approved plans and specifications shall render the approval
- 6069                   subject to revocation by the state engineer. If compliance is not effected in a reasonable
- 6070                   time, the state engineer may order the incomplete structure removed in order to
- 6071                   eliminate any safety hazard to life or property.

6072                   Section 304. Section **73-5a-303** is amended to read:

6073                   **73-5a-303 . Circumstances under which the plan must be modified or the**

6074 **approval revoked.**

- 6075 (1) If at any time during construction, enlargement, repair, alteration, or removal of a dam
- 6076                   the state engineer finds that the conditions encountered differ appreciably from those
- 6077                   assumed in the plan, [~~he~~] the state engineer may require the plans to be modified.
- 6078 (2) If conditions are revealed which will not permit the construction of a safe dam, the state
- 6079                   engineer shall revoke the approval.

6080                   Section 305. Section **73-5a-402** is amended to read:

6081                   **73-5a-402 . Standard operating plans required.**

6082                   The owner of each dam shall prepare a standard operating plan for the dam. In the case

6083 of a dam in operation prior to May 1, 1991, the standard operating plan shall be submitted to  
6084 the state engineer for [his] the state engineer's approval by May 1, 1994. In the case of any  
6085 dam beginning operations on or after May 1, 1991, the standard operating plan shall be  
6086 submitted to the state engineer for [his] the state engineer's approval prior to the final  
6087 inspection.

6088 Section 306. Section **73-5a-601** is amended to read:

6089 **73-5a-601 . Emergency action plans required.**

- 6090 (1) The owner of any dam which, in the state engineer's opinion, may pose a threat to life or  
6091 cause significant damage to property if it fails shall prepare a plan of action to be  
6092 implemented when an emergency involving the dam occurs.
- 6093 (2) In the case of a dam in operation prior to May 1, 1991, the emergency action plan shall  
6094 be submitted to the state engineer for [his] the state engineer's approval by May 1, 1994.
- 6095 (3) In the case of a dam beginning operations on or after May 1, 1991, the emergency  
6096 action plan shall be submitted to the state engineer prior to the date of the final  
6097 inspection.

6098 Section 307. Section **73-18-7.1** is amended to read:

6099 **73-18-7.1 . Fraudulent application for registration or certificate of title.**

6100 A person is guilty of a third degree felony if [he] the person:

- 6101 (1) fraudulently uses a false or fictitious name in any application for a registration or  
6102 certificate of title for a motorboat, sailboat, or outboard motor; or
- 6103 (2) in making an application specified in Subsection (1)[,he]:
- 6104 (a) knowingly makes a false statement;
- 6105 (b) knowingly conceals a material fact; or
- 6106 (c) otherwise commits a fraud.

6107 Section 308. Section **73-18-10** is amended to read:

6108 **73-18-10 . Owner of boat livery -- Duties.**

- 6109 (1) The owner of a boat livery shall keep a record of the following: the name and address of  
6110 the person hiring any vessel; the identification number of the vessel; the vessel's  
6111 departure date and time; and the vessel's expected time of return. The record shall be  
6112 preserved for at least one year.
- 6113 (2) Neither the owner of a boat livery nor [his] the owner's agent or employee may permit  
6114 any vessel to depart from the premises of the boat livery unless the owner has equipped  
6115 it as required under this chapter and unless [he] the owner has advised the lessee or renter  
6116 of the vessel of all rules promulgated under this chapter which the lessee or renter must

6117 obey.

6118 Section 309. Section **73-18-20.3** is amended to read:

6119 **73-18-20.3 . Falsified hull identification, engine, or motor number.**

6120 (1) A person is guilty of a third degree felony if [~~he~~] the person:

6121 (a) with fraudulent intent defaces, destroys, or alters a vessel hull identification number  
6122 or serial number for an engine or outboard motor;

6123 (b) places or stamps any vessel hull identification number upon a vessel or serial number  
6124 upon an engine or outboard motor, except one assigned by the division or its  
6125 authorized agent;

6126 (c) knowingly buys, receives, disposes of, sells, offers for sale, or [~~has in his possession~~]  
6127 possesses any vessel, or engine or outboard motor removed from a vessel, from  
6128 which the vessel hull identification number or engine or outboard motor serial  
6129 number, has been removed, defaced, covered, altered, or destroyed for the purpose of  
6130 concealing or misrepresenting the identity of the vessel, engine, or outboard motor;

6131 (d) with intent to procure or pass title to a vessel or outboard motor, receives or transfers  
6132 possession of a vessel or outboard motor which he knows or has reason to believe has  
6133 been stolen or unlawfully taken; or

6134 (e) [~~has in his possession~~] possesses a vessel or outboard motor which [~~he~~] the person  
6135 knows or has reason to believe has been stolen or unlawfully taken, unless the  
6136a person

6136 is a peace officer engaged at the time in the performance of [~~his duty~~] peace officer  
6137 duties.

6138 (2)(a) This section does not prohibit the restoration by an owner of an original vessel  
6139 hull identification number or manufacturer's serial number for an engine or outboard  
6140 motor if the restoration is made by application to the division or its authorized agent.

6141 (b) This section does not prohibit any manufacturer from placing, in the ordinary course  
6142 of business, numbers or marks upon vessels, motors, outboard motors, or parts.

6143 Section 310. Section **73-18-20.5** is amended to read:

6144 **73-18-20.5 . Reporting of theft and recovery of vessels.**

6145 (1)(a) Any peace officer upon receiving reliable information that any vessel or outboard  
6146 motor has been stolen shall immediately report the theft to the Criminal  
6147 Investigations and Technical Services Division of the Department of Public Safety,  
6148 established in Section 53-10-103.

6149 (b) Any peace officer upon receiving information that any vessel or outboard motor

6150 which was previously reported as stolen has been recovered shall immediately report  
6151 the recovery to [~~his~~] the peace officer's law enforcement agency and to the Criminal  
6152 Investigations and Technical Services Division.

6153 (2) The reporting and recovery procedures for vessels and outboard motors shall be the  
6154 same as those specified in Section 41-1a-1401 for motor vehicles.

6155 Section 311. Section **73-18-20.7** is amended to read:

6156 **73-18-20.7 . Unlawful control over vessels -- Penalties -- Effect of prior consent --**  
6157 **Accessory or accomplice.**

6158 (1) Any person who exercises unauthorized control over a vessel[~~, not his own,~~] that the  
6159 person does not own without the consent of the owner or lawful custodian and with  
6160 intent to temporarily deprive the owner or lawful custodian of possession of the vessel,  
6161 is guilty of a class A misdemeanor.

6162 (2) An offense under this section is a third degree felony if the actor does not return the  
6163 vessel to the owner or lawful custodian within 24 hours after the exercise of  
6164 unauthorized control.

6165 (3) The consent of the owner or legal custodian of a vessel to its control by the actor is not  
6166 in any case presumed or implied because of the owner's or legal custodian's consent on a  
6167 previous occasion to the control of the vessel by the same or a different person.

6168 (4) Any person who assists in, or is a party or accessory to or an accomplice in, an  
6169 unauthorized taking or operating of a vessel is guilty of a class A misdemeanor.

6170 Section 312. Section **76-1-304** is amended to read:

6171 **76-1-304 . Defendant out of state -- Plea held invalid -- New prosecutions.**

6172 (1) The period of limitation does not run against any defendant during any period of time in  
6173 which the defendant is out of the state following the commission of an offense.

6174 (2) If the defendant has entered into a plea agreement with the prosecution and later  
6175 successfully moves to invalidate [~~his~~] the defendant's conviction, the period of limitation  
6176 is suspended from the time of the entry of the plea pursuant to the plea agreement until  
6177 the time at which the conviction is determined to be invalid, and that determination  
6178 becomes final.

6179 (3) For purposes of this section, "final" means:

6180 (a) all appeals have been exhausted;

6181 (b) no judicial review is pending; and

6182 (c) no application for judicial review is pending.

6183 (4) When the period of limitation is suspended pursuant to Subsection (2), the suspension

6184 includes any charges to which the defendant pleaded guilty pursuant to a plea  
6185 agreement, charges which were dismissed as a result of a plea agreement, as well as any  
6186 known charges which were not barred at the time of entry of the plea.

6187 (5) Notwithstanding any other limitation, a prosecution may be commenced for charges  
6188 described in Subsection (4) within one year after a plea entered pursuant to a plea  
6189 agreement has been determined to be invalid, and that determination becomes final.

6190 Section 313. Section **76-1-402** is amended to read:

6191 **76-1-402 . Separate offenses arising out of single criminal episode -- Included**  
6192 **offenses.**

6193 (1) A defendant may be prosecuted in a single criminal action for all separate offenses  
6194 arising out of a single criminal episode; however, when the same act of a defendant  
6195 under a single criminal episode shall establish offenses which may be punished in  
6196 different ways under different provisions of this code, the act shall be punishable under  
6197 only one such provision; an acquittal or conviction and sentence under any such  
6198 provision bars a prosecution under any other such provision.

6199 (2) Whenever conduct may establish separate offenses under a single criminal episode,  
6200 unless the court otherwise orders to promote justice, a defendant shall not be subject to  
6201 separate trials for multiple offenses when:

6202 (a) [~~The~~] the offenses are within the jurisdiction of a single court; and

6203 (b) [~~The~~] the offenses are known to the prosecuting attorney at the time the defendant is  
6204 arraigned on the first information or indictment.

6205 (3) A defendant may be convicted of an offense included in the offense charged but may  
6206 not be convicted of both the offense charged and the included offense. An offense is so  
6207 included when:

6208 (a) [~~It~~] it is established by proof of the same or less than all the facts required to establish  
6209 the commission of the offense charged; or

6210 (b) [~~It~~] it constitutes an attempt, solicitation, conspiracy, or form of preparation to  
6211 commit the offense charged or an offense otherwise included therein; or

6212 (c) [~~It~~] it is specifically designated by a statute as a lesser included offense.

6213 (4) The court shall not be obligated to charge the jury with respect to an included offense  
6214 unless there is a rational basis for a verdict acquitting the defendant of the offense  
6215 charged and convicting [~~him~~] the defendant of the included offense.

6216 (5) If the district court on motion after verdict or judgment, or an appellate court on appeal  
6217 or certiorari, shall determine that there is insufficient evidence to support a conviction

6218 for the offense charged but that there is sufficient evidence to support a conviction for an  
 6219 included offense and the trier of fact necessarily found every fact required for conviction  
 6220 of that included offense, the verdict or judgment of conviction may be set aside or  
 6221 reversed and a judgment of conviction entered for the included offense, without  
 6222 necessity of a new trial, if such relief is sought by the defendant.

6223 Section 314. Section **76-2-201** is amended to read:

6224 **76-2-201 . Definitions.**

6225 As used in this part:

- 6226 (1) "Agent" means any director, officer, employee, or other person authorized to act in  
 6227 behalf of a corporation or association.
- 6228 (2) "High managerial agent" means:
- 6229 (a) ~~[A]~~ a partner in a partnership;
- 6230 (b) ~~[An]~~ an officer of a corporation or association;
- 6231 (c) ~~[An]~~ an agent of a corporation or association who has duties of such responsibility  
 6232 that ~~[his]~~ the agent's conduct reasonably may be assumed to represent the policy of the  
 6233 corporation or association.
- 6234 (3) "Corporation" means all organizations required by the laws of this state or any other  
 6235 state to obtain a certificate of authority, a certificate of incorporation, or other form of  
 6236 registration to transact business as a corporation within this state or any other state and  
 6237 shall include domestic, foreign, profit and nonprofit corporations, but shall not include a  
 6238 corporation sole, as such term is used in Title 16, Chapter 7, Corporations Sole. Lack of  
 6239 an appropriate certificate of authority, incorporation, or other form of registration shall  
 6240 be no defense when such organization conducted its business in a manner as to appear to  
 6241 have lawful corporate existence.

6242 Section 315. Section **76-2-204** is amended to read:

6243 **76-2-204 . Criminal responsibility of corporation or association.**

6244 A corporation or association is guilty of an offense when:

- 6245 (1) The conduct constituting the offense consists of an omission to discharge a specific duty  
 6246 of affirmative performance imposed on corporations or associations by law; or
- 6247 (2) The conduct constituting the offense is authorized, solicited, requested, commanded, or  
 6248 undertaken, performed, or recklessly tolerated by the board of directors or by a high  
 6249 managerial agent acting within the scope of ~~[his-]~~employment and in behalf of the  
 6250 corporation or association.

6251 Section 316. Section **76-2-205** is amended to read:



6252           **76-2-205 . Criminal responsibility of person for conduct in name of corporation**  
 6253 **or association.**

6254           A person is criminally liable for conduct constituting an offense which [he] the person  
 6255 performs or causes to be performed in the name of or on behalf of a corporation or association  
 6256 to the same extent as if such conduct were performed in [his] the person's own name or behalf.

6257           Section 317. Section **76-2-301** is amended to read:

6258           **76-2-301 . Person under 14 years old not criminally responsible.**

6259           A person is not criminally responsible for conduct performed before [he] the person  
 6260 reaches [~~the age of~~]14 years old. This section shall in no way limit the jurisdiction of or  
 6261 proceedings before the juvenile courts of this state.

6262           Section 318. Section **76-2-302** is amended to read:

6263           **76-2-302 . Compulsion.**

6264 (1) A person is not guilty of an offense when [he] the person engaged in the proscribed  
 6265 conduct because [he] the person was coerced to do so by the use or threatened imminent  
 6266 use of unlawful physical force upon [him] the person or a third person, which force or  
 6267 threatened force a person of reasonable firmness in [his] that situation would not have  
 6268 resisted.

6269 (2) The defense of compulsion provided by this section shall be unavailable to a person  
 6270 who intentionally, knowingly, or recklessly places himself or herself in a situation in  
 6271 which it is probable that [he] the person will be subjected to duress.

6272 (3) A married woman is not entitled, by reason of the presence of her husband, to any  
 6273 presumption of compulsion or to any defense of compulsion except as in Subsection (1)  
 6274 provided.

6275           Section 319. Section **76-2-303** is amended to read:

6276           **76-2-303 . Entrapment.**

6277 (1) It is a defense that the actor was entrapped into committing the offense. Entrapment  
 6278 occurs when a peace officer or a person directed by or acting in cooperation with the  
 6279 officer induces the commission of an offense in order to obtain evidence of the  
 6280 commission for prosecution by methods creating a substantial risk that the offense  
 6281 would be committed by one not otherwise ready to commit it. Conduct merely affording  
 6282 a person an opportunity to commit an offense does not constitute entrapment.

6283 (2) The defense of entrapment shall be unavailable when causing or threatening bodily  
 6284 injury is an element of the offense charged and the prosecution is based on conduct  
 6285 causing or threatening the injury to a person other than the person perpetrating the

6286 entrapment.

6287 (3) The defense provided by this section is available even though the actor denies  
6288 commission of the conduct charged to constitute the offense.

6289 (4) Upon written motion of the defendant, the court shall hear evidence on the issue and  
6290 shall determine as a matter of fact and law whether the defendant was entrapped to  
6291 commit the offense. Defendant's motion shall be made at least 10 days before trial  
6292 except the court for good cause shown may permit a later filing.

6293 (5) Should the court determine that the defendant was entrapped, it shall dismiss the case  
6294 with prejudice, but if the court determines the defendant was not entrapped, such issue  
6295 may be presented by the defendant to the jury at trial. Any order by the court dismissing  
6296 a case based on entrapment shall be appealable by the state.

6297 (6) In any hearing before a judge or jury where the defense of entrapment is an issue, past  
6298 offenses of the defendant shall not be admitted, except that in a trial where the defendant  
6299 testifies[~~he~~] , the defendant may be asked [~~of his~~] about past convictions for felonies and  
6300 any testimony given by the defendant at a hearing on entrapment may be used to  
6301 impeach [~~his~~] the defendant's testimony at trial.

6302 Section 320. Section **76-2-304** is amended to read:

6303 **76-2-304 . Ignorance or mistake of fact or law.**

6304 (1) Unless otherwise provided, ignorance or mistake of fact which disproves the culpable  
6305 mental state is a defense to any prosecution for that crime.

6306 (2) Ignorance or mistake concerning the existence or meaning of a penal law is no defense  
6307 to a crime unless:

6308 (a) [~~Due~~] due to [~~his~~] an actor's ignorance or mistake, the actor reasonably believed [~~his~~]  
6309 the actor's conduct did not constitute an offense[~~,~~] ; and

6310 (b) [~~His~~] an actor's ignorance or mistake resulted from the actor's reasonable reliance  
6311 upon:

6312 (i) [~~An~~] an official statement of the law contained in a written order or grant of  
6313 permission by an administrative agency charged by law with responsibility for  
6314 interpreting the law in question; or

6315 (ii) [~~A~~] a written interpretation of the law contained in an opinion of a court of record  
6316 or made by a public servant charged by law with responsibility for interpreting the  
6317 law in question.

6318 (3) Although an actor's ignorance or mistake of fact or law may constitute a defense to the  
6319 offense charged, [~~he~~] the actor may nevertheless be convicted of a lesser included offense

6320 of which [he] the actor would be guilty if the fact or law were as [he] the actor believed.

6321 Section 321. Section **76-2-307** is amended to read:

6322 **76-2-307 . Voluntary termination of efforts prior to offense.**

6323 It is an affirmative defense to a prosecution in which an actor's criminal responsibility  
6324 arises from [his] the actor's own conduct or from being a party to an offense under Section  
6325 76-2-202 that prior to the commission of the offense, the actor voluntarily terminated [his] the  
6326 actor's effort to promote or facilitate its commission and either:

6327 (1) [~~Gave~~] gave timely warning to the proper law enforcement authorities or the intended  
6328 victim; or

6329 (2) [~~Wholly~~] wholly deprives [his] the actor's prior efforts of effectiveness in the  
6330 commission.

6331 Section 322. Section **76-2-403** is amended to read:

6332 **76-2-403 . Force in arrest.**

6333 Any person is justified in using any force, except deadly force, which [he] the person  
6334 reasonably believes to be necessary to effect an arrest or to defend himself or herself or  
6335 another from bodily harm while making an arrest.

6336 Section 323. Section **76-3-303** is amended to read:

6337 **76-3-303 . Additional sanctions against corporation or association -- Advertising**  
6338 **of conviction -- Disqualification of officer.**

6339 (1) When a corporation or association is convicted of an offense, the court may, in addition  
6340 to or in lieu of imposing other authorized sanctions, require the corporation or  
6341 association to give appropriate publicity of the conviction by notice to the class or  
6342 classes of persons or section of the public interested in or affected by the conviction, by  
6343 advertising in designated areas, or by designated media or otherwise.

6344 (2) When an executive or high managerial officer of a corporation or association is  
6345 convicted of an offense committed in furtherance of the affairs of the corporation or  
6346 association, the court may include in the sentence an order disqualifying [him] the  
6347 executive or high managerial officer from exercising similar functions in the same or  
6348 other corporations or associations for a period of not exceeding five years if [it] the court  
6349 finds the scope or willfulness of [his] the illegal actions make it dangerous or  
6350a inadvisable

6350 for such functions to be entrusted to [him] the executive or high managerial officer.

6351 Section 324. Section **76-3-405** is amended to read:

6352 **76-3-405 . Limitation on sentence where conviction or prior sentence set aside.**

6353 (1) Where a conviction or sentence has been set aside on direct review or on collateral  
 6354 attack, the court shall not impose a new sentence for the same offense or for a different  
 6355 offense based on the same conduct which is more severe than the prior sentence less the  
 6356 portion of the prior sentence previously satisfied.

6357 (2) This section does not apply when:

6358 (a) the increased sentence is based on facts which were not known to the court at the  
 6359 time of the original sentence, and the court affirmatively places on the record the  
 6360 facts which provide the basis for the increased sentence; or

6361 (b) a defendant enters into a plea agreement with the prosecution and later successfully  
 6362 moves to invalidate ~~his~~ the defendant's conviction, in which case the defendant and  
 6363 the prosecution stand in the same position as though the plea bargain, conviction, and  
 6364 sentence had never occurred.

6365 Section 325. Section **76-3-409** is amended to read:

6366 **76-3-409 . Child abuse or sex offense against child -- Treatment of offender or**  
 6367 **victim -- Payment of costs.**

6368 (1) Any person convicted in the district court of child abuse, or a sexual offense if the  
 6369 victim is under 18 years ~~[of age]~~ old, may be ordered to participate in treatment or  
 6370 therapy under the supervision of the adult probation and parole section of the  
 6371 Department of Corrections, in cooperation with the division of children, youth, and  
 6372 families until the court is satisfied that such treatment or therapy has been successful or  
 6373 that no further benefit to the convicted offender would result if such treatment or therapy  
 6374 were continued. The court may also order treatment of the victim if it believes the same  
 6375 would be beneficial under the circumstances. Nothing in this section shall preclude the  
 6376 court from imposing any additional sentence as provided by law.

6377 (2) The convicted offender shall be ordered to pay, to the extent that ~~[he or she]~~ the  
 6378 convicted offender is able, the costs of ~~[his or her]~~ the convicted offender's treatment,  
 6379 together with treatment costs incurred by the victim and any administrative costs  
 6380 incurred by the appropriate state agency in the supervision of such treatment. If the  
 6381 convicted offender is unable to pay all or part of the costs of treatment, the court may  
 6382 order the appropriate state agency to pay such costs to the extent funding is provided by  
 6383 the Legislature for such purpose and shall order the convicted offender to perform public  
 6384 service work as compensation for the cost of treatment.

6385 Section 326. Section **76-7-202** is amended to read:

6386 **76-7-202 . Orders for support in criminal nonsupport proceedings.**

- 6387 (1) In any proceeding under Section 76-7-201, the court may, instead of imposing the  
 6388 punishments otherwise prescribed, issue an order directing the defendant to periodically  
 6389 pay a sum to the Office of Recovery Services, or otherwise as the court may direct, to be  
 6390 used for the support of the dependents who are the subject of the proceeding under  
 6391 Section 76-7-201.
- 6392 (2) The order to periodically pay a sum for the support of the dependents:
- 6393 (a) may be issued with the consent of the defendant prior to trial, or after conviction,  
 6394 having regard to the circumstances, financial ability, and earning capacity of the  
 6395 defendant;
- 6396 (b) shall be subject to change from time to time as circumstances may require;
- 6397 (c) may not require payments for a period exceeding the term of probation provided for  
 6398 the offense with which the defendant is charged, or of which [he] the defendant is  
 6399 found guilty; and
- 6400 (d) shall be conditioned upon the defendant either entering a recognizance in accordance  
 6401 with Subsection (3), or providing security in a sum as the court directs.
- 6402 (3) The condition of recognizance shall require the defendant to:
- 6403 (a) make personal appearance in court whenever ordered to do so within the period of  
 6404 probation; and
- 6405 (b) comply with the terms of the order and any subsequent modifications of the order.
- 6406 (4) If the court is satisfied by information and due proof under oath that at any time during  
 6407 the period of probation the defendant has violated the terms of the order, it may proceed  
 6408 with the trial of defendant under the original charge or sentence [him] the defendant  
 6409 under the original conviction or enforce the original sentence as the case may be. In the  
 6410 case of forfeiture of bail or bond in any proceeding under Section 76-7-201, the sum  
 6411 recovered may, in the discretion of the court, be paid in whole or in part to the Office of  
 6412 Recovery Services, or otherwise as the court may direct, to be used for the support of the  
 6413 dependents involved.

6414 Section 327. Section **76-7-303** is amended to read:

6415 **76-7-303 . Concurrence of attending physician based on medical judgment.**

6416 No abortion may be performed in this state without the concurrence of the attending  
 6417 physician, based on [his] the attending physician's best medical judgment.

6418 Section 328. Section **76-7-308** is amended to read:

6419 **76-7-308 . Medical skills required to preserve life of unborn child.**

6420 Consistent with the purpose of saving the life of the woman or preventing grave damage

6421 to the woman's medical health, the physician performing the abortion must use all of [his] the  
 6422 physician's medical skills to attempt to promote, preserve and maintain the life of any unborn  
 6423 child sufficiently developed to have any reasonable possibility of survival outside of the  
 6424 mother's womb.

6425 Section 329. Section **77-1-6** is amended to read:

6426 **77-1-6 . Rights of defendant.**

6427 (1) In criminal prosecutions the defendant is entitled to:

- 6428 (a) [Fø]appear in person and defend in person or by counsel;
- 6429 (b) [Fø]receive a copy of the accusation filed against [him] the defendant;
- 6430 (c) [Fø]testify in [his] the defendant's own behalf;
- 6431 (d) [Fø]be confronted by the witnesses against [him] the defendant;
- 6432 (e) [Fø]have compulsory process to insure the attendance of witnesses in [his] the  
 6433 defendant's behalf;
- 6434 (f) [Fø]a speedy public trial by an impartial jury of the county or district where the  
 6435 offense is alleged to have been committed;
- 6436 (g) [Fø]the right of appeal in all cases; and
- 6437 (h) [Fø]be admitted to bail in accordance with provisions of law, or be entitled to a trial  
 6438 within 30 days after arraignment if unable to post bail and if the business of the court  
 6439 permits.

6440 (2) In addition:

- 6441 (a) [Nø] no person shall be put twice in jeopardy for the same offense;
- 6442 (b) [Nø] no accused person shall, before final judgment, be compelled to advance money  
 6443 or fees to secure rights guaranteed by the Constitution or the laws of Utah, or to pay  
 6444 the costs of those rights when received;
- 6445 (c) [Nø] no person shall be compelled to give evidence against himself or herself;
- 6446 (d) [~~A wife shall not be compelled to testify against her husband nor a husband against~~  
 6447 ~~his wife]~~ an individual may not be compelled to testify against the individual's spouse;  
 6448 and
- 6449 (e) [Nø] no person shall be convicted unless by verdict of a jury, or upon a plea of guilty  
 6450 or no contest, or upon a judgment of a court when trial by jury has been waived or, in  
 6451 case of an infraction, upon a judgment by a magistrate.

6452 Section 330. Section **77-2-4** is amended to read:

6453 **77-2-4 . Dismissal of prosecution.**

6454 After commencement of a prosecution the prosecutor may, upon reasonable grounds,

6455 move the magistrate before whom the prosecution is pending to dismiss the prosecution. If, in  
6456 the judgment of the magistrate, the prosecution should not continue, [he] the magistrate may  
6457 dismiss the prosecution and enter an order of dismissal stating the reasons for the dismissal in  
6458 the order.

6459 Section 331. Section **77-2-4.5** is amended to read:

6460 **77-2-4.5 . Dismissal by compromise -- Limitations.**

6461 (1) In misdemeanor cases the court may dismiss the case upon motion of the prosecutor if it  
6462 is compromised by the defendant and the injured party, except under Subsection (2).

6463 The injured party shall first acknowledge the compromise before the court or in writing.

6464 The reasons for the order shall be set forth and entered in the minutes. The order is a bar  
6465 to another prosecution for the same offense.

6466 (2) A dismissal by compromise may not be granted when the misdemeanor is committed by  
6467 or upon a peace officer while in the performance of [his] the peace officer's duties, or  
6468 riotously, or with intent to commit a felony.

6469 Section 332. Section **77-2-6** is amended to read:

6470 **77-2-6 . Dismissal after compliance with diversion agreement.**

6471 The court shall dismiss the information or indictment filed against the defendant who  
6472 has complied with the requirements of [his] a diversion agreement and the defendant shall not  
6473 thereafter be subject to further prosecution for the offense involved or for any lesser included  
6474 offense.

6475 Section 333. Section **77-2-8** is amended to read:

6476 **77-2-8 . Violation of diversion agreement -- Hearing -- Prosecution resumed.**

6477 If, during the course of the diversion of a defendant, information is brought to the  
6478 attention of a magistrate or the prosecuting attorney that the defendant has violated [his] the  
6479 diversion agreement and it appears in the best interests of the community to reinstate and  
6480 proceed with the prosecution, the prosecuting attorney, upon court approval, or the magistrate,  
6481 on [his] the magistrate's own motion, shall cause to be served upon the defendant an order to  
6482 show cause specifying the facts relied upon by the prosecuting attorney or magistrate to  
6483 terminate diversion and shall set a time and place for a hearing to determine whether or not the  
6484 defendant has violated [his] the diversion agreement. If, at the hearing, the magistrate finds the  
6485 defendant has failed to comply with any terms or conditions of the diversion agreement, [he]  
6486 the magistrate may authorize the prosecuting attorney to proceed with prosecution. The  
6487 prosecution of a diverted offense shall not bar any independent prosecution arising from any  
6488 offense that constituted a violation of any term or condition of the diversion agreement by

6489 which the original prosecution was diverted.

6490 Section 334. Section **77-3-2** is amended to read:

6491 **77-3-2 . Examination of complainant and witnesses.**

6492 The magistrate shall examine, on oath, the complainant and any witnesses [he] the  
6493 complainant may produce and may take [their] the complainant's or witnesses' testimony in  
6494 writing.

6495 Section 335. Section **77-3-4** is amended to read:

6496 **77-3-4 . Warrant of arrest -- Temporary restraining order.**

6497 If the magistrate believes there is reasonable ground to fear the commission of the  
6498 offense threatened, [he] the magistrate may issue:

6499 (1) [Issue-]a warrant directed generally to any peace officer, reciting the substance of the  
6500 complaint and commanding the officer to immediately arrest the person complained of  
6501 and bring [him] that person before the magistrate or, in the case of [his] the magistrate's  
6502 absence or inability to act, before the nearest and most accessible magistrate of the  
6503 county; and

6504 (2) [Issue-]a temporary restraining order against the commission of the offense and order  
6505 the person complained of to immediately appear before the magistrate for a hearing.

6506 Section 336. Section **77-3-5** is amended to read:

6507 **77-3-5 . Defendant taken before different magistrate -- Procedure.**

6508 When the person arrested is taken before a magistrate other than the one who issued the  
6509 warrant, the peace officer who executed the warrant shall deliver it to the issuing magistrate  
6510 with his or her endorsed return. The complaint and written testimony, if any, on which the  
6511 warrant was issued shall be sent to the magistrate before whom the person arrested is taken.

6512 Section 337. Section **77-3-8** is amended to read:

6513 **77-3-8 . Findings and orders -- Discharge -- Undertaking -- Commitment.**

6514 (1) If it appears there is no reasonable ground to fear the commission of the offense alleged  
6515 to have been threatened, the person complained of shall be discharged. The complainant  
6516 may be ordered to pay the costs of the proceedings if the magistrate believes the  
6517 complaint was unfounded and frivolous.

6518 (2) If there is reasonable ground to fear the commission of an offense, the court may, in  
6519 addition or as an alternative to other relief, enter an order permanently restraining the  
6520 person from engaging in illegal conduct or acting in any manner that could result in  
6521 illegal conduct or the person complained of may be required to enter into an undertaking  
6522 in a sum not to exceed \$3,000, with one or more sufficient sureties, to keep the peace



6523 toward the people of this state and particularly toward the persons endangered. The  
6524 conditions of the undertaking shall be in writing and shall be for a period of six months.  
6525 It may be extended on good cause shown for a longer period or enlarged and a new  
6526 undertaking may be required.

6527 (a) If the undertaking is given, the party complained of shall be discharged.

6528 (b) If the undertaking is not given, the magistrate shall commit the defendant to jail  
6529 specifying in the warrant of commitment the requirement to give security, the amount  
6530 thereof, and the effective period of time.

6531 (c) A person committed for not giving the required undertaking may be discharged by  
6532 any magistrate when [he] the person provides the undertaking.

6533 Section 338. Section **77-3-10** is amended to read:

6534 **77-3-10 . Assault in presence of magistrate or court.**

6535 A person who, in the presence of the court or magistrate, assaults or threatens to assault  
6536 another or to commit an offense against person or property, or who contends with another with  
6537 threatening words, may be ordered by the court or magistrate to give security and if [he] the  
6538 person refuses to do so, may be committed as provided in Subsection 77-3-8(2)(b).

6539 Section 339. Section **77-5-2** is amended to read:

6540 **77-5-2 . Chief justice to preside, when.**

6541 When the governor is on trial, the chief justice of the Supreme Court shall preside, and,  
6542 in case [he] the chief justice is disqualified or unable to act, the Senate shall select some other  
6543 justice of the Supreme Court to preside.

6544 Section 340. Section **77-5-8** is amended to read:

6545 **77-5-8 . Two-thirds vote necessary for conviction.**

6546 The officer shall not be convicted on impeachment without the concurrence of  
6547 two-thirds of the senators elected, voting by ayes and nays, and if two-thirds of the senators  
6548 elected do not concur in a conviction, [he] the officer shall be acquitted.

6549 Section 341. Section **77-6-5** is amended to read:

6550 **77-6-5 . Appearance -- Procedure on default.**

6551 The defendant shall appear at the time appointed and answer the accusation, unless for  
6552 some sufficient cause the court assigns another time for that purpose. If [he] the defendant does  
6553 not appear, the court may proceed to hear and determine the accusation in [his] the defendant's  
6554 absence.

6555 Section 342. Section **77-6-6** is amended to read:

6556 **77-6-6 . Answer -- Objections for insufficiency.**

6557 The defendant may orally answer the accusation either by admitting or denying it in  
6558 open court, or [he] the defendant may, in writing, object to the legal sufficiency of the  
6559 accusation. If the objection to the sufficiency of the accusation is sustained, the accusation  
6560 shall be dismissed. If the objection is overruled, the defendant shall immediately admit or deny  
6561 the accusation.

6562 Section 343. Section **77-6-8** is amended to read:

6563 **77-6-8 . Judgment of removal -- Service on defendant.**

6564 If the defendant admits the accusation or is convicted, the court shall enter judgment  
6565 against [him] the defendant directing the defendant be removed from office and setting forth  
6566 the causes of removal. The judgment of removal shall immediately be served upon the  
6567 defendant.

6568 Section 344. Section **77-6-9** is amended to read:

6569 **77-6-9 . Appeal -- Suspension from office.**

6570 From a judgment of removal an appeal may be taken to the Supreme Court in the same  
6571 manner as from a judgment in a civil action; but from entry of judgment and until the  
6572 judgment is reversed, the defendant shall be suspended from [his] the defendant's office.  
6573 Pending the appeal, the office shall be filled as in the case of a vacancy.

6574 Section 345. Section **77-7-1** is amended to read:

6575 **77-7-1 . "Arrest" defined -- Restraint allowed.**

6576 An arrest is an actual restraint of the person arrested or submission to custody. The  
6577 person shall not be subjected to any more restraint than is necessary for [his-]arrest and  
6578 detention.

6579 Section 346. Section **77-7-3** is amended to read:

6580 **77-7-3 . By private persons.**

6581 A private person may arrest another:

- 6582 (1) [~~For~~] for a public offense committed or attempted in [his] the private person's presence; or  
6583 (2) [~~When~~] when a felony has been committed and [he] the private person has reasonable  
6584 cause to believe the person arrested has committed it.

6585 Section 347. Section **77-7-9** is amended to read:

6586 **77-7-9 . Weapons may be taken from prisoner.**

6587 Any person making an arrest may seize from the person arrested all weapons which [he]  
6588 the person arrested may have on or about his or her person.

6589 Section 348. Section **77-7-10** is amended to read:

6590 **77-7-10 . Telegraph or telephone authorization of execution of arrest warrant.**

6591 Any magistrate may, by an endorsement on a warrant of arrest, authorize by telegraph,  
 6592 telephone or other reasonable means, its execution. A copy of the warrant or notice of its  
 6593 issuance and terms may be sent to one or more peace officers. The copy or notice  
 6594 communicated authorizes the officer to proceed in the same manner under it as if [he] the peace  
 6595 officer had an original warrant.

6596 Section 349. Section **77-7-11** is amended to read:

6597 **77-7-11 . Possession of warrant by arresting officer not required.**

6598 Any peace officer who has knowledge of an outstanding warrant of arrest may arrest a  
 6599 person [he] the peace officer reasonably believes to be the person described in the warrant,  
 6600 without the peace officer having physical possession of the warrant.

6601 Section 350. Section **77-7-14** is amended to read:

6602 **77-7-14 . Person causing detention or arrest of person suspected of shoplifting or**  
 6603 **library theft -- Civil and criminal immunity.**

6604 (1) A peace officer, merchant, or merchant's employee, servant, or agent who causes the  
 6605 detention of a person as provided in Section 77-7-12, or who causes the arrest of a  
 6606 person for theft of goods held or displayed for sale, is not criminally or civilly liable  
 6607 where [he has] there is reasonable and probable cause to believe the person detained or  
 6608 arrested committed a theft of goods held or displayed for sale.

6609 (2) A peace officer or employee of a library who causes a detention or arrest of a person  
 6610 under Title 76, Chapter 6, Part 8, Library Theft, is not criminally or civilly liable where [  
 6611 he has] there is reasonable and probable cause to believe that the person committed a  
 6612 theft of library materials.

6613 Section 351. Section **77-7-16** is amended to read:

6614 **77-7-16 . Authority of peace officer to frisk suspect for dangerous weapon --**  
 6615 **Grounds.**

6616 A peace officer who has stopped a person temporarily for questioning may frisk the  
 6617 person for a dangerous weapon if [he] the peace officer reasonably believes [he] the peace  
 6618 officer or any other person is in danger.

6619 Section 352. Section **77-7-17** is amended to read:

6620 **77-7-17 . Authority of peace officer to take possession of weapons.**

6621 A peace officer who finds a dangerous weapon pursuant to a frisk may take and keep it  
 6622 until the completion of the questioning, at which time [he] the peace officer shall either return it  
 6623 if lawfully possessed, or arrest such person.

6624 Section 353. Section **77-8-2** is amended to read:

6625           **77-8-2 . Suspect's right to have attorney present.**

6626           A suspect has the right to have [his] an attorney present at any lineup. The magistrate or  
6627 party in charge of the lineup shall notify the suspect of this right. Every suspect unable to  
6628 employ counsel shall be entitled to representation by an attorney appointed by a magistrate for  
6629 a lineup either before or after an arrest.

6630           Section 354. Section **77-8-4** is amended to read:

6631           **77-8-4 . Record of proceedings -- Access by suspect.**

6632           The entire lineup procedure shall be recorded, including all conversations between the  
6633 witnesses and the conducting peace officers. The suspect shall have access to and may make  
6634 copies of the record and any photographs taken of [him] the suspect or any other persons in  
6635 connection with the lineup.

6636           Section 355. Section **77-8a-1** is amended to read:

6637           **77-8a-1 . Joinder of offenses and of defendants.**

- 6638 (1) Two or more felonies, misdemeanors, or both, may be charged in the same indictment  
6639 or information if each offense is a separate count and if the offenses charged are:  
6640 (a) based on the same conduct or are otherwise connected together in their commission;  
6641           or  
6642 (b) alleged to have been part of a common scheme or plan.
- 6643 (2)(a) When a felony and misdemeanor are charged together the defendant is afforded a  
6644 preliminary hearing with respect to both the misdemeanor and felony offenses.  
6645 (b) Two or more defendants may be charged in the same indictment or information if  
6646 they are alleged to have participated in the same act or conduct or in the same  
6647 criminal episode.  
6648 (c) The defendants may be charged in one or more counts together or separately and all  
6649 of the defendants need not be charged in each count.  
6650 (d) When two or more defendants are jointly charged with any offense, they shall be  
6651 tried jointly unless the court in its discretion on motion or otherwise orders separate  
6652 trials consistent with the interests of justice.
- 6653 (3)(a) The court may order two or more indictments or informations or both to be tried  
6654 together if the offenses, and the defendants, if there is more than one, could have  
6655 been joined in a single indictment or information.  
6656 (b) The procedure shall be the same as if the prosecution were under a single indictment  
6657 or information.
- 6658 (4)(a) If the court finds a defendant or the prosecution is prejudiced by a joinder of

6659 offenses or defendants in an indictment or information or by a joinder for trial  
6660 together, the court shall order an election of separate trials of separate counts, grant a  
6661 severance of defendants, or provide other relief as justice requires.

6662 (b) A defendant's right to severance of offenses or defendants is waived if the motion is  
6663 not made at least five days before trial. In ruling on a motion by defendant for  
6664 severance, the court may order the prosecutor to disclose any statements made by the  
6665 defendants which ~~he~~ the prosecutor intends to introduce in evidence at the trial.

6666 Section 356. Section **77-9-1** is amended to read:

6667 **77-9-1 . Authority of peace officer of another state.**

6668 A peace officer of another state or the District of Columbia who enters this state in fresh  
6669 pursuit and continues in fresh pursuit of a person in order to make an arrest ~~him~~ on the  
6670 ground that ~~he~~ the person is reasonably believed to have committed a felony in another state,  
6671 has the same authority to arrest and hold a person in custody as a peace officer of this state.  
6672 Fresh pursuit does not require instant action, but pursuit without unreasonable delay.

6673 Section 357. Section **77-9-2** is amended to read:

6674 **77-9-2 . Procedure after arrest.**

6675 An officer who has made an arrest pursuant to Section 77-9-1 shall without unnecessary  
6676 delay take the person arrested before a magistrate of the county in which the arrest was made.  
6677 The magistrate shall conduct a hearing to determine the lawfulness of the arrest. If ~~he~~ the  
6678 magistrate finds the arrest was lawful, the magistrate may commit the person arrested for a  
6679 reasonable time or may admit the person to bail pending extradition proceedings.

6680 Section 358. Section **77-9-3** is amended to read:

6681 **77-9-3 . Authority of peace officer of this state beyond normal jurisdiction.**

6682 (1) Any peace officer authorized by any governmental entity of this state may exercise a  
6683 peace officer's authority beyond the limits of such officer's normal jurisdiction as  
6684 follows:

- 6685 (a) when in fresh pursuit of an offender for the purpose of arresting and holding that  
6686 person in custody or returning the suspect to the jurisdiction where the offense was  
6687 committed;
- 6688 (b) when a public offense is committed in such officer's presence;
- 6689 (c) when participating in an investigation of criminal activity which originated in the  
6690 officer's normal jurisdiction in cooperation with the local authority; or
- 6691 (d) when called to assist peace officers of another jurisdiction.

6692 (2)(a) Any peace officer, prior to taking any action authorized by Subsection (1), shall

6693 notify and receive approval of the local law enforcement authority, or if the prior  
6694 contact is not reasonably possible, notify the local law enforcement authority as soon  
6695 as reasonably possible.

6696 (b) Unless specifically requested to aid a peace officer of another jurisdiction or  
6697 otherwise as provided for by law, no legal responsibility for a peace officer's action  
6698 outside [his] the peace officer's normal jurisdiction, except as provided in this section,  
6699 shall attach to the local law enforcement authority.

6700 Section 359. Section **77-10a-1** is amended to read:

6701 **77-10a-1 . Definitions.**

6702 As used in this chapter:

- 6703 (1) "Clerk of the court" means the state court administrator or [his] the state court  
6704 administrator's designee.
- 6705 (2) "Managing judge" means the supervising judge when [he] the supervising judge retains  
6706 authority to manage a grand jury, or the district court judge to whom the supervising  
6707 judge delegates management of a grand jury.
- 6708 (3) "Presiding officer" means the presiding officer of the Judicial Council.
- 6709 (4) "Subject" means a person whose conduct is within the scope of the grand jury's  
6710 investigation, and that conduct exposes the person to possible criminal prosecution.
- 6711 (5) "Supervising judge" means the district court judge appointed by the presiding officer to  
6712 supervise the five-judge grand jury panel.
- 6713 (6) "Target" means a person regarding whom the attorney for the state, the special  
6714 prosecutor, or the grand jury has substantial evidence that links that person to the  
6715 commission of a crime and who could be indicted or charged with that crime.
- 6716 (7) "Witness" means a person who appears before the grand jury either voluntarily or  
6717 pursuant to subpoena for the purpose of providing testimony or evidence for the grand  
6718 jury's use in discharging its responsibilities.

6719 Section 360. Section **77-10a-7** is amended to read:

6720 **77-10a-7 . Selection of grand jurors -- Notice -- Examination -- Qualification --**  
6721 **Alternates.**

- 6722 (1) When the supervising judge orders that a grand jury be summoned, the managing judge  
6723 shall direct the clerk to select at random from the master list the number of names  
6724 determined by the managing judge to ensure that the required number of grand jurors  
6725 under this chapter may be qualified to constitute the grand jury.
- 6726 (2)(a) The managing judge may direct the clerk to draw additional names from the

- 6727 master list so alternate grand jurors may be designated at the time the grand jury is  
6728 selected.
- 6729 (b) Alternate grand jurors shall be drawn in the same manner and have the same  
6730 qualifications as the regular grand jurors. If impanelled, they are subject to the same  
6731 challenges, shall take the same oath, and have the same functions, powers, facilities,  
6732 and privileges as the regular jurors.
- 6733 (3) The clerk shall cause each person drawn for service on the grand jury or as an alternate  
6734 to be notified of when and where to report for service. Notice may be given by  
6735 telephone or by service of a summons, either personally or by first class mail addressed  
6736 to the prospective juror's current residence, place of business, or post office box.
- 6737 (4) The names of those drawn for service on the grand jury or as alternates and the contents  
6738 of all grand juror questionnaires may not be made available to the public.
- 6739 (5)(a) At the time and place specified for the appearance of the persons summoned to  
6740 serve as grand jurors and alternates, the managing judge shall examine the  
6741 prospective grand jurors and alternates. Before accepting any person as a grand juror  
6742 or alternate, the managing judge shall be satisfied that the person has no bias or  
6743 prejudice that would prevent [him] the person from fairly and dispassionately  
6744 considering the matters presented to the grand jury.
- 6745 (b) When drawn and qualified, the person shall be accepted for service unless[~~the~~  
6746 ~~managing judge in his~~], in the managing judge's discretion and on the application of  
6747 the juror, the managing judge excuses [him] the person from service before [he] the  
6748 person is sworn.
- 6749 (6) The managing judge may dismiss the grand jury panel if [he] the managing judge finds  
6750 there has been a material departure from the methods prescribed for the selecting,  
6751 drawing, and return of the grand jury, or if there has been an intentional omission by the  
6752 proper officer to summon one or more of the grand jurors drawn.
- 6753 (7) When 15 of the persons summoned as grand jurors who are qualified and not excused  
6754 remain, they are the grand jury. If more than 15 qualified persons remain, their names  
6755 shall be written by the clerk on separate slips, folded to conceal the names, and placed in  
6756 a box. The clerk shall then draw 15 slips, and the persons whose names are drawn are  
6757 the grand jury.
- 6758 (8)(a) When the number of persons to be designated as alternate grand jurors who are  
6759 qualified and not excused remain, they are the alternate grand jurors.
- 6760 (b) If more than the number of alternate grand jurors designated by the managing judge

6761 remain, their names shall be written by the clerk on separate slips, folded to conceal  
6762 the names, and placed in a box. The clerk shall then draw slips until the designated  
6763 number of alternate grand jurors are selected.

6764 Section 361. Section **77-10a-8** is amended to read:

6765 **77-10a-8 . Challenge of prospective grand jurors -- Failure to comply in selection**  
6766 **of jurors -- Remedies.**

- 6767 (1) The attorney general, county attorney, district attorney, or special prosecutor may  
6768 challenge:
- 6769 (a) the array of grand jurors on the ground the grand jury was not selected, drawn, or  
6770 summoned in accordance with law; and
- 6771 (b) an individual juror on the ground the juror is not legally qualified.
- 6772 (2) Challenges shall be made before the administration of the oath to the jurors and shall be  
6773 tried to the court managing the grand jury.
- 6774 (3) A motion to dismiss the indictment may be based on objections to the array or on the  
6775 lack of legal qualification of an individual juror, if not previously determined upon  
6776 challenge.
- 6777 (4) In criminal cases the defendant or attorney for the state may move to dismiss the  
6778 indictment or stay the proceedings on the ground of substantial failure to comply with  
6779 this chapter in selecting the grand jury. However, [he] the defendant or attorney for the  
6780 state must do so before the voir dire examination begins or within seven days after the  
6781 defendant or attorney for the state discovered or could have discovered the grounds by  
6782 the exercise of diligence, whichever is earlier, or the motion is considered waived.
- 6783 (5)(a) Any motion filed under Subsection (1), (3), or (4) must contain a sworn statement  
6784 of facts which, if true, would constitute a substantial failure to comply with the  
6785 provisions of this chapter. The moving party may present in support of the motion  
6786 the testimony of the clerk if [he] the clerk is available, any relevant records and papers  
6787 used by the clerk that were not made public or otherwise available, and any other  
6788 relevant evidence.
- 6789 (b) If the managing judge determines there has been a substantial failure to comply with  
6790 the provisions of this chapter in selecting the grand jury, [he] the managing judge  
6791 shall stay the proceedings pending the selection of a grand jury in conformity with  
6792 this chapter or dismiss the indictment, whichever is appropriate.
- 6793 (6)(a) The procedures prescribed by this section are the exclusive means by which a  
6794 party accused of a crime or an attorney for the state may challenge any grand jury on



6795 the ground it was not selected in conformity with this chapter.

6796 (b) An indictment may not be dismissed in any case on the ground that one or more  
6797 members of the grand jury that returned the indictment were not legally qualified if it  
6798 appears from the record kept by the grand jury that eight or more jurors, after  
6799 deducting the number not qualified, concurred in finding the indictment.

6800 Section 362. Section **77-10a-11** is amended to read:

6801 **77-10a-11 . Jury foreman -- Compensation of grand jurors.**

6802 (1) The managing judge shall appoint one of the jurors to be foreman and another to be  
6803 deputy foreman. The foreman may administer oaths and affirmations and shall sign all  
6804 indictments. The foreman or another juror designated by [~~him~~] the foreman shall keep  
6805 record of the number of jurors concurring in the finding of every indictment and shall  
6806 file the record with the clerk of the court. The record may not be made public except on  
6807 order of the managing judge.

6808 (2) During the absence of the foreman the deputy foreman shall act as foreman.

6809 (3) A grand juror shall be compensated at the same rate as a juror in a state district court for  
6810 each day of service.

6811 Section 363. Section **77-10a-17** is amended to read:

6812 **77-10a-17 . Grand jury report on noncriminal misconduct -- Action on the report.**

6813 (1) A grand jury may upon completion of its original term or each extension, with the  
6814 concurrence of a majority of its members, submit to the managing judge a report  
6815 concerning noncriminal misconduct, malfeasance, or misfeasance in office as a basis for  
6816 a recommendation of removal or disciplinary action against a public officer or employee.

6817 (2) The judge to whom the report is submitted shall examine it and the minutes of the grand  
6818 jury. The judge shall make an order accepting and filing the report as a public record,  
6819 but only if the judge is satisfied that it complies with Subsection (1) and:

6820 (a) the report is based on facts revealed during the grand jury's investigation and is  
6821 supported by a preponderance of evidence; and

6822 (b) each person named and any reasonable number of witnesses on [~~his~~] the named  
6823 person's behalf as designated by [~~him~~] the named person to the foreman of the grand  
6824 jury were afforded an opportunity to testify before the grand jury prior to the filing of  
6825 the report.

6826 (3) An order accepting a report made under this section and the report itself shall be sealed  
6827 by the managing judge and may not be filed as a public record or be subject to subpoena  
6828 or otherwise made public until:

- 6829 (a) at least 31 days after a copy of the order and report are served on each public officer  
6830 or employee named and an answer has been filed;
- 6831 (b) the time for filing an answer has expired; or
- 6832 (c) an appeal is taken or until all rights of review of the public officer or employee  
6833 named have expired or terminated in an order accepting the report.
- 6834 (4)(a) An order accepting the report may not be entered until 30 days after the delivery  
6835 of the report to the public officer or body having jurisdiction, responsibility, or  
6836 authority over each public officer or employee named in the report.
- 6837 (b) The managing judge may issue orders it finds necessary and appropriate to prevent  
6838 unauthorized publication of a report. Unauthorized publication of a report may be  
6839 punished as contempt of court.
- 6840 (5)(a) A public officer or employee named in a report may file with the clerk a verified  
6841 answer to the report not later than 20 days after service of the order and report upon [  
6842 him] the public officer or employee. Upon a showing of good cause, the managing  
6843 judge may grant the public officer or employee an extension of time to file an answer  
6844 and may authorize limited publication of the report as necessary to prepare an answer.
- 6845 (b) The answer shall plainly and concisely state the facts and law constituting the  
6846 defense of the public officer or employee to the charges in the report. Except for  
6847 those parts the managing judge determines have been inserted scandalously,  
6848 prejudiciously, or unnecessarily, the answer becomes an appendix to the report.
- 6849 (6) Upon the submission of a report made under this section the managing judge shall order  
6850 the report sealed if [he] the managing judge finds the filing of the report as a public  
6851 record may prejudice fair consideration of a pending criminal matter. The report may  
6852 not be subject to subpoena or public inspection during the pendency of the criminal  
6853 matter except upon order of the managing judge.
- 6854 (7)(a) When the managing judge to whom a report is submitted is not satisfied that the  
6855 report complies with the provisions of this section, [he] the managing judge may  
6856 direct that additional testimony be taken before the same grand jury or [he] the  
6857 managing judge shall make an order sealing the report.
- 6858 (b) If the report is sealed, it may not be filed as a public record or be subject to subpoena  
6859 or otherwise made public until the provisions of this section are met.
- 6860 (8) A grand jury's term may be extended by the managing judge so additional testimony  
6861 may be taken or the provisions of this section met.
- 6862 Section 364. Section **77-10a-18** is amended to read:

6863           **77-10a-18 . Grand jury term of service -- Excusing a juror.**

- 6864       (1) A grand jury shall serve until discharged by the managing judge. However, a grand  
6865       jury may not serve more than 18 months unless the managing judge extends the service  
6866       of the grand jury, upon determining an extension is in the public interest. The extension  
6867       may be no longer than a period of six months.
- 6868       (2) The managing judge may at any time excuse a juror either temporarily or permanently  
6869       for cause shown. If a juror is excused permanently, the managing judge may impanel  
6870       another juror in [~~his~~] that juror's place.

6871           Section 365. Section **77-13-5** is amended to read:

6872           **77-13-5 . Failure to plead -- Not guilty entered.**

6873           When a defendant does not enter a plea, the court shall enter a plea of not guilty for [~~him~~]  
6874       the defendant.

6875           Section 366. Section **77-14-1** is amended to read:

6876           **77-14-1 . Time and place of alleged offense -- Specification.**

6877           The prosecuting attorney, on timely written demand of the defendant, shall within 10  
6878       days, or such other time as the court may allow, specify in writing as particularly as is known  
6879       to [~~him~~] the prosecuting attorney the place, date and time of the commission of the offense  
6880       charged.

6881           Section 367. Section **77-14-2** is amended to read:

6882           **77-14-2 . Alibi -- Notice requirements -- Witness lists.**

- 6883       (1) A defendant, whether or not written demand has been made, who intends to offer  
6884       evidence of an alibi shall, not less than 10 days before trial or at such other time as the  
6885       court may allow, file and serve on the prosecuting attorney a notice, in writing, of [~~his~~]  
6886       the defendant's intention to claim alibi. The notice shall contain specific information as  
6887       to the place where the defendant claims to have been at the time of the alleged offense  
6888       and, as particularly as is known to the defendant or [~~his~~] the defendant's attorney, the  
6889       names and addresses of the witnesses by whom [~~he~~] the defendant proposes to establish  
6890       alibi. The prosecuting attorney, not more than five days after receipt of the list provided  
6891       herein or at such other time as the court may direct, shall file and serve the defendant  
6892       with the addresses, as particularly as are known to [~~him~~] the prosecuting attorney, of the  
6893       witnesses the state proposes to offer to contradict or impeach the defendant's alibi  
6894       evidence.
- 6895       (2) The defendant and prosecuting attorney shall be under a continuing duty to disclose the  
6896       names and addresses of additional witnesses which come to the attention of either party

6897 after filing their alibi witness lists.

6898 (3) If a defendant or prosecuting attorney fails to comply with the requirements of this  
6899 section, the court may exclude evidence offered to establish or rebut alibi. However, the  
6900 defendant may always testify on [his] the defendant's own behalf concerning alibi.

6901 (4) The court may, for good cause shown, waive the requirements of this section.

6902 Section 368. Section **77-16a-303** is amended to read:

6903 **77-16a-303 . Court determinations.**

6904 After entry of judgment of not guilty by reason of insanity, the court shall:

6905 (1) determine on the record the offense of which the person otherwise would have been  
6906 convicted and the maximum sentence [he] the person could have received; and

6907 (2) make specific findings regarding whether there is a victim of the crime for which the  
6908 defendant has been found not guilty by reason of insanity and, if so, whether the victim  
6909 wishes to be notified of any conditional release, discharge, or escape of the defendant.

6910 Section 369. Section **77-17-1** is amended to read:

6911 **77-17-1 . Doubt as to degree -- Conviction only on lowest.**

6912 When it appears the defendant has committed a public offense and there is reasonable  
6913 doubt as to which of two or more degrees [he] the defendant is guilty, [he] the defendant shall  
6914 be convicted only of the lower degree.

6915 Section 370. Section **77-17-2** is amended to read:

6916 **77-17-2 . Discharging one of several defendants -- To testify for state.**

6917 When two or more persons are included in the same charge, the court may at any time,  
6918 on the application of the prosecuting attorney, direct any defendant to be discharged or [his] the  
6919 defendant's case severed so that [he] the defendant may be a witness for the prosecution.

6920 Section 371. Section **77-17-3** is amended to read:

6921 **77-17-3 . Discharge for insufficient evidence.**

6922 When it appears to the court that there is not sufficient evidence to put a defendant to [his]  
6923 the defendant's defense, it shall forthwith order [him] the defendant discharged.

6924 Section 372. Section **77-17-9** is amended to read:

6925 **77-17-9 . Separation or sequestration of jurors -- Oath of officer having custody.**

6926 (1) The court, at any time before the submission of the case to the jury, may permit the jury  
6927 to separate or order that it be sequestered in charge of a proper officer.

6928 (2) If the jury is sequestered, the officer:

6929 (a) shall be sworn to keep the jurors together until the next meeting of the court, to  
6930 prevent any person from speaking or communicating with them[~~, and~~] ;

6931 (b) ~~[not to do so himself]~~ may not communicate with the jurors on any subject connected  
6932 with the trial~~[-]~~ ; and

6933 (c) ~~[to]~~ shall return the jury to the court pursuant to its order.

6934 Section 373. Section **77-17-11** is amended to read:

6935 **77-17-11 . Jury to retire for deliberation -- Oath of officer having custody.**

6936 (1) After hearing the court's instructions and arguments of counsel, the jury shall retire  
6937 for deliberation.

6938 (2) An officer shall:

6939 (a) be sworn to keep ~~[them]~~ the jury together in some private and convenient place~~[-and]~~ ;

6940 (b) ~~[-]~~not permit any person to speak to or communicate with ~~[them or to do so himself]~~  
6941 the jury;

6942 (c) not communicate with the jury except:

6943 (i) ~~[-]~~upon the order of the court~~[-]~~ ; or

6944 (ii) ~~[-]~~to ask ~~[them]~~ the jury whether ~~[they have]~~ the jury has agreed on a verdict~~[-. He~~  
6945 shall] ; and

6946 (d) ~~[-]~~return ~~[them]~~ the jury to court when ~~[they have]~~ the jury has agreed and the court  
6947 has so ordered, or when otherwise ordered by the court.

6948 Section 374. Section **77-17-12** is amended to read:

6949 **77-17-12 . Defendant on bail appearing for trial may be committed.**

6950 When a defendant who has given bail appears for trial, the court may, at any time after [  
6951 ~~his]~~ the defendant's appearance for trial, order ~~[him]~~ the defendant to be committed to the  
6952 custody of the proper officer to await the judgment or further order of the court.

6953 Section 375. Section **77-19-5** is amended to read:

6954 **77-19-5 . Special release from city or county jail -- Revocation.**

6955 The judge may, for good cause, revoke any release time previously awarded, and shall  
6956 notify the prisoner that, if ~~[he]~~ the prisoner makes written request, a hearing shall be afforded to [  
6957 ~~him]~~ the prisoner to challenge the revocation.

6958 Section 376. Section **77-19-11** is amended to read:

6959 **77-19-11 . Who may be present -- Photographic and recording equipment.**

6960 (1) As used in this section:

6961 (a) "Close relative of the deceased victim" means:

6962 (i) the spouse of the victim;

6963 (ii) a parent or stepparent of the victim;

6964 (iii) a brother, sister, stepbrother, stepsister, child, or stepchild of the victim; and

- 6965 (iv) any person who had a close relationship with the deceased victim, or with a close  
6966 relative of the victim, upon the recommendation of the victim assistance  
6967 coordinator for the Department of Corrections or for the Office of the Attorney  
6968 General.
- 6969 (b) "Director" means the executive director of the Department of Corrections, or the  
6970 director's designee.
- 6971 (2) At the discretion of the director, the following persons may attend the execution:  
6972 (a) the prosecuting attorney, or a designated deputy, of the county in which the  
6973 defendant committed the offense for which [he] the defendant is being executed;  
6974 (b) no more than two law enforcement officials from the county in which the defendant  
6975 committed the offense for which [he] the defendant is being executed;  
6976 (c) the attorney general or a designee;  
6977 (d) religious representatives, friends, or relatives designated by the defendant, not  
6978 exceeding a total of five persons; and  
6979 (e) unless approved by the director, no more than five close relatives of the deceased  
6980 victim, as selected by the director, but giving priority in the order listed in Subsection  
6981 (1)(a).
- 6982 (3) The persons listed in Subsection (2) may not be required to attend, nor may any of them  
6983 attend as a matter of right.
- 6984 (4) The director shall permit the attendance at the execution of members of the press and  
6985 broadcast news media:  
6986 (a) as named by the director in accordance with rules of the department; and  
6987 (b) with the agreement of the selected news media members that they serve as a pool for  
6988 other members of the news media.
- 6989 (5)(a) Except as provided in Subsection (5)(b), photographic or recording equipment is  
6990 not permitted at the execution site until the execution is completed, the body is  
6991 removed, and the site has been restored to an orderly condition. However, the  
6992 physical arrangements for the execution may not be disturbed.
- 6993 (b) Audio recording equipment may be used by the department for the purpose of  
6994 recording the defendant's last words.
- 6995 (c) The department shall permanently destroy the recording made under Subsection  
6996 (5)(b) not later than 24 hours after the completion of the execution.
- 6997 (d) A violation of this subsection is a class B misdemeanor.
- 6998 (6) All persons in attendance are subject to reasonable search as a condition of attendance.

6999 (7)(a) The following persons may also attend the execution:  
 7000 (i) staff as determined by the director; and  
 7001 (ii) no more than three correctional officials from other states that are preparing for  
 7002 executions, but no more than two correctional officials may be from any one state,  
 7003 as designated by the director.

7004 (b) A person younger than 18 years [~~of age~~] old may not attend.

7005 (8) The department shall adopt rules governing the attendance of persons, including the  
 7006 number of media representatives, at the execution. These rules shall be in accordance  
 7007 with this section.

7008 Section 377. Section **77-19-12** is amended to read:

7009 **77-19-12 . Return upon death warrant.**

7010 After the execution, the executive director of the Department of Corrections or [~~his~~] the  
 7011 executive director's designee shall make a return upon the death warrant, showing the time,  
 7012 place, and manner in which it was executed.

7013 Section 378. Section **77-22-4.5** is amended to read:

7014 **77-22-4.5 . Prosecutorial authority to compromise an offense regarding a witness.**

7015 (1) As used in this section, "prosecutor" includes the state attorney general and any  
 7016 assistant, a district attorney and any deputy, a county attorney and any deputy, and a  
 7017 municipal prosecutor and any deputy.

7018 (2) This chapter does not prohibit or limit the authority of a prosecutor to divert, reduce, or  
 7019 compromise any criminal charge against a witness or other party when the witness  
 7020 voluntarily enters into an agreement to provide testimony or other evidence against  
 7021 himself or herself or another accused in consideration for the diversion, reduction, or  
 7022 compromise if:

7023 (a) the prosecutor holds authority to prosecute the offense against the witness or other  
 7024 party; and

7025 (b) the complete agreement with the witness is in writing and a copy of the agreement is  
 7026 given to the witness.

7027 (3) Any agreement under Subsection (2) is subject to discovery by counsel for the accused  
 7028 in any prosecution in which the witness with whom the agreement is made has agreed to  
 7029 testify.

7030 Section 379. Section **77-22a-2** is amended to read:

7031 **77-22a-2 . Service of administrative subpoena.**

7032 (1) A subpoena issued under this section may be served by any person designated in the

7033 subpoena for that purpose. Service upon a natural person may be made by personal  
7034 delivery of the subpoena to [~~him~~] the natural person. Service may be made upon a  
7035 domestic or foreign corporation or upon a partnership or other unincorporated  
7036 association subject to suit under a common name by delivering the subpoena to an  
7037 officer, managing or general agent, or other agent authorized by appointment or law to  
7038 receive service of process.

7039 (2) The affidavit of the person serving the subpoena, when entered on a copy of the  
7040 subpoena by the person serving it, is proof of service.

7041 Section 380. Section **77-22a-3** is amended to read:

7042 **77-22a-3 . Compliance with administrative subpoena.**

7043 (1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the  
7044 attorney general or a deputy or assistant attorney general or the county attorney or  
7045 district attorney or [~~his~~] the district attorney's deputy may compel compliance with the  
7046 subpoena through the district court:

7047 (a) in the jurisdiction where the investigation is carried on;

7048 (b) where the subpoenaed person is an inhabitant;

7049 (c) where [~~he~~] the subpoenaed person carries on business; or

7050 (d) where [~~he~~] the subpoenaed person may be found.

7051 (2) The court may issue an order requiring the person subpoenaed to produce records or to  
7052 appear before the attorney general or deputy or assistant attorney general, or the county  
7053 attorney or district attorney or [~~his~~] the district attorney's deputy who issued the  
7054 subpoena testimony touching the matter under investigation.

7055 (3) Any failure to obey the court order may be punished by the court as contempt. All  
7056 process in the case may be served in any judicial district in which the person may be  
7057 found within the state.

7058 (4) A witness may not be held liable in any civil or criminal proceeding for producing  
7059 records or disclosing information to the person issuing the administrative subpoena as  
7060 commanded by the subpoena.

7061 Section 381. Section **77-23a-3** is amended to read:

7062 **77-23a-3 . Definitions.**

7063 As used in this chapter:

7064 (1) "Aggrieved person" means a person who was a party to any intercepted wire, electronic,  
7065 or oral communication, or a person against whom the interception was directed.

7066 (2) "Aural transfer" means any transfer containing the human voice at any point between



- 7067 and including the point of origin and the point of reception.
- 7068 (3) "Communications common carrier" means any person engaged as a common carrier for  
7069 hire in intrastate, interstate, or foreign communication by wire or radio, including a  
7070 provider of electronic communication service. However, a person engaged in radio  
7071 broadcasting is not, when that person is so engaged, a communications common carrier.
- 7072 (4) "Contents" when used with respect to any wire, electronic, or oral communication  
7073 includes any information concerning the substance, purport, or meaning of that  
7074 communication.
- 7075 (5) "Electronic communication" means any transfer of signs, signals, writings, images,  
7076 sounds, data, or intelligence of any nature transmitted in whole or in part by a wire,  
7077 radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:
- 7078 (a) the radio portion of a cordless telephone communication that is transmitted between  
7079 the cordless telephone handset and the base unit;
- 7080 (b) any wire or oral communications;
- 7081 (c) any communication made through a tone-only paging device; or
- 7082 (d) any communication from an electronic or mechanical device that permits the  
7083 tracking of the movement of a person or object.
- 7084 (6) "Electronic communications service" means any service that provides for users the  
7085 ability to send or receive wire or electronic communications.
- 7086 (7) "Electronic communications system" means any wire, radio, electromagnetic,  
7087 photoelectronic, or photo-optical facilities for the transmission of electronic  
7088 communications, and any computer facilities or related electronic equipment for the  
7089 electronic storage of the communication.
- 7090 (8) "Electronic, mechanical, or other device" means any device or apparatus that may be  
7091 used to intercept a wire, electronic, or oral communication other than:
- 7092 (a) any telephone or telegraph instrument, equipment or facility, or a component of any  
7093 of them:
- 7094 (i) furnished by the provider of wire or electronic communications service or by the  
7095 subscriber or user, and being used by the subscriber or user in the ordinary course  
7096 of its business; or
- 7097 (ii) being used by a provider of wire or electronic communications service in the  
7098 ordinary course of its business, or by an investigative or law enforcement officer  
7099 in the ordinary course of [his] the officer's duties; or
- 7100 (b) a hearing aid or similar device being used to correct subnormal hearing to not better

- 7101 than normal.
- 7102 (9) "Electronic storage" means:
- 7103 (a) any temporary intermediate storage of a wire or electronic communication incident to
- 7104 the electronic transmission of it; and
- 7105 (b) any storage of the communication by an electronic communications service for the
- 7106 purposes of backup protection of the communication.
- 7107 (10) "Intercept" means the acquisition of the contents of any wire, electronic, or oral
- 7108 communication through the use of any electronic, mechanical, or other device.
- 7109 (11) "Investigative or law enforcement officer" means any officer of the state or of a
- 7110 political subdivision, who by law may conduct investigations of or make arrests for
- 7111 offenses enumerated in this chapter, or any federal officer as defined in Section
- 7112 53-13-106, and any attorney authorized by law to prosecute or participate in the
- 7113 prosecution of these offenses.
- 7114 (12) "Judge of competent jurisdiction" means a judge of a district court of the state.
- 7115 (13) "Oral communication" means any oral communication uttered by a person exhibiting
- 7116 an expectation that the communication is not subject to interception, under
- 7117 circumstances justifying that expectation, but does not include any electronic
- 7118 communication.
- 7119 (14) "Pen register" means a device that records or decodes electronic or other impulses that
- 7120 identify the numbers dialed or otherwise transmitted on the telephone line to which the
- 7121 device is attached. "Pen register" does not include any device used by a provider or
- 7122 customer of a wire or electronic communication service for billing or recording as an
- 7123 incident to billing, for communications services provided by the provider, or any device
- 7124 used by a provider or customer of a wire communications service for cost accounting or
- 7125 other like purposes in the ordinary course of its business.
- 7126 (15) "Person" means any employee or agent of the state or a political subdivision, and any
- 7127 individual, partnership, association, joint stock company, trust, or corporation.
- 7128 (16) "Readily accessible to the general public" means, regarding a radio communication,
- 7129 that the communication is not:
- 7130 (a) scrambled or encrypted;
- 7131 (b) transmitted using modulation techniques with essential parameters that have been
- 7132 withheld from the public with the intention of preserving the privacy of the
- 7133 communication;
- 7134 (c) carried on a subcarrier or signal subsidiary to a radio transmission;

- 7135 (d) transmitted over a communications system provided by a common carrier, unless the  
7136 communication is a tone-only paging system communication; or
- 7137 (e) transmitted on frequencies allocated under Part 25, Subpart D, E, or F of Part 74, or  
7138 Part 94, Rules of the Federal Communications Commission unless, in the case of a  
7139 communication transmitted on a frequency allocated under Part 74 that is not  
7140 exclusively allocated to broadcast auxiliary services, the communication is a two-way  
7141 voice communication by radio.
- 7142 (17) "Trap and trace device" means a device, process, or procedure that captures the  
7143 incoming electronic or other impulses that identify the originating number of an  
7144 instrument or device from which a wire or electronic communication is transmitted.
- 7145 (18) "User" means any person or entity who:
- 7146 (a) uses an electronic communications service; and
- 7147 (b) is authorized by the provider of the service to engage in the use.
- 7148 (19)(a) "Wire communication" means any aural transfer made in whole or in part  
7149 through the use of facilities for the transmission of communications by the aid of  
7150 wire, cable, or other like connection between the point of origin and the point of  
7151 reception, including the use of the connection in a switching station, furnished or  
7152 operated by any person engaged as a common carrier in providing or operating these  
7153 facilities for the transmission of intrastate, interstate, or foreign communications.
- 7154 (b) "Wire communication" includes the electronic storage of the communication, but  
7155 does not include the radio portion of a cordless telephone communication that is  
7156 transmitted between the cordless telephone handset and the base unit.

7157 Section 382. Section **77-23a-9** is amended to read:

7158 **77-23a-9 . Disclosure or use of intercepted information.**

- 7159 (1) Any investigative or law enforcement officer who, by any means authorized by this  
7160 chapter, has obtained knowledge of the contents of any wire, electronic, or oral  
7161 communication, or evidence derived from any of these, may disclose those contents to  
7162 another investigative or law enforcement officer to the extent that the disclosure is  
7163 appropriate to the proper performance of the official duties of the officer making or  
7164 receiving the disclosure.
- 7165 (2) Any investigative or law enforcement officer who, by any means authorized by this  
7166 chapter, has obtained knowledge of the contents of any wire, electronic, or oral  
7167 communication or evidence derived from any of them may use those contents to the  
7168 extent the use is appropriate to the proper performance of [~~his~~] the officer's official duties.

- 7169 (3) Any person who has received, by any means authorized by this chapter, any information  
7170 concerning a wire, electronic, or oral communication or evidence derived from any of  
7171 them intercepted in accordance with this chapter may disclose the contents of that  
7172 communication or the derivative evidence while giving testimony under oath or  
7173 affirmation in any proceeding held under the authority of the United States or of any  
7174 state or political subdivision.
- 7175 (4) An otherwise privileged wire, electronic, or oral communication intercepted in  
7176 accordance with, or in violation of, the provisions of this chapter does not lose its  
7177 privileged character.
- 7178 (5) When an investigative or law enforcement officer, while engaged in intercepting wire,  
7179 electronic, or oral communications in the manner authorized, intercepts wire, electronic,  
7180 or oral communications relating to offenses other than those specified in the order of  
7181 authorization or approval, the contents, and evidence derived from the contents, may be  
7182 disclosed or used as provided in Subsections (1) and (2). The contents and any evidence  
7183 derived from them may be used under Subsection (3) when authorized or approved by a  
7184 judge of competent jurisdiction, if the judge finds on subsequent application that the  
7185 contents were otherwise intercepted in accordance with this chapter. The application  
7186 shall be made as soon as practicable.

7187 Section 383. Section **77-23a-16** is amended to read:

7188 **77-23a-16 . Communications provider -- Cooperation and support services --**  
7189 **Compensation -- Liability defense.**

- 7190 (1) Upon the request of an attorney for the government or an officer of a law enforcement  
7191 agency authorized to install and use pen registers under this chapter, a provider of wire  
7192 or electronic communications service, landlord, custodian, or other person shall furnish  
7193 investigative or law enforcement officers forthwith all information, facilities, and  
7194 technical assistance necessary to accomplish the installation of the pen register  
7195 unobtrusively and with a minimum of interference with the services the person ordered  
7196 by the court accords the party regarding whom the installation and use is to take place, if  
7197 such assistance is directed by a court order as provided in Subsection 77-23a-15(2)(b) of  
7198 this chapter.
- 7199 (2)(a) Upon request of an attorney for the government or an officer of a law  
7200 enforcement agency authorized to receive the results of a trap and trace device under  
7201 this chapter, a provider of wire or electronic communications service, landlord,  
7202 custodian, or other person shall:

- 7203 (i) install the device forthwith on the appropriate line[-] ; and  
 7204 (ii)  
 7205 [~~(b) He shall also-~~]furnish the investigative or law enforcement officer all additional  
 7206 information, facilities, and technical assistance, including installation and operation  
 7207 of the device unobtrusively and with a minimum of interference with the services that  
 7208 the person so ordered by the court accords the party with respect to whom the  
 7209 installation and use is to take place, if the installation and assistance is directed by a  
 7210 court order under [~~Section~~] Subsection 77-23a-15(2)(b).  
 7211 [~~(e)~~] (b) Unless otherwise ordered by the court, the results of the trap and trace device  
 7212 shall be furnished to the officer of the law enforcement agency designated by the  
 7213 court, at reasonable intervals and during regular business hours, for the duration of  
 7214 the order.
- 7215 (3) A provider of wire or electronic communications service, landlord, custodian, or other  
 7216 person who furnishes facilities or technical assistance under this section shall be  
 7217 reasonably compensated for reasonable expenses incurred in providing the facilities and  
 7218 assistance.
- 7219 (4) A cause of action does not lie in any court against the provider of wire or electronic  
 7220 communications service, its officers, employees, agents, or other specified persons, for  
 7221 providing information, facilities, or assistance in accordance with the terms of a court  
 7222 order under this chapter.
- 7223 (5) A good faith reliance on a court order, a legislative authorization, or a statutory  
 7224 authorization, is a complete defense against any civil or criminal action brought under  
 7225 this chapter or any other law.

7226 Section 384. Section **77-23b-2** is amended to read:

7227 **77-23b-2 . Interference with access to stored communication -- Offenses --**

7228 **Penalties.**

- 7229 (1) Except under Subsection (3), a person who obtains, alters, or prevents authorized access  
 7230 to a wire or electronic communication while it is in electronic storage in the system shall  
 7231 be punished under Subsection (2) if [~~he~~] the person:  
 7232 (a) intentionally accesses without authorization a facility through which an electronic  
 7233 communications service is provided; or  
 7234 (b) intentionally exceeds an authorization to access that facility.
- 7235 (2) A person who commits a violation of Subsection (1) is:  
 7236 (a) if the offense is committed for purposes of commercial advantage, malicious

- 7237 destruction, or damage, or private commercial gain, guilty of a:
- 7238 (i) third degree felony for the first offense under this subsection; and
- 7239 (ii) second degree felony for any subsequent offense; and
- 7240 (b) class B misdemeanor in any other case.
- 7241 (3) Subsection (1) does not apply to conduct authorized:
- 7242 (a) by the person or entity providing a wire or electronic communications service;
- 7243 (b) by a user of that service with respect to a communication of or intended for that user;
- 7244 or
- 7245 (c) under Sections 77-23a-10, 77-23b-4, and 77-23b-5.
- 7246 Section 385. Section **77-23b-5** is amended to read:
- 7247 **77-23b-5 . Backup copy of communications -- When required of provider --**
- 7248 **Court order -- Procedures.**
- 7249 (1)(a) A governmental entity acting under Subsection 77-23b-4(2)(b) may include in its
- 7250 subpoena or court order a requirement that the service provider to whom the request
- 7251 is directed create a backup copy of the contents of the electronic communications
- 7252 sought in order to preserve those communications. Without notifying the subscriber
- 7253 or customer of the subpoena or court order, the service provider shall create the
- 7254 backup as soon as practicable, consistent with its regular business practices. The
- 7255 provider shall also confirm to the governmental entity that the backup copy has been
- 7256 made. The backup copy shall be created within two business days after receipt by the
- 7257 service provider of the subpoena or court order.
- 7258 (b) Notice to the subscriber or customer shall be made by the governmental entity within
- 7259 three days after receipt of confirmation, unless the notice is delayed under Subsection
- 7260 77-23b-6(1).
- 7261 (c) The service provider may not destroy the backup copy until the later of:
- 7262 (i) the delivery of the information; or
- 7263 (ii) the resolution of any proceedings, including appeals of any proceeding,
- 7264 concerning the government's subpoena or court order.
- 7265 (d) The service provider shall release the backup copy to the requesting governmental
- 7266 entity no sooner than 14 days after the governmental entity's notice to the subscriber
- 7267 or customer, if the service provider:
- 7268 (i) has not received notice from the subscriber or customer that the subscriber or
- 7269 customer has challenged the governmental entity's request; and
- 7270 (ii) has not initiated proceedings to challenge the request of the governmental entity.

- 7271 (e) A governmental entity may seek to require the creation of a backup copy under  
7272 Subsection (1)(a) if in its sole discretion the entity determines that there is reason to  
7273 believe that notification under Section 77-23b-4 of the existence of the subpoena or  
7274 court order may result in destruction of or tampering with evidence. This  
7275 determination is not subject to challenge by the subscriber, customer, or service  
7276 provider.
- 7277 (2)(a) Within 14 days after notice by the governmental entity to the subscriber or  
7278 customer under Subsection (1)(b), the subscriber or customer may file a motion to  
7279 quash the subpoena or vacate the court order, with copies served upon the  
7280 governmental entity, and with written notice of the challenge to the service provider.  
7281 A motion to vacate a court order shall be filed in the court that issues the order. A  
7282 motion to quash a subpoena shall be filed in the appropriate district court. The  
7283 motion or application shall contain an affidavit or sworn statement:
- 7284 (i) that the applicant is a customer or subscriber to the service from which the  
7285 contents of electronic communications maintained for [him] the applicant have  
7286 been sought; and
- 7287 (ii) that the applicant's reason for believing the records sought are not relevant to a  
7288 legitimate law enforcement inquiry or that there has not been substantial  
7289 compliance with the provisions of this chapter in some other respect.
- 7290 (b) Service shall be made under this section upon a governmental entity by delivering or  
7291 mailing by registered or certified mail a copy of the papers to the person, office, or  
7292 department specified in the notice the customer received under this chapter. For  
7293 purposes of this subsection, "deliver" has the same meaning as under the Utah Rules  
7294 of Criminal Procedure.
- 7295 (c) If the court finds that the customer has complied with Subsections (2)(a) and (b), the  
7296 court shall order the governmental entity to file a sworn response, that may be filed in  
7297 camera if the governmental entity includes in its response the reasons making in  
7298 camera review appropriate. If the court is unable to determine the motion or  
7299 application on the basis of the parties' initial allegations and response, the court may  
7300 conduct additional proceedings as it considers appropriate. All proceedings shall be  
7301 completed, and the motion or application decided, as soon as practicable after the  
7302 filing of the governmental entity's response.
- 7303 (d) If the court finds that the applicant is not the subscriber or customer for whom the  
7304 communications sought by the governmental entity are maintained, or that there is a

7305 reason to believe that the law enforcement inquiry is legitimate and that the  
7306 communications sought are relevant to that inquiry, it shall deny the motion or  
7307 application and order the process enforced. If the court finds that the applicant is the  
7308 subscriber or customer for whom the communications sought by the governmental  
7309 entity are maintained, and that there is no reason to believe that the communications  
7310 sought are relevant to a legitimate law enforcement inquiry, or that there has not been  
7311 substantial compliance with this chapter, it shall order the process quashed.

7312 (e) A court order denying a motion or application under this section is not considered a  
7313 final order, and no interlocutory appeal may be taken from it by the customer or  
7314 subscriber.

7315 Section 386. Section **77-27-5.5** is amended to read:

7316 **77-27-5.5 . Review procedure -- Commutation.**

- 7317 (1) The Board of Pardons and Parole may consider the commutation of a death sentence  
7318 only to life without parole.
- 7319 (2) Only the person who has been sentenced to death or [his] the sentenced person's counsel  
7320 may petition the Board of Pardons and Parole for commutation.
- 7321 (3) The petition shall be in writing, signed personally by the person sentenced to death, and  
7322 shall include a statement of the grounds upon which the petitioner seeks review.
- 7323 (4) The state shall be permitted to respond in writing to the petition as may be established  
7324 by board rules.
- 7325 (5) The board shall review the petition and determine whether the petition presents a  
7326 substantial issue which has not been reviewed in the judicial process.
- 7327 (6) The board shall not consider legal issues, including constitutional issues, which:  
7328 (a) have been reviewed previously by the courts;  
7329 (b) should have been raised during the judicial process; or  
7330 (c) if based on new information, are subject to judicial review.
- 7331 (7)(a) If the board does not find a substantial issue, the board shall deny the hearing to  
7332 the petitioner.
- 7333 (b) If the board finds a substantial issue, the board shall conduct a hearing in which the  
7334 petitioner and the state may present evidence and argument as may be provided by  
7335 board rules.

7336 Section 387. Section **77-27-12** is amended to read:

7337 **77-27-12 . Parole discharge--Sentence termination.**

7338 Any person released on parole shall be discharged from parole or have [his] the person's



7339 sentence terminated subject to the conditions and limitations contained in Section 76-3-202.

7340 Section 388. Section **77-27-26** is amended to read:

7341 **77-27-26 . Deputization of agents to effect return of parole and probation**  
7342 **violators.**

7343 (1)(a) The official administrator of the interstate compact for the supervision of parolees  
7344 and probationers is authorized and empowered to deputize any person to act as an  
7345 officer and agent of this state in carrying out the return of any person who has  
7346 violated the terms and conditions of parole or probation as granted by this state.

7347 (b) In any matter relating to the return of a violator described in Subsection (1)(a), any  
7348 deputized agent shall have all the powers of a peace officer of this state.

7349 (2) Any deputization of any person pursuant to this section shall be in writing and the  
7350 deputized agent shall:

7351 (a) carry formal evidence of [his-]deputization; and

7352 (b) produce the evidence of deputization upon demand.

7353 (3) The official administrator of the interstate compact is authorized, subject to the approval  
7354 of the governor, to enter into contracts with similar officials of any other state or states  
7355 for the purpose of sharing an equitable portion of the cost of effecting the return of any  
7356 person who has violated the terms and conditions of parole or probation as granted by  
7357 this state.

7358 Section 389. Section **77-28b-3** is amended to read:

7359 **77-28b-3 . Eligibility criteria for international transfer.**

7360 An offender must meet the following criteria before [~~he may be~~] being considered for an  
7361 international transfer:

7362 (1) the offender is a citizen of the receiving country;

7363 (2) the offender consents to transfer to [his] the offender's country of citizenship;

7364 (3) the offense committed by the offender constitutes a criminal offense under the laws of  
7365 the receiving state;

7366 (4) the offender does not have fewer than 12 months remaining on [his] the offender's  
7367 sentence at the time of the application for transfer;

7368 (5) the offender is not under a sentence of death;

7369 (6) the offender does not have collateral attacks or appeals on either the sentence or  
7370 conviction pending;

7371 (7) all other provisions of the imposed sentence such as fines, restitution, and penalties are  
7372 paid in full;

- 7373 (8) there are no detainers, wanted notices based on criminal convictions, indictments,  
7374 informations, complaints, or parole or probation violation allegations pending against  
7375 the offender; and
- 7376 (9) the offender meets all of the eligibility requirements of the treaty with [his] the offender's  
7377 country.

7378 Section 390. Section **77-28b-4** is amended to read:

7379 **77-28b-4 . Role of the classification officer.**

- 7380 (1) The classification officer of each correctional institution shall be provided with the  
7381 eligibility requirements of each prisoner transfer treaty.
- 7382 (2) The classification officer shall forward Form I, Transfer Inquiry, to all offenders  
7383 identified as having national or citizenship status in a party nation.
- 7384 (3) Upon receipt of Form I, Transfer Inquiry, the offender may indicate [he] that the offender  
7385 is:
- 7386 (a) interested in pursuing a transfer by signing Form I and returning it to the  
7387 classification officer along with proof of citizenship; or
- 7388 (b) not interested in pursuing a transfer by returning Form I to the classification officer  
7389 without proof of citizenship.
- 7390 (4) If the offender indicates on Form I, Transfer Inquiry, that [he] the offender is interested  
7391 in pursuing a transfer, the institution classification officer shall complete Form II,  
7392 Inmate Information Provided to Treaty Nation, and Form III, Notice Regarding  
7393 International Prisoner Transfer.
- 7394 (5) The following forms, provided by the federal government, shall be completed and  
7395 forwarded in triplicate by the classification officer to the superintendent of the  
7396 institution:
- 7397 (a) Form I, Transfer Inquiry;
- 7398 (b) Form II, Inmate Information Provided to Treaty Nation;
- 7399 (c) Form III, Notice Regarding International Prisoner Transfer;
- 7400 (d) proof of citizenship;
- 7401 (e) statement of offender's eligibility;
- 7402 (f) presentence report;
- 7403 (g) classification assessment;
- 7404 (h) current psychological and medical reports;
- 7405 (i) signed release of confidential information forms;
- 7406 (j) criminal history sheet; and

7407 (k) judgments of conviction or certification to be tried as an adult.

7408 Section 391. Section **77-28b-7** is amended to read:

7409 **77-28b-7 . Role of director.**

7410 (1) The director of the Department of Corrections shall review the application and  
7411 materials. Upon [his] the director's approval the application and materials shall be  
7412 forwarded to the governor for authorization to transfer.

7413 (2) Applications that are not approved by the director shall be returned to the sending  
7414 institution and the inmate shall be notified.

7415 Section 392. Section **77-30-3** is amended to read:

7416 **77-30-3 . Form of demand -- What documents presented must show.**

7417 No demand for the extradition of a person charged with a crime in another state shall be  
7418 recognized by the governor unless in writing alleging, except in cases arising under Section  
7419 77-30-6, that the accused was present in the demanding state at the time of the commission of  
7420 the alleged crime, and that thereafter [he] the accused fled from the state, and accompanied by a  
7421 copy of an indictment found or by information supported by affidavit in the state having  
7422 jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together  
7423 with a copy of any warrant which was issued thereupon or by a copy of a judgment of  
7424 conviction or of a sentence composed in execution, together with a statement by the executive  
7425 authority of the demanding state that the person claimed has escaped from confinement or has  
7426 broken the terms of [his] the person's bail, probation or parole. The indictment, information or  
7427 affidavit made before the magistrate must substantially charge the person demanded with  
7428 having committed a crime under the law of that state and the copy of the indictment,  
7429 information, affidavit, judgment of conviction or sentence must be authenticated by the  
7430 executive authority making the demand.

7431 Section 393. Section **77-30-4** is amended to read:

7432 **77-30-4 . Governor may investigate demand.**

7433 When a demand shall be made upon the governor of this state by the executive authority  
7434 of another state for the surrender of a person so charged with a crime, the governor may call  
7435 upon the attorney general or any prosecuting officer in this state to investigate or assist in  
7436 investigating the demand, and to report to [him] the governor the situation and circumstances of  
7437 the person so demanded, and whether [he] the person ought to be surrendered.

7438 Section 394. Section **77-30-5** is amended to read:

7439 **77-30-5 . Extradition for prosecution before conclusion of trial or term in other**  
7440 **state -- Return of person involuntarily leaving demanding state.**

7441 (1) When it is desired to have returned to this state a person charged in this state with a  
7442 crime, and such person is imprisoned or is held under criminal proceedings then pending  
7443 against [him] the person in another state, the governor of this state may agree with the  
7444 executive authority of such other state for the extradition of such person before the conclusion  
7445 of such proceedings or [his] the person's term of sentence in such other state, upon condition  
7446 that such person be returned to such other state at the expense of this state as soon as the  
7447 prosecution in this state is terminated.

7448

7449 (2) The governor of this state may also surrender on demand of the executive authority of  
7450 any other state any person in this state who is charged in the manner provided in Section  
7451 77-30-23 with having violated the laws of the state whose executive authority is making  
7452 the demand, even though such person left the demanding state involuntarily.

7453 Section 395. Section **77-30-7** is amended to read:

7454 **77-30-7 . Governor's warrant of arrest -- Recitals.**

7455 If the governor decides that the demand should be complied with, [he] the governor shall  
7456 sign a warrant of arrest, which shall be sealed with the state seal, directed to any peace officer  
7457 or other person whom [he] the governor may think fit to entrust with the execution thereof. The  
7458 warrant must substantially recite the facts necessary to the validity of its issuance.

7459 Section 396. Section **77-30-10** is amended to read:

7460 **77-30-10 . Time to apply for habeas corpus allowed.**

7461 No person arrested upon such warrant shall be delivered over to the agent whom the  
7462 executive authority demanding [him] the arrested person shall have appointed to receive [him]  
7463 the arrested person unless [he] the arrested person shall first be taken forthwith before a judge  
7464 of a court of record in this state who shall inform [him] the arrested person of the demand made  
7465 for [his] the arrested person's surrender and of the crime with which [he] the arrested person is  
7466 charged and that [he] the arrested person has the right to demand and procure legal counsel and  
7467 if the prisoner or [his] the prisoner's counsel shall state that [~~he or they desire~~] the prisoner or  
7468 the prisoner's counsel desires to test the legality of [his] the prisoner's arrest, the judge of such  
7469 court of record shall fix a reasonable time to be allowed [him] the prisoner within which to  
7470 apply for a writ of habeas corpus. When such writ is applied for, notice thereof and the time  
7471 and place of hearing thereon shall be given to the prosecuting officer of the county in which  
7472 the arrest is made and in which the accused is in custody, and to the said agent of the  
7473 demanding state.

7474 Section 397. Section **77-30-11** is amended to read:

7475 **77-30-11 . Penalty for disobedience of habeas corpus.**

7476 Any officer who shall deliver to the agent for extradition of the demanding state a  
 7477 person in [~~his~~] the officer's custody under the governor's warrant, in willful disobedience to  
 7478 Section 77-30-10, shall be guilty of a misdemeanor and on conviction shall be fined not more  
 7479 than \$1,000 or be imprisoned in the county jail not more than six months, or both.

7480 Section 398. Section **77-30-12** is amended to read:

7481 **77-30-12 . Officers entitled to use local jails.**

7482 (1) The officer or persons executing the governor's warrant of arrest or the agent of the  
 7483 demanding state to whom the prisoner may have been delivered may, when necessary, confine  
 7484 the prisoner in the jail of any county or city through which [~~he~~] the officer or person having  
 7485 charge of the prisoner may pass and the keeper of such jail must receive and safely keep the  
 7486 prisoner until the officer or person having charge of [~~him~~] the prisoner is ready to proceed[~~-on~~  
 7487 ~~his route~~], such officer or person being chargeable with the expense of keeping.

7488

7489 (2) The officer or agent of a demanding state to whom a prisoner may have been delivered  
 7490 following extradition proceedings in another state, or to whom a prisoner may have been  
 7491 delivered after waiving extradition in such other state, and who is passing through this  
 7492 state with such a prisoner for the purpose of immediately returning such prisoner to the  
 7493 demanding state may, when necessary, confine the prisoner in the jail of any county or  
 7494 city through which [~~he~~] the officer or person having charge of the prisoner may pass, and  
 7495 the keeper of such jail must receive and safely keep the prisoner until the officer or agent  
 7496 having charge of [~~him~~] the prisoner is ready to proceed[~~-on his route~~], such officer or  
 7497 agent being chargeable with the expense of keeping; provided, such officer or agent  
 7498 shall produce and show to the keeper of such jail satisfactory written evidence of the fact  
 7499 that [~~he~~] the officer or agent is actually transporting such prisoner to the demanding state  
 7500 after a requisition by the executive authority of such demanding state. Such prisoner  
 7501 shall not be entitled to demand a new requisition while in this state.

7502 Section 399. Section **77-30-13** is amended to read:

7503 **77-30-13 . Fugitives from justice -- Warrant of arrest.**

7504 Whenever any person within this state shall be charged on the oath of any credible  
 7505 person before any judge or magistrate of this state with the commission of any crime in any  
 7506 other state, and, except in cases arising under Section 77-30-6, that [~~he~~] the person charged has  
 7507 fled from justice, or with having been convicted of a crime in that state and having escaped  
 7508 from confinement, or having broken the terms of [~~his~~] the person's bail, probation or parole, or

7509 whenever complaint shall have been made before any judge or magistrate in this state setting  
7510 forth on the affidavit of any credible person in another state that a crime has been committed in  
7511 such other state and that the ~~[accused]~~ person has been charged in such state with the  
7512 commission of the crime, and except in cases arising under Section 77-30-6, has fled from  
7513 justice, or with having been convicted of a crime in that state and having escaped from  
7514 confinement, or having broken the terms of ~~[his]~~ the person's bail, probation or parole, and is  
7515 believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace  
7516 officer commanding ~~[him]~~ the officer to apprehend the person named therein, wherever ~~[he]~~ the  
7517 named person may be found in this state, and to bring ~~[him]~~ the named person before the same  
7518 or any judge, magistrate or court who or which may be available in or convenient of access to  
7519 the place where the arrest may be made, to answer the charge or complaint and affidavit, and a  
7520 certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued  
7521 shall be attached to the warrant.

7522 Section 400. Section **77-30-14** is amended to read:

7523 **77-30-14 . Arrest without warrant.**

7524 The arrest of a person may be lawfully made also by any peace officer or a private  
7525 person without a warrant upon reasonable information that the accused stands charged in the  
7526 courts of a state with a crime punishable by death or imprisonment for a term exceeding one  
7527 year, but when so arrested the accused person must be taken before a judge or magistrate with  
7528 all practicable speed and complaint must be made against ~~[him]~~ the accused person under oath  
7529 setting forth the ground for the arrest as in Section 77-30-13, and thereafter ~~[his]~~ the accused  
7530 person's answer shall be heard as if ~~[he]~~ the accused person had been arrested on a warrant.

7531 Section 401. Section **77-30-15** is amended to read:

7532 **77-30-15 . Commitment pending arrest under warrant of governor.**

7533 If from the examination before the judge or magistrate it appears that the person held is  
7534 the person charged with having committed the crime alleged, and, except in cases arising  
7535 under Section 77-30-6, that ~~[he]~~ the accused person has fled from justice, the judge or  
7536 magistrate must, by a warrant reciting the accusation, commit ~~[him]~~ the accused person to the  
7537 county jail for such a time not exceeding 30 days and specified in the warrant as will enable  
7538 the arrest of the accused person to be made under a warrant of the governor on a requisition of  
7539 the executive authority of the state having jurisdiction of the offense, unless the accused person  
7540 gives bail as provided in the next section or until ~~[he]~~ the accused person shall be legally  
7541 discharged.

7542 Section 402. Section **77-30-16** is amended to read:

7543 **77-30-16 . Amount of bail.**

7544 (1) Except as provided in Subsection (2), a judge or magistrate in this state may admit the  
7545 person arrested to bail by bond with sufficient sureties and in an amount [~~he~~] the judge or  
7546 magistrate considers proper, conditioned for [~~his~~] the arrested person's appearance before [  
7547 him] the judge or magistrate at a time specified in the bond and for [~~his~~] the arrested  
7548 person's surrender, to be arrested upon the warrant of the governor of this state.

7549 (2) A person arrested under Section 77-30-13 shall be admitted to bail as a matter of right,  
7550 except the court has discretion to deny bail as provided in Utah Constitution Article I,  
7551 Section 8, and when a judge or magistrate in the demanding state has ordered that the  
7552 person charged be held without bail or the person has waived extradition.

7553 (3) There is a rebuttable presumption that the bail set by the court or magistrate in the  
7554 demanding state is the proper amount of bail in this state.

7555 Section 403. Section **77-30-17** is amended to read:

7556 **77-30-17 . Procedure when no arrest made under warrant of governor.**

7557 If the accused person is not arrested under warrant of the governor by the expiration of  
7558 the time specified in the warrant or bond, a judge or magistrate may discharge [~~him~~] the  
7559 accused person or may recommit [~~him~~] the accused person for a further period not to exceed 60  
7560 days, or a judge or magistrate may again take bail for [~~his~~] the accused person's appearance and  
7561 surrender, as provided in Section 77-30-16, but within a period not to exceed 60 days after the  
7562 date of such new bond.

7563 Section 404. Section **77-30-20** is amended to read:

7564 **77-30-20 . Governor not to inquire into guilt or innocence.**

7565 The guilt or innocence of the accused person as to the crime of which [~~he~~] the accused  
7566 person is charged in another state may not be inquired into by the governor or in any  
7567 proceeding after the demand for extradition accompanied by a charge of crime in legal form as  
7568 above provided shall have been presented to the governor, except as it may be involved in  
7569 identifying the accused person held as the person charged with the crime.

7570 Section 405. Section **77-30-21** is amended to read:

7571 **77-30-21 . Governor's warrant of arrest recalled or another issued.**

7572 The governor may recall [~~his~~] the governor's warrant of arrest or may issue another  
7573 warrant whenever [~~he~~] the governor deems proper.

7574 Section 406. Section **77-30-22** is amended to read:

7575 **77-30-22 . Fugitives from this state -- Issuance of governor's warrant.**

7576 Whenever the governor of this state shall demand a person charged with a crime or with

7577 escaping from confinement or breaking the terms of [~~his~~]bail, probation, or parole in this state  
7578 from the executive authority of any other state or from the chief justice or an associate justice  
7579 of the superior court of the District of Columbia authorized to receive such demand under the  
7580 laws of the United States, [~~he~~] the governor shall issue a warrant under the seal of this state to  
7581 some agent, commanding [~~him~~] the agent to receive the person so charged if delivered to [~~him~~]  
7582 the agent and convey [~~him~~] the charged person to the proper officer of the county in this state  
7583 in which the offense was committed.

7584 Section 407. Section **77-30-26** is amended to read:

7585 **77-30-26 . Prosecution not limited to crime specified in requisition.**

7586 After a person has been brought back to this state by or after waiver of extradition  
7587 proceedings[~~he~~] , the person may be tried in this state for other crimes which [~~he~~] the person  
7588 may be charged with having committed here as well as that specified in the requisition for [~~his~~]  
7589 the person's extradition.

7590 Section 408. Section **77-38-10** is amended to read:

7591 **77-38-10 . Victim's discretion.**

7592 (1)(a) The victim may exercise any rights under this chapter at [~~his~~] the victim's  
7593 discretion to be present and to be heard at a court proceeding, including a juvenile  
7594 delinquency proceeding.

7595 (b) The absence of the victim at the court proceeding does not preclude the court from  
7596 conducting the proceeding.

7597 (2) A victim shall not refuse to comply with an otherwise lawful subpoena under this  
7598 chapter.

7599 (3) A victim shall not prevent the prosecution from complying with requests for  
7600 information within a prosecutor's possession and control under this chapter.

7601 Section 409. **Effective Date.**

7602 This bill takes effect on May 7, 2025.