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Technical Code Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Karen Kwan
House Sponsor: Melissa G. Ballard

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;
- ▶ includes a coordination clause to address conflicts with any other legislation; and
- ▶ makes other technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

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

28 **7-1-320**, as last amended by Laws of Utah 1991, Chapter 133
29 **7-1-510**, as last amended by Laws of Utah 1987, Chapter 161
30 **7-1-601**, as enacted by Laws of Utah 1981, Chapter 16
31 **7-1-604**, as enacted by Laws of Utah 1981, Chapter 16
32 **7-1-610**, as enacted by Laws of Utah 1981, Chapter 16
33 **7-1-613**, as enacted by Laws of Utah 1981, Chapter 16
34 **7-1-803**, as last amended by Laws of Utah 1994, Chapter 200
35 **7-2-3**, as last amended by Laws of Utah 1994, Chapter 200
36 **7-2-4**, as last amended by Laws of Utah 1983, Chapter 8
37 **7-2-8**, as enacted by Laws of Utah 1983, Chapter 8
38 **7-2-11**, as enacted by Laws of Utah 1983, Chapter 8
39 **7-2-13**, as enacted by Laws of Utah 1981, Chapter 16
40 **7-2-14**, as last amended by Laws of Utah 1983, Chapter 8
41 **7-2-15**, as last amended by Laws of Utah 1995, Chapter 49
42 **7-2-16**, as last amended by Laws of Utah 1989, Chapter 267
43 **7-2-18**, as last amended by Laws of Utah 1986, Fourth Special Session, Chapter 1
44 **7-2-19**, as enacted by Laws of Utah 1981, Chapter 16
45 **7-3-3.2**, as last amended by Laws of Utah 2000, Chapter 75
46 **7-3-35**, as enacted by Laws of Utah 1981, Chapter 16
47 **7-5-3**, as last amended by Laws of Utah 1994, Chapter 200
48 **7-5-12**, as last amended by Laws of Utah 1983, Chapter 9
49 **7-9-18**, as last amended by Laws of Utah 1996, Chapter 182
50 **7-9-31**, as last amended by Laws of Utah 1996, Chapter 182
51 **7-9-49**, as last amended by Laws of Utah 1994, Chapter 200
52 **7-9-50**, as enacted by Laws of Utah 1994, Chapter 200
53 **7-17-5**, as enacted by Laws of Utah 1979, Chapter 124
54 **7-19-3**, as last amended by Laws of Utah 1986, Chapter 1
55 **7-19-5**, as last amended by Laws of Utah 1986, Chapter 1
56 **7-19-9**, as enacted by Laws of Utah 1984, Second Special Session, Chapter 5
57 **8-2-2**, as last amended by Laws of Utah 1992, Chapter 30
58 **9-8-804**, as renumbered and amended by Laws of Utah 1992, Chapter 241
59 **9-8-806**, as renumbered and amended by Laws of Utah 1992, Chapter 241
60 **9-9-203**, as renumbered and amended by Laws of Utah 1992, Chapter 241
61 **10-3-202**, as last amended by Laws of Utah 1990, Chapter 32

62 **10-3-705**, as last amended by Laws of Utah 1979, Chapter 38
63 **10-3-829**, as enacted by Laws of Utah 1977, Chapter 48
64 **10-3-904**, as enacted by Laws of Utah 1977, Chapter 48
65 **10-3-906**, as enacted by Laws of Utah 1977, Chapter 48
66 **10-3-915**, as enacted by Laws of Utah 1977, Chapter 48
67 **10-8-50**, as last amended by Laws of Utah 1995, Chapter 131
68 **11-3-4**, as last amended by Laws of Utah 1993, Chapter 234
69 **11-30-6**, as enacted by Laws of Utah 1987, Chapter 197
70 **13-1-5**, as enacted by Laws of Utah 1983, Chapter 322
71 **13-7-4**, as last amended by Laws of Utah 1997, Chapter 10
72 **13-11-9**, as enacted by Laws of Utah 1973, Chapter 188
73 **13-11-16**, as last amended by Laws of Utah 1997, Chapter 296
74 **13-14a-5**, as enacted by Laws of Utah 1989, Chapter 63
75 **13-20-4**, as last amended by Laws of Utah 1990, Chapter 249
76 **13-21-4**, as last amended by Laws of Utah 1994, Chapter 186
77 **13-28-7**, as enacted by Laws of Utah 1995, Chapter 196
78 **15-8-11**, as enacted by Laws of Utah 1993, Chapter 251
79 **16-7-2**, as last amended by Laws of Utah 1985, Chapter 178
80 **16-10a-129**, as enacted by Laws of Utah 1992, Chapter 277
81 **16-10a-824**, as last amended by Laws of Utah 1993, Chapter 184
82 **16-10a-841**, as last amended by Laws of Utah 1994, Chapter 200
83 **16-10a-853**, as enacted by Laws of Utah 1992, Chapter 277
84 **16-10a-902**, as enacted by Laws of Utah 1992, Chapter 277
85 **16-10a-903**, as enacted by Laws of Utah 1992, Chapter 277
86 **16-10a-908**, as enacted by Laws of Utah 1992, Chapter 277
87 **16-10a-1302**, as enacted by Laws of Utah 1992, Chapter 277
88 **16-10a-1327**, as enacted by Laws of Utah 1992, Chapter 277
89 **16-10a-1328**, as enacted by Laws of Utah 1992, Chapter 277
90 **16-10a-1408**, as last amended by Laws of Utah 1996, Chapter 79
91 **16-10a-1602**, as enacted by Laws of Utah 1992, Chapter 277
92 **16-10a-1603**, as enacted by Laws of Utah 1992, Chapter 277
93 **16-10a-1605**, as enacted by Laws of Utah 1992, Chapter 277
94 **16-10a-1606**, as enacted by Laws of Utah 1992, Chapter 277
95 **16-10a-1608**, as enacted by Laws of Utah 1992, Chapter 277

96 **19-1-302**, as enacted by Laws of Utah 1991, Chapter 112
97 **19-6-304**, as renumbered and amended by Laws of Utah 1991, Chapter 112
98 **19-6-309**, as last amended by Laws of Utah 2024, Chapter 158
99 **19-6-312**, as renumbered and amended by Laws of Utah 1991, Chapter 112
100 **19-6-314**, as renumbered and amended by Laws of Utah 1991, Chapter 112
101 **19-6-315**, as renumbered and amended by Laws of Utah 1991, Chapter 112
102 **19-6-317**, as renumbered and amended by Laws of Utah 1991, Chapter 112
103 **19-6-422**, as last amended by Laws of Utah 1992, Chapter 214
104 **19-8-110**, as enacted by Laws of Utah 1997, Chapter 247
105 **31A-2-105**, as last amended by Laws of Utah 1993, Chapter 305
106 **31A-2-106**, as last amended by Laws of Utah 1987, Chapter 91
107 **31A-2-111**, as enacted by Laws of Utah 1985, Chapter 242
108 **31A-2-112**, as enacted by Laws of Utah 1985, Chapter 242
109 **31A-2-311**, as enacted by Laws of Utah 1985, Chapter 242
110 **31A-5-103**, as last amended by Laws of Utah 2000, Chapter 1
111 **31A-5-206**, as last amended by Laws of Utah 1987, Chapter 95
112 **31A-5-209**, as enacted by Laws of Utah 1985, Chapter 242
113 **31A-5-213**, as last amended by Laws of Utah 1987, Chapter 95
114 **31A-5-216**, as enacted by Laws of Utah 1985, Chapter 242
115 **31A-5-303**, as enacted by Laws of Utah 1985, Chapter 242
116 **31A-5-304**, as enacted by Laws of Utah 1985, Chapter 242
117 **31A-5-307**, as last amended by Laws of Utah 1992, Chapter 277
118 **31A-5-408**, as last amended by Laws of Utah 1992, Chapter 277
119 **31A-5-507**, as enacted by Laws of Utah 1985, Chapter 242
120 **31A-5-509**, as last amended by Laws of Utah 1986, Chapter 204
121 **31A-5-601**, as enacted by Laws of Utah 1985, Chapter 242
122 **31A-7-303**, as last amended by Laws of Utah 2000, Chapter 300
123 **31A-7-403**, as last amended by Laws of Utah 1987, Chapter 161
124 **31A-9-103**, as last amended by Laws of Utah 1986, Chapter 204
125 **31A-11-106**, as last amended by Laws of Utah 1988, Second Special Session, Chapter 10
126 **31A-11-108**, as enacted by Laws of Utah 1985, Chapter 242
127 **31A-11-110**, as enacted by Laws of Utah 1985, Chapter 242
128 **31A-11-112**, as last amended by Laws of Utah 1997, Chapters 10, 215
129 **31A-14-202**, as last amended by Laws of Utah 1986, Chapter 204

- 130 **31A-14-216**, as enacted by Laws of Utah 1985, Chapter 242
131 **31A-15-107**, as enacted by Laws of Utah 1985, Chapter 242
132 **31A-21-310**, as enacted by Laws of Utah 1985, Chapter 242
133 **31A-22-105**, as enacted by Laws of Utah 1985, Chapter 242
134 **31A-22-308**, as last amended by Laws of Utah 1990, Chapter 327
135 **31A-22-311**, as last amended by Laws of Utah 1994, Chapter 316
136 **31A-22-312**, as enacted by Laws of Utah 1989, Chapter 251
137 **31A-22-401**, as last amended by Laws of Utah 2024, Chapter 120
138 **31A-22-512**, as enacted by Laws of Utah 1985, Chapter 242
139 **31A-22-514**, as enacted by Laws of Utah 1985, Chapter 242
140 **31A-22-1005**, as enacted by Laws of Utah 1985, Chapter 242
141 **31A-22-1007**, as enacted by Laws of Utah 1985, Chapter 242
142 **31A-22-1102**, as last amended by Laws of Utah 1989, Chapter 261
143 **31A-22-1305**, as last amended by Laws of Utah 2000, Chapter 300
144 **31A-25-201**, as last amended by Laws of Utah 1989, Chapter 261
145 **31A-26-211**, as last amended by Laws of Utah 1986, Chapter 204
146 **31A-26-212**, as enacted by Laws of Utah 1985, Chapter 242
147 **31A-28-217**, as last amended by Laws of Utah 1988, Chapter 97
148 **34-23-303**, as enacted by Laws of Utah 1990, Chapter 8
149 **34-26-1**, as last amended by Laws of Utah 1987, Chapter 206
150 **34-38-4**, as enacted by Laws of Utah 1987, Chapter 234
151 **34-38-7**, as enacted by Laws of Utah 1987, Chapter 234
152 **34-39-2**, as enacted by Laws of Utah 1989, Chapter 217
153 **34-39-3**, as enacted by Laws of Utah 1989, Chapter 217
154 **34-40-205**, as enacted by Laws of Utah 1990, Chapter 8
155 **34A-2-207**, as last amended by Laws of Utah 1998, Chapter 13
156 **35A-4-102**, as renumbered and amended by Laws of Utah 1996, Chapter 240
157 **35A-4-105**, as renumbered and amended by Laws of Utah 1996, Chapter 240
158 **35A-4-207**, as renumbered and amended by Laws of Utah 1996, Chapter 240
159 **35A-4-402**, as renumbered and amended by Laws of Utah 1996, Chapter 240
160 **35A-4-406**, as renumbered and amended by Laws of Utah 1996, Chapter 240
161 **36-19-1**, as enacted by Laws of Utah 1992, Chapter 100
162 **38-2-4**, as last amended by Laws of Utah 2024, Chapter 158
163 **38-3-5**, as last amended by Laws of Utah 1977, Chapter 272

164 **38-7-2**, as last amended by Laws of Utah 1996, Chapter 167
165 **38-10-102.1**, as enacted by Laws of Utah 1990, Chapter 203
166 **38-10-108**, as enacted by Laws of Utah 1987, Chapter 170
167 **38-10-109**, as enacted by Laws of Utah 1987, Chapter 170
168 **40-1-6**, as last amended by Laws of Utah 1999, Chapter 85
169 **40-8-19**, as enacted by Laws of Utah 1975, Chapter 130
170 **40-8-23**, as last amended by Laws of Utah 1995, Chapter 20
171 **40-10-5**, as last amended by Laws of Utah 1991, Chapter 225
172 **40-10-19**, as last amended by Laws of Utah 1994, Chapter 219
173 **40-10-20**, as last amended by Laws of Utah 2024, Chapter 158
174 **40-10-29**, as enacted by Laws of Utah 1979, Chapter 145
175 **41-1a-224**, as renumbered and amended by Laws of Utah 1992, Chapter 1
176 **41-1a-607**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and
177 amended by Laws of Utah 1992, Chapter 1
178 **41-1a-608**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and
179 amended by Laws of Utah 1992, Chapter 1
180 **41-1a-708**, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and
181 amended by Laws of Utah 1992, Chapter 1
182 **41-1a-801**, as renumbered and amended by Laws of Utah 1992, Chapter 1
183 **41-1a-1301**, as renumbered and amended by Laws of Utah 1992, Chapter 1
184 **41-1a-1313**, as renumbered and amended by Laws of Utah 1992, Chapter 1
185 **41-1a-1316**, as renumbered and amended by Laws of Utah 1992, Chapter 1
186 **41-1a-1317**, as renumbered and amended by Laws of Utah 1992, Chapter 1
187 **41-3-207**, as renumbered and amended by Laws of Utah 1992, Chapter 234
188 **41-3-208**, as renumbered and amended by Laws of Utah 1992, Chapter 234
189 **41-3-505**, as renumbered and amended by Laws of Utah 1992, Chapter 234
190 **41-3-506**, as renumbered and amended by Laws of Utah 1992, Chapter 234
191 **41-3-508**, as last amended by Laws of Utah 1992, Chapter 1 and renumbered and
192 amended by Laws of Utah 1992, Chapter 234
193 **41-3-803**, as last amended by Laws of Utah 2000, Chapter 86
194 **41-12a-104**, as last amended by Laws of Utah 1986, Chapter 204
195 **41-12a-411**, as last amended by Laws of Utah 1999, Chapter 216
196 **41-12a-503**, as enacted by Laws of Utah 1985, Chapter 242
197 **41-12a-506**, as enacted by Laws of Utah 1985, Chapter 242

198 **41-12a-507**, as enacted by Laws of Utah 1985, Chapter 242
199 **41-12a-509**, as enacted by Laws of Utah 1985, Chapter 242
200 **41-12a-511**, as enacted by Laws of Utah 1985, Chapter 242
201 **41-12a-604**, as last amended by Laws of Utah 1999, Chapter 216
202 **42-3-1**, as last amended by Laws of Utah 1997, Chapter 82
203 **45-2-2**, as last amended by Laws of Utah 1975, Chapter 134
204 **45-2-7**, as last amended by Laws of Utah 1975, Chapter 134
205 **47-1-5**, as last amended by Laws of Utah 1993, Chapter 4
206 **47-2-6**, as last amended by Laws of Utah 1994, Chapter 146
207 **51-7-9**, as last amended by Laws of Utah 1984, Chapter 44
208 **51-7-18.1**, as last amended by Laws of Utah 1990, Chapter 229
209 **53-7-211**, as renumbered and amended by Laws of Utah 1993, Chapters 38, 234
210 **53-7-212**, as renumbered and amended by Laws of Utah 1993, Chapter 234
211 **53-7-213**, as renumbered and amended by Laws of Utah 1993, Chapters 38, 234
212 **53-7-214**, as renumbered and amended by Laws of Utah 1993, Chapter 234
213 **53-9-112**, as last amended by Laws of Utah 1998, Chapter 212
214 **53-9-116**, as last amended by Laws of Utah 1998, Chapter 212
215 **53-10-206**, as last amended by Laws of Utah 1998, Chapter 282 and renumbered and
216 amended by Laws of Utah 1998, Chapter 263
217 **53-10-207**, as renumbered and amended by Laws of Utah 1998, Chapter 263
218 **53-11-107**, as enacted by Laws of Utah 1998, Chapter 257
219 **53-11-108**, as last amended by Laws of Utah 1999, Chapter 21
220 **53-11-111**, as enacted by Laws of Utah 1998, Chapter 257
221 **53-11-116**, as last amended by Laws of Utah 1999, Chapter 266
222 **53-11-122**, as enacted by Laws of Utah 1998, Chapter 257
223 **53-11-123**, as last amended by Laws of Utah 1999, Chapter 266
224 **53-13-113**, as enacted by Laws of Utah 2000, Chapter 127
225 **53B-13-102**, as enacted by Laws of Utah 1987, Chapter 167
226 **53B-13-110**, as enacted by Laws of Utah 1987, Chapter 167
227 **53B-13-114**, as enacted by Laws of Utah 1987, Chapter 167
228 **53C-1-301**, as last amended by Laws of Utah 1996, Chapter 337
229 **53C-2-412**, as enacted by Laws of Utah 1994, Chapter 294
230 **53C-5-101**, as last amended by Laws of Utah 2000, Chapter 237
231 **54-7-3**, as last amended by Laws of Utah 1987, Chapter 161

232 **54-7-25**, as last amended by Laws of Utah 1989, Chapter 131
233 **56-1-21.5**, as last amended by Laws of Utah 1998, Chapter 282
234 **57-1-14**, as last amended by Laws of Utah 2000, Chapter 75
235 **57-1-19**, as last amended by Laws of Utah 1988, Chapter 155
236 **57-1-37**, as last amended by Laws of Utah 1991, Chapter 5
237 **57-2-13**, as last amended by Laws of Utah 2000, Chapter 75
238 **57-2a-2**, as enacted by Laws of Utah 1988, Chapter 155
239 **57-2a-3**, as last amended by Laws of Utah 1989, Chapter 88
240 **57-3-102**, as last amended by Laws of Utah 2000, Chapter 252
241 **57-4a-4**, as last amended by Laws of Utah 1989, Chapter 88
242 **57-8-6**, as last amended by Laws of Utah 1975, Chapter 173
243 **57-8-8**, as last amended by Laws of Utah 2000, Chapter 132
244 **57-8-13.14**, as enacted by Laws of Utah 1975, Chapter 173
245 **57-8-32.5**, as enacted by Laws of Utah 1975, Chapter 173
246 **57-12-6**, as enacted by Laws of Utah 1972, Chapter 24
247 **57-12-7**, as last amended by Laws of Utah 1998, Chapter 321
248 **57-19-17**, as last amended by Laws of Utah 1989, Chapter 225
249 **57-19-18**, as enacted by Laws of Utah 1987, Chapter 73
250 **57-19-23**, as enacted by Laws of Utah 1987, Chapter 73
251 **57-22-3**, as enacted by Laws of Utah 1990, Chapter 314
252 **58-1-105**, as renumbered and amended by Laws of Utah 1993, Chapter 297
253 **58-3a-603**, as enacted by Laws of Utah 1996, Chapter 260
254 **58-16a-201**, as renumbered and amended by Laws of Utah 1997, Chapter 13
255 **58-16a-701**, as enacted by Laws of Utah 1997, Chapter 13
256 **58-22-603**, as enacted by Laws of Utah 1996, Chapter 259
257 **58-31b-801**, as enacted by Laws of Utah 1998, Chapter 288
258 **58-37-15**, as enacted by Laws of Utah 1971, Chapter 145
259 **58-41-16**, as last amended by Laws of Utah 1989, Chapter 207
260 **58-49-7**, as enacted by Laws of Utah 1986, Chapter 192
261 **58-50-5**, as last amended by Laws of Utah 1991, Chapter 120
262 **58-55-601**, as renumbered and amended by Laws of Utah 1994, Chapter 181
263 **58-55-603**, as renumbered and amended by Laws of Utah 1994, Chapter 181
264 **58-67-802**, as enacted by Laws of Utah 1996, Chapter 248
265 **58-69-804**, as enacted by Laws of Utah 1996, Chapter 116

266 **59-1-701**, as renumbered and amended by Laws of Utah 1987, Chapter 3
267 **59-1-707**, as renumbered and amended by Laws of Utah 1987, Chapter 3
268 **59-1-1002**, as enacted by Laws of Utah 1991, Chapter 35
269 **59-1-1004**, as enacted by Laws of Utah 1991, Chapter 35
270 **59-2-326**, as last amended by Laws of Utah 2000, Chapter 86
271 **59-10-512**, as last amended by Laws of Utah 1993, Chapter 4
272 **59-12-112**, as renumbered and amended by Laws of Utah 1987, Chapter 5
273 **59-18-104**, as renumbered and amended by Laws of Utah 1987, Chapter 2
274 **59-18-105**, as renumbered and amended by Laws of Utah 1987, Chapter 2
275 **59-18-108**, as renumbered and amended by Laws of Utah 1987, Chapter 2
276 **63B-2-117**, as enacted by Laws of Utah 1993, Chapter 304
277 **63B-2-217**, as enacted by Laws of Utah 1993, Chapter 304
278 **63B-3-117**, as enacted by Laws of Utah 1994, Chapter 300
279 **63B-3-217**, as enacted by Laws of Utah 1994, Chapter 300
280 **63B-4-117**, as enacted by Laws of Utah 1995, Chapter 329
281 **63B-5-117**, as enacted by Laws of Utah 1996, Chapter 335
282 **63B-6-117**, as enacted by Laws of Utah 1997, Chapter 391
283 **63B-6-217**, as enacted by Laws of Utah 1997, Chapter 270
284 **63B-6-302**, as enacted by Laws of Utah 1997, Chapter 270
285 **63B-6-417**, as enacted by Laws of Utah 1997, Chapter 391
286 **63B-7-117**, as enacted by Laws of Utah 1998, Chapter 67
287 **63B-7-217**, as enacted by Laws of Utah 1998, Chapter 316
288 **63B-7-302**, as enacted by Laws of Utah 1998, Chapter 316
289 **63B-7-417**, as enacted by Laws of Utah 1998, Chapter 67
290 **63B-8-117**, as enacted by Laws of Utah 1999, Chapter 309
291 **63B-8-217**, as enacted by Laws of Utah 1999, Chapter 331
292 **63B-8-302**, as enacted by Laws of Utah 1999, Chapter 331
293 **63B-8-417**, as enacted by Laws of Utah 1999, Chapter 309
294 **64-13-15**, as last amended by Laws of Utah 1991, Chapter 124
295 **64-13-32**, as last amended by Laws of Utah 1993, Chapter 49
296 **64-13d-106**, as enacted by Laws of Utah 1999, Chapter 288
297 **65A-6-11**, as enacted by Laws of Utah 1988, Chapter 121
298 **67-1-1**, as last amended by Laws of Utah 1993, Chapter 38
299 **67-5-5**, as last amended by Laws of Utah 1982, Chapter 76

300 **67-9-1**, as last amended by Laws of Utah 1984, Chapter 68
301 **67-16-2**, as last amended by Laws of Utah 1989, Chapter 147
302 **70C-2-207**, as enacted by Laws of Utah 1985, Chapter 159
303 **70C-5-101**, as enacted by Laws of Utah 1985, Chapter 159
304 **70C-5-103**, as enacted by Laws of Utah 1985, Chapter 159
305 **70C-5-104**, as enacted by Laws of Utah 1985, Chapter 159
306 **70C-5-105**, as enacted by Laws of Utah 1985, Chapter 159
307 **70C-6-104**, as enacted by Laws of Utah 1985, Chapter 159
308 **70C-6-106**, as enacted by Laws of Utah 1985, Chapter 159
309 **70C-6-304**, as enacted by Laws of Utah 1985, Chapter 159
310 **70C-7-104**, as enacted by Laws of Utah 1985, Chapter 159
311 **70C-7-201**, as enacted by Laws of Utah 1985, Chapter 159
312 **72-2-104**, as renumbered and amended by Laws of Utah 1998, Chapter 270
313 **72-5-107**, as renumbered and amended by Laws of Utah 1998, Chapter 270
314 **72-9-303**, as renumbered and amended by Laws of Utah 1998, Chapter 270
315 **72-9-703**, as renumbered and amended by Laws of Utah 1998, Chapter 270
316 **73-2-10**, as last amended by Laws of Utah 1983, Chapter 201
317 **73-2-12**, as last amended by Laws of Utah 1984, Chapter 67
318 **73-2-13**, as last amended by Laws of Utah 1971, Chapter 186
319 **73-2-23.1**, as enacted by Laws of Utah 1985, Chapter 228
320 **73-3-5.5**, as last amended by Laws of Utah 1987, Chapter 161
321 **73-3a-108**, as enacted by Laws of Utah 1991, Chapter 234
322 **73-3b-303**, as enacted by Laws of Utah 1991, Chapter 146
323 **73-5a-203**, as enacted by Laws of Utah 1990, Chapter 319
324 **73-5a-301**, as enacted by Laws of Utah 1990, Chapter 319
325 **73-5a-302**, as enacted by Laws of Utah 1990, Chapter 319
326 **73-5a-303**, as enacted by Laws of Utah 1990, Chapter 319
327 **73-5a-402**, as enacted by Laws of Utah 1990, Chapter 319
328 **73-5a-601**, as enacted by Laws of Utah 1990, Chapter 319
329 **73-18-7.1**, as enacted by Laws of Utah 1990, Chapter 216
330 **73-18-10**, as last amended by Laws of Utah 1986, Chapter 197
331 **73-18-20.3**, as enacted by Laws of Utah 1990, Chapter 216
332 **73-18-20.5**, as last amended by Laws of Utah 1998, Chapter 263
333 **73-18-20.7**, as enacted by Laws of Utah 1990, Chapter 216

334 **76-1-304**, as last amended by Laws of Utah 1998, Chapter 121
335 **76-1-402**, as last amended by Laws of Utah 1974, Chapter 32
336 **76-2-201**, as enacted by Laws of Utah 1973, Chapter 196
337 **76-2-204**, as enacted by Laws of Utah 1973, Chapter 196
338 **76-2-205**, as enacted by Laws of Utah 1973, Chapter 196
339 **76-2-301**, as enacted by Laws of Utah 1973, Chapter 196
340 **76-2-302**, as enacted by Laws of Utah 1973, Chapter 196
341 **76-2-303**, as last amended by Laws of Utah 1998, Chapter 282
342 **76-2-304**, as last amended by Laws of Utah 1974, Chapter 32
343 **76-2-307**, as last amended by Laws of Utah 1995, Chapter 20
344 **76-2-403**, as enacted by Laws of Utah 1973, Chapter 196
345 **76-3-303**, as enacted by Laws of Utah 1973, Chapter 196
346 **76-3-405**, as last amended by Laws of Utah 1997, Chapter 291
347 **76-3-409**, as last amended by Laws of Utah 1985, Chapter 212
348 **76-7-202**, as last amended by Laws of Utah 1995, Chapter 289
349 **76-7-303**, as enacted by Laws of Utah 1974, Chapter 33
350 **76-7-308**, as last amended by Laws of Utah 1991, First Special Session, Chapter 2
351 **77-1-6**, as enacted by Laws of Utah 1980, Chapter 15
352 **77-2-4**, as enacted by Laws of Utah 1980, Chapter 15
353 **77-2-4.5**, as enacted by Laws of Utah 1990, Chapter 7
354 **77-2-6**, as enacted by Laws of Utah 1980, Chapter 15
355 **77-2-8**, as enacted by Laws of Utah 1980, Chapter 15
356 **77-3-2**, as enacted by Laws of Utah 1980, Chapter 15
357 **77-3-4**, as enacted by Laws of Utah 1980, Chapter 15
358 **77-3-5**, as enacted by Laws of Utah 1980, Chapter 15
359 **77-3-8**, as enacted by Laws of Utah 1980, Chapter 15
360 **77-3-10**, as enacted by Laws of Utah 1980, Chapter 15
361 **77-5-2**, as enacted by Laws of Utah 1980, Chapter 15
362 **77-5-8**, as enacted by Laws of Utah 1980, Chapter 15
363 **77-6-5**, as enacted by Laws of Utah 1980, Chapter 15
364 **77-6-6**, as enacted by Laws of Utah 1980, Chapter 15
365 **77-6-8**, as enacted by Laws of Utah 1980, Chapter 15
366 **77-6-9**, as enacted by Laws of Utah 1980, Chapter 15
367 **77-7-1**, as enacted by Laws of Utah 1980, Chapter 15

368 **77-7-3**, as enacted by Laws of Utah 1980, Chapter 15
369 **77-7-9**, as enacted by Laws of Utah 1980, Chapter 15
370 **77-7-10**, as enacted by Laws of Utah 1980, Chapter 15
371 **77-7-11**, as enacted by Laws of Utah 1980, Chapter 15
372 **77-7-14**, as last amended by Laws of Utah 1987, Chapter 245
373 **77-7-16**, as enacted by Laws of Utah 1980, Chapter 15
374 **77-7-17**, as enacted by Laws of Utah 1980, Chapter 15
375 **77-8-2**, as enacted by Laws of Utah 1980, Chapter 15
376 **77-8-4**, as enacted by Laws of Utah 1980, Chapter 15
377 **77-8a-1**, as enacted by Laws of Utah 1990, Chapter 201
378 **77-9-1**, as enacted by Laws of Utah 1980, Chapter 15
379 **77-9-2**, as enacted by Laws of Utah 1980, Chapter 15
380 **77-9-3**, as last amended by Laws of Utah 1998, Chapter 282
381 **77-10a-1**, as enacted by Laws of Utah 1990, Chapter 318
382 **77-10a-7**, as enacted by Laws of Utah 1990, Chapter 318
383 **77-10a-8**, as last amended by Laws of Utah 1993, Chapter 38
384 **77-10a-11**, as enacted by Laws of Utah 1990, Chapter 318
385 **77-10a-17**, as enacted by Laws of Utah 1990, Chapter 318
386 **77-10a-18**, as enacted by Laws of Utah 1990, Chapter 318
387 **77-13-5**, as enacted by Laws of Utah 1980, Chapter 15
388 **77-14-1**, as enacted by Laws of Utah 1980, Chapter 15
389 **77-14-2**, as enacted by Laws of Utah 1980, Chapter 15
390 **77-16a-303**, as enacted by Laws of Utah 1992, Chapter 171
391 **77-17-1**, as enacted by Laws of Utah 1980, Chapter 15
392 **77-17-2**, as enacted by Laws of Utah 1980, Chapter 15
393 **77-17-3**, as enacted by Laws of Utah 1980, Chapter 15
394 **77-17-9**, as enacted by Laws of Utah 1980, Chapter 15
395 **77-17-11**, as enacted by Laws of Utah 1980, Chapter 15
396 **77-17-12**, as enacted by Laws of Utah 1980, Chapter 15
397 **77-19-5**, as enacted by Laws of Utah 1980, Chapter 15
398 **77-19-11**, as last amended by Laws of Utah 2000, Chapters 1, 250
399 **77-19-12**, as last amended by Laws of Utah 1988, Chapter 190
400 **77-22-4.5**, as enacted by Laws of Utah 1995, Chapter 115
401 **77-22a-2**, as enacted by Laws of Utah 1989, Chapter 9

- 402 **77-22a-3**, as last amended by Laws of Utah 1993, Chapter 38
- 403 **77-23a-3**, as last amended by Laws of Utah 1998, Chapter 282
- 404 **77-23a-9**, as last amended by Laws of Utah 1988, Chapter 251
- 405 **77-23a-16**, as enacted by Laws of Utah 1988, Chapter 251
- 406 **77-23b-2**, as last amended by Laws of Utah 1991, Chapter 241
- 407 **77-23b-5**, as enacted by Laws of Utah 1988, Chapter 251
- 408 **77-27-5.5**, as last amended by Laws of Utah 1994, Chapter 13
- 409 **77-27-12**, as enacted by Laws of Utah 1985, Chapter 213
- 410 **77-27-26**, as last amended by Laws of Utah 1998, Chapter 282
- 411 **77-28b-3**, as enacted by Laws of Utah 1990, Chapter 324
- 412 **77-28b-4**, as enacted by Laws of Utah 1990, Chapter 324
- 413 **77-28b-7**, as enacted by Laws of Utah 1990, Chapter 324
- 414 **77-30-3**, as enacted by Laws of Utah 1980, Chapter 15
- 415 **77-30-4**, as enacted by Laws of Utah 1980, Chapter 15
- 416 **77-30-5**, as enacted by Laws of Utah 1980, Chapter 15
- 417 **77-30-7**, as enacted by Laws of Utah 1980, Chapter 15
- 418 **77-30-10**, as enacted by Laws of Utah 1980, Chapter 15
- 419 **77-30-11**, as last amended by Laws of Utah 1995, Chapter 20
- 420 **77-30-12**, as enacted by Laws of Utah 1980, Chapter 15
- 421 **77-30-13**, as enacted by Laws of Utah 1980, Chapter 15
- 422 **77-30-14**, as last amended by Laws of Utah 1995, Chapter 20
- 423 **77-30-15**, as enacted by Laws of Utah 1980, Chapter 15
- 424 **77-30-16**, as last amended by Laws of Utah 1997, Chapter 199
- 425 **77-30-17**, as enacted by Laws of Utah 1980, Chapter 15
- 426 **77-30-20**, as enacted by Laws of Utah 1980, Chapter 15
- 427 **77-30-21**, as enacted by Laws of Utah 1980, Chapter 15
- 428 **77-30-22**, as enacted by Laws of Utah 1980, Chapter 15
- 429 **77-30-26**, as enacted by Laws of Utah 1980, Chapter 15
- 430 **77-38-10**, as last amended by Laws of Utah 1995, Chapter 352

Utah Code Sections affected by Coordination Clause:

- 431 **13-11-9**, as enacted by Laws of Utah 1973, Chapter 188

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

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

436 **7-1-208.2 . Deputy commissioner.**

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

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

442 **7-1-302 . Review of supervisor's action by commissioner.**

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

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

448 **7-1-308 . Suspension or removal of director or officer -- Grounds -- Procedure**
 449 **for issuance of order.**

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

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

463 (b) if the commissioner determines that:

- 464 (i) the institution or other person under the jurisdiction of the department has suffered
 465 or will suffer substantial financial loss or other damage due to such actions and
 466 that such action may impair the safety and soundness of the institution or other
 467 person or prejudice in any manner the interests of the depositors, members,
 468 creditors, or shareholders; or
- 469 (ii) the director or officer has received financial gain by reason of any breach of

470 fiduciary duty[;] ,the commissioner may, after notice and opportunity for hearing,
471 serve upon such director or officer a written notice of suspension or removal of
472 the individual from office or prohibition from further participation in the conduct
473 of the affairs of the institution or other person.

474 (2) If the commissioner deems it necessary for the protection of an institution or other
475 person under the jurisdiction of the department or the interests of its depositors,
476 members, creditors, or shareholders, [he] the commissioner may, by written notice served
477 upon the officer or director, suspend that officer or director from office or prohibit [him]
478 the officer or director from further participation in any manner in the conduct of the
479 affairs of the institution or other person. The suspension or prohibition is effective upon
480 service of the notice and, unless stayed by a court, shall remain in effect until the
481 commissioner dismisses the charges specified in the notice, or, if an order of removal or
482 prohibition is issued against the officer or director, until the effective date of that order.

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

484 **7-1-310 . Subpoena power of commissioner.**

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

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

492 **7-1-312 . Reports required of large stockholders of financial institutions as to**
493 **loans secured by stock.**

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

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

502 **7-1-313 . Requiring remedial action by institution in or about to be in unsound**
503 **condition -- Assistance by insurers.**

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

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

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

515 **7-1-314 . Examination of institutions by commissioner or supervisor.**

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

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

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

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

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

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

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

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

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

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

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

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

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

539 **7-1-315 . Examination by board of directors required -- Report.**

540 The commissioner may at any time require the board of directors of any or all
541 institutions under [his] the commissioner's jurisdiction to fully examine or have fully examined
542 the books, papers, and affairs of the institution of which they are directors and particularly the
543 loans, discounts, and overdrafts of such institutions to ascertain the value and security thereof
544 and the collateral security, if any, given in connection therewith and to inquire into such other
545 matters as the commissioner may consider necessary and to have a report placed on file with
546 the records of the institution, which report shall be subject to examination by the commissioner.

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

548 **7-1-316 . Forms for reports required from institutions.**

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

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

554 **7-1-319 . Notice to county attorney or district attorney of criminal violations --**
555 **Attorney general to conduct actions commenced by commissioner -- Assistance of county**
556 **attorney or district attorney.**

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

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

568 **7-1-320 . Actions to enjoin violations -- Bond not required -- Recovery -- Attorney**
569 **fees.**

570 (1) Whenever it appears to the commissioner that any person has engaged in or is about to
571 engage in any act or practice constituting a violation of this title or any rule, regulation,

572 or order of the commissioner or the department, [he] the commissioner may bring an
 573 action in an appropriate court of general jurisdiction to enjoin the acts or practices and to
 574 enforce compliance with this title or any rule or order issued under this title. Upon a
 575 proper showing, a permanent or temporary injunction, restraining order, or extraordinary
 576 writ shall be granted and a receiver or conservator may be appointed for the defendant or
 577 the defendant's assets. The court may not require the commissioner to post a bond.

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

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

584 **7-1-510 . Examination of institutions -- Adoption of rules -- Requiring actions by**
 585 **institutions.**

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

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

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

598 **7-1-601 . Adverse claim to account in depository institution -- Notice required --**
 599 **Bond may be required for payment.**

600 Receipt of a notice of an adverse claim to a deposit or other account standing on the
 601 books of any depository institution doing business in this state does not obligate the depository
 602 institution to the adverse claimant, unless the notice is given pursuant to an appropriate court
 603 order, obtained by the adverse claimant in a legal action instituted by [him] the adverse claimant
 604 in which the person to whose credit the deposit stands is made a party. Such depository
 605 institution may also pay the adverse claim, if the claimant executes to the depository institution

606 a good and sufficient bond in double the amount claimed, indemnifying it from any and all
607 liability, loss, damage, costs and expenses including [~~attorneys'~~] attorney fees for and on
608 account of the payment of the adverse claim or the dishonor of a check or other instrument of
609 the person to whose credit the deposit stands on its books.

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

611 **7-1-604 . Savings accounts -- Qualifications to hold -- Representation -- Transfer**
612 **-- Holder treated as owner -- Exception.**

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

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

628 **7-1-610 . Attorney-in-fact as to savings account -- Institution immune from**
629 **liability.**

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

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

636 **7-1-613 . Incompetency of savings account owner.**

637 When a savings account is held in any depository institution by a person who becomes
638 incompetent and an adjudication of incompetency has been made by a court of competent
639 jurisdiction, the institution may pay or deliver the withdrawal value of the savings account and

640 any earnings that may have accrued on the account to the conservator for that person upon
 641 proof of [his] the conservator's appointment and qualification. However, if the institution has
 642 received no written notice and is not on actual notice that the savings account holder has been
 643 adjudicated incompetent, it may pay or deliver the funds to the holder in accordance with the
 644 provision of the savings account contract, and the receipt or acquittance of the holder therefor
 645 shall be a valid and sufficient release and discharge of the institution for the payment or
 646 delivery so made.

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

648 **7-1-803 . Conflicting interests of commissioner, supervisors, and examiners --**
 649 **Loans and accounts -- Disclosure -- Penalty.**

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

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

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

- 665 (a) have and maintain savings, transaction, share, time deposit, or other accounts, or
 666 certificates and deposits in any financial or depository institution in the state, or be a
 667 lessee of a safe deposit box on the same terms and conditions available to the public
 668 generally;
- 669 (b) be indebted to a depository institution under the supervision of the department on
 670 terms offered to the public generally upon:
 - 671 (i) a mortgage loan upon the mortgagor's own home;
 - 672 (ii) an open or closed end consumer loan granted before the person became employed
 673 with the department or before the institution became subject to the jurisdiction of

- 674 the department;
- 675 (iii) in the case of a supervisor or examiner, a consumer loan lawfully made prior to
676 January 1, 1991, provided that while the debt is subject to the provisions of this
677 chapter, the terms of the debt are not changed in favor of the debtor in a manner
678 not offered and provided to other creditworthy borrowers or waived or extended
679 as a result of delinquency or default; and
- 680 (iv) a debt fully secured at all times by deposits in the institution;
- 681 (c) be indebted on an installment debt transferred to an institution under the jurisdiction
682 of the department in the regular course of business by a seller of consumer goods; and
- 683 (d) continue to receive payments under a regularly established pension plan of general
684 application for fully retired employees of an institution under the supervision of the
685 department.
- 686 (3) Full disclosure in writing of any indebtedness incurred under Subsection (2) shall be
687 filed in the commissioner's office.
- 688 (4) Any person who knowingly violates this section with the intention of getting gain
689 through the influence of [his] that person's office shall forfeit the office or employment
690 and is guilty of a third degree felony.

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

692 **7-2-3 . Action for injunction against commissioner in possession -- Procedure --**
693 **Appeal.**

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

708 (2) An appeal may be taken by the commissioner, a receiver, or liquidator appointed by the
709 commissioner under Section 7-2-9, or by the institution from the judgment of the court
710 as provided by law. An appeal from the judgment does not stay any judgment in favor
711 of the commissioner, or a receiver or liquidator appointed by [him] the commissioner. If
712 the appeal is taken by the commissioner, or by a receiver or liquidator appointed by [him]
713 the commissioner, no bond is required. If the appeal is taken by the institution, a bond is
714 required as provided by the Utah Rules of Civil Procedure.

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

716 **7-2-4 . Consent required for institution to resume business.**

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

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

724 **7-2-8 . Special deputies or agents -- Appointment -- Bond.**

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

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

731 **7-2-11 . Special counsel -- Employment by attorney general.**

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

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

738 **7-2-13 . Collections in liquidation -- Deposit -- Preference.**

739 The money collected in process of a liquidation by the commissioner shall be from time
740 to time deposited, subject to [his] the commissioner's order as herein provided, in one or more
741 federally insured depository institutions organized under the laws of this state. In case of the

742 suspension or insolvency of the depository institution, these deposits shall be preferred before
743 all other deposits.

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

745 **7-2-14 . Expenses during possession.**

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

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

756 **7-2-15 . Priority of obligations, expenses, and claims -- Distribution of balance of**
757 **assets.**

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

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

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

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

767 (d) fourth, claims of depositors. Any federal deposit insurance agency or other deposit
768 insurer is subrogated to all rights of the depositors against the institution, its officers
769 and directors, and its persons in control of the institution as control is defined in
770 Section 7-1-103 to the extent of all payments made for the benefit of the depositors.
771 "Payments," as used in this subsection, includes arrangements by a federal deposit
772 insurance agency for the assumption or payment of the deposit liabilities by another
773 institution whose deposits are insured by a federal deposit insurance agency. The
774 right of any agency of the United States insuring deposits or savings obligations to be
775 subrogated to the rights of depositors upon payment of their claims may not be less

- 776 extensive than the law of the United States provides with respect to subrogation to
777 the rights of depositors in national banks. For the purposes of this section, a
778 contractual commitment to advance funds, including a standby letter of credit, may
779 not be considered a deposit liability of the institution;
- 780 (e) fifth, all other unsecured claims in amounts allowed by the court, including claims of
781 secured creditors to the extent the amount of their claims exceed the present fair
782 market value of their collateral. The claim of a lessor for damages resulting from the
783 termination of a lease of property may not be allowed in an amount in excess of the
784 rent reserved by the lease, without acceleration, for 60 days after the lessor
785 repossessed the leased property, or the leased property was surrendered to the lessor,
786 whichever first occurs, whether before or after the commissioner took possession of
787 the institution, plus any unpaid rent due under the lease, without acceleration, on the
788 date of possession or surrender. A claim for damages resulting from the termination
789 of an employment contract, may not be allowed in an amount in excess of the
790 compensation provided by the contract, without acceleration, for 90 days after the
791 employee was directed to terminate, or the employee terminated, performance under
792 the contract, whichever first occurs, whether before or after the commissioner took
793 possession of the institution, plus any unpaid compensation due under the contract,
794 without acceleration, on the date the employee was directed to terminate or the
795 employee terminated performance. Claims for damages resulting from the
796 termination of employment contracts of persons who were in control of the
797 institution, as control is defined in Section 7-1-103, are not entitled to priority under
798 this subsection. Claims for damages for breach of a commitment to advance funds
799 shall be limited to the amount due and owing by the institution on the date the
800 commissioner took possession of the institution;
- 801 (f) sixth, claims for debt that are subordinated under the provisions of a subordination
802 agreement or other instrument;
- 803 (g) seventh, claims of persons who were at any time in control of the institution as
804 control is defined in Section 7-1-103; and
- 805 (h) eighth, all other claims.
- 806 (2) The commissioner shall classify each claim presented for priority purposes under
807 Subsection (1) and shall indicate the classification on any certificate issued under the
808 provisions of Subsection 7-2-6(11). This classification is final, subject to review by the
809 court upon a timely objection filed under Subsection 7-2-6(9).

810 (3) When the commissioner has paid to each depositor and creditor of the institution whose
811 claims have been proved and allowed the full amount of the claim, has made proper
812 provision for unclaimed or unpaid deposits or dividends, and has paid all the expenses of
813 the liquidation, [he] the commissioner shall distribute the balance of the assets of the
814 institution in [his] the commissioner's possession among the shareholders of the
815 institution in proportion to the holdings and classes of this stock. Unless a court of
816 competent jurisdiction determines otherwise, the shareholders shall be determined by the
817 books and records of the institution as of the date the commissioner took possession.

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

819 **7-2-16 . Interim ratable dividends.**

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

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

826 **7-2-18 . Plan for reorganization or liquidation of institution -- Hearing --**
827 **Procedure -- Effect -- Appeals.**

828 (1) If the commissioner has taken possession of any institution or other person under the
829 jurisdiction of the department[he] , the commissioner may propose to the court a plan for
830 the reorganization or liquidation of the institution or the establishment of a new
831 institution by filing a petition with the court, setting forth the details of the plan and
832 requesting the court to set a day for hearing on the petition.

833 (2) The court shall make an order fixing a day for the hearing of the petition, prescribing
834 the manner in which notice of the hearing is given, and may prescribe a deadline for
835 filing written objections. The court may adjourn the hearing from time to time and no
836 further notice is required. At the time of hearing or any adjournment of a hearing the
837 court shall take testimony, and if it appears that it is in the best interests of the depositors
838 and other creditors, the court shall approve the plan.

839 (3) A plan of reorganization or liquidation approved by the court shall be fully binding
840 upon and constitute a final adjudication of all claims, rights, and interests of all
841 depositors, creditors, shareholders, and members of the institution being reorganized or
842 liquidated, and all other parties in interest with regard to the plan and with regard to any
843 institution or other person receiving any assets or assuming any liabilities under the plan.

844 (4) Notice of an appeal of an order approving a plan of reorganization or liquidation shall
845 be filed within 10 days after the date of entry of the order appealed from.

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

847 **7-2-19 . Suspension of payments by institution -- Order of commissioner --**

848 **Approval of governor -- Period effective -- Exempt payments -- Operation during**
849 **suspension -- Modification of orders -- Adoption of rules and regulations.**

850 (1) The commissioner, whenever in [~~his~~] the commissioner's opinion the action is necessary
851 in the public interest, may, if the governor approves, order such institutions as are
852 subject to [~~his~~] the commissioner's supervision to suspend the payment in any manner of
853 their respective liabilities to their depositors and other creditors, except as hereinafter
854 provided.

855 (2) The order shall become effective upon notice, and shall continue in full force and effect
856 until rescinded or modified by [~~him~~] the commissioner. No such order shall be issued for
857 an initial period of more than 60 days, but any such order may, if the governor approves,
858 be extended from time to time for further periods not exceeding 60 days each.

859 (3) Nothing contained in this chapter shall affect the right of the institutions to pay current
860 operating expenses and other liabilities incurred during a period of suspension.

861 (4) Whenever in the opinion of the commissioner conditions warrant such action, [~~he~~] the
862 commissioner may, if the governor approves, authorize the issuance of clearing house
863 certificates, post notes or other evidences of indebtedness, either during a period of
864 suspension, or during such longer period as [~~he~~] the commissioner may prescribe, and
865 during a period of suspension, [~~he~~] the commissioner may permit the suspended
866 institution to receive deposits and may authorize any such institution to pay any part of
867 its liabilities, or of any class thereof, payment of which has been suspended.

868 (5) [~~He~~] The commissioner may, if the governor approves, at any time, by order, modify or
869 rescind any or all previous orders made by [~~him~~] the commissioner under authority of
870 this chapter.

871 (6) The commissioner may, if the governor approves, prescribe such rules and regulations
872 as [~~he~~] the commissioner considers necessary in order to carry out the provisions of this
873 chapter, and an order may be issued on such terms and conditions as may be
874 incorporated in the order.

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

876 **7-3-3.2 . Securities business permitted -- Activities conducted by subsidiary --**
877 **Disclosure statements required.**

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

912 applicable statutes and rules of the commissioner, including the effect of loans from the
 913 bank to the subsidiary, together with capital standards established by the Federal Deposit
 914 Insurance Corporation. Every loan made by the bank to a securities subsidiary shall
 915 comply with applicable state and federal laws. In all cases, each subsidiary shall
 916 maintain separate corporate and financial records.

917 (5) Notwithstanding Subsection (4), a bank may enter into a networking agreement with a
 918 registered broker-dealer for the provision of brokerage services to the bank's customers
 919 on the bank's premises without the need to comply with Subsection (4), (6), or (7).

920 (6) The securities activities authorized by this section may be conducted from an authorized
 921 banking office or from a separate office of a subsidiary, and may be offered to customers
 922 in this state or in any other state, territory, or country, except to the extent such activities
 923 are limited or prohibited by the laws of the other state, territory, or country.

924 (7) Before undertaking any of the direct or indirect securities activities permitted under this
 925 section, except those authorized by Subsection (2)(a), a bank shall apply to the
 926 commissioner. The commissioner shall render a decision of approval, conditional
 927 approval, or disapproval within 60 days from the date of receiving the application.
 928 Public notice is not required for any hearing on the application that may be held. [~~The~~
 929 ~~commissioner shall satisfy himself before approving the application]~~ Before approving
 930 the application, the commissioner shall be satisfied that the bank possesses the
 931 managerial and financial resources necessary to conduct the securities activities safely
 932 and soundly.

933 (8) In conducting securities activities, a bank shall in all respects comply, and cause its
 934 securities subsidiary to comply, with the Utah Uniform Securities Act, the Securities Act
 935 of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940,
 936 and other applicable statutes, regulations, and rules.

937 (9) In connection with each customer for which a bank or its securities subsidiary shall act
 938 as agent or broker, the bank or the subsidiary, as applicable, shall give a written
 939 disclosure to its customer prior to closing any single transaction or establishment of an
 940 account contemplating a series of transactions. The disclosure statement shall be in
 941 legible print and shall be in substantially the form shown in Subsection (9)(a) with
 942 respect to the bank and in Subsection (9)(b) with respect to any securities subsidiary.

943 (a) **DISCLOSURE STATEMENT**

944 The services offered by the securities department of this bank are offered to its
 945 customers without regard to any other banking relationship. By signing below the customer

946 acknowledges receipt of this Disclosure Statement and agrees that any contract for securities
 947 services is completely voluntary, and the selection of this bank for securities services has not
 948 been required by any other business relationship or account with the bank.
 949 _____(month/day/year).

950 CUSTOMER: _____

951 (b) DISCLOSURE STATEMENT

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

963 CUSTOMER: _____

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

965 **7-3-35 . Examinations in lieu of directors' examination -- Report filed with board**
 966 **minutes.**

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

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

982 **7-5-3 . Application for authorization to engage in trust business -- Criteria for**
 983 **granting -- Authority of trust company.**

- 984 (1) A person seeking authorization to become a trust company and engage in the trust
985 business in this state shall file an application with the commissioner in the manner
986 provided in Section 7-1-704, and shall pay the fee prescribed in Section 7-1-401.
- 987 (2) The commissioner shall, in deciding whether or not to approve the application, take into
988 account:
- 989 (a) the character and condition of the applicant's assets;
 - 990 (b) the adequacy of its capital;
 - 991 (c) its earnings record;
 - 992 (d) the quality of its management;
 - 993 (e) the qualifications of any person proposed to be an officer in charge of the trust
994 operations;
 - 995 (f) the needs of the community for fiduciary services;
 - 996 (g) the volume of business that the applicant will probably do; and
 - 997 (h) any other relevant facts and circumstances, including the availability of legal counsel
998 to advise and pass upon matters relating to the trust business.
- 999 (3) The commissioner may not apply criteria making it more difficult for a state chartered
1000 depository institution to obtain approval to engage in the trust business than for a
1001 federally chartered depository institution of the same class.
- 1002 (4) The commissioner may impose such conditions when authorizing a person to engage in
1003 the trust business as [he] the commissioner considers appropriate to protect the public
1004 interest.
- 1005 (5) Upon receiving authorization from the commissioner to become a trust company and
1006 engage in the trust business, the trust company is qualified to act as fiduciary in any
1007 capacity without bond.

1008 Section 31. Section **7-5-12** is amended to read:

1009 **7-5-12 . Directors' audit of trust business -- Report available to commissioner or**
1010 **examiners -- Examinations in lieu of audit.**

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

1018 the commissioner's examiners, or the examiners of other trust company regulating agencies
1019 upon request. An examination by the state or other trust company regulating agencies or both
1020 made during the same period may be substituted for this audit.

1021 Section 32. Section **7-9-18** is amended to read:

1022 **7-9-18 . Expulsion of member.**

- 1023 (1) The board of directors or board-designated representatives may expel from the credit
1024 union any member who has not carried out [his] the member's engagements with the
1025 credit union, or neglected or refused to comply with the credit union board policies,
1026 provisions of this chapter, or of the credit union bylaws.
- 1027 (2) If the member whose expulsion is under consideration is a member of the board of
1028 directors or credit committee, the supervisory committee shall call a special meeting of
1029 the members to hear the facts and act upon the proposed expulsion.

1030 Section 33. Section **7-9-31** is amended to read:

1031 **7-9-31 . Shares held in trust.**

- 1032 (1) Shares may be issued to and deposits received in the name of a minor, and these shares
1033 and deposits may, in the discretion of the board of directors, be withdrawn by the minor
1034 or by [his] the minor's parent or guardian.
- 1035 (2) A credit union share account, share certificate, deposit, or deposit certificate may be
1036 held in trust provided that the trustor, trustee, or primary beneficiary is a member of the
1037 credit union.
- 1038 (3) The trustee of the trust meeting the requirements of Subsection (2) shall exercise the
1039 rights of the trust as a member of the credit union.

1040 Section 34. Section **7-9-49** is amended to read:

1041 **7-9-49 . Limitation of personal liability of directors and committee members.**

- 1042 (1) Without limiting the generality of Section 7-9-50, the articles of incorporation may
1043 include a provision eliminating or limiting the personal liability of a director,
1044 supervisory committee member, or credit committee member to the credit union, its
1045 members, or its depositors for monetary damages for any action taken or any failure to
1046 take any action as a director, supervisory committee member, or credit committee
1047 member, except liability for:
- 1048 (a) the amount of a financial benefit received by a director, supervisory committee
1049 member, or credit committee member to which [he] the individual is not entitled;
- 1050 (b) an intentional infliction of harm on the credit union, its members, or depositors; or
- 1051 (c) an intentional violation of criminal law.

1052 (2) No provision authorized under this section may eliminate or limit the liability of a
 1053 director, supervisory committee member, or credit committee member for any act or
 1054 omission occurring prior to the date when the provision becomes effective.

1055 (3) Any provision authorized under this section to be included in the articles of
 1056 incorporation may also be adopted in the bylaws or by resolution, but only if the
 1057 provision is approved by the same percentage of members as would be required to
 1058 approve it as an amendment to the articles of incorporation.

1059 Section 35. Section **7-9-50** is amended to read:

1060 **7-9-50 . General limitation on liability.**

1061 A director, supervisory committee member, credit committee member, or officer is not
 1062 liable to the credit union, its members, its depositors, any conservator or receiver, or any
 1063 assignee or successor-in-interest thereof, for any action taken, or any failure to take any action,
 1064 as a director, supervisory committee member, credit committee member, or officer, as the case
 1065 may be, unless:

- 1066 (1) [he] the director, supervisory committee member, credit committee member, or officer
 1067 has breached or failed to perform the duties of the office in compliance with this title;
 1068 and
 1069 (2) the breach or failure to perform constitutes gross negligence, willful misconduct, or
 1070 intentional infliction of harm on the credit union or its members.

1071 Section 36. Section **7-17-5** is amended to read:

1072 **7-17-5 . Statements.**

1073 Every lender shall furnish to the borrower, or [his] the borrower's successors or assigns,
 1074 without charge, within 60 days after the end of each calendar year, an itemized statement
 1075 showing money:

- 1076 (1) received for interest and principal repayment; and
 1077 (2) received and held in or disbursed from a reserve account, if any.

1078 Section 37. Section **7-19-3** is amended to read:

1079 **7-19-3 . Waiver of procedures.**

1080 The commissioner may waive any of the procedures of Section 7-1-705 or any
 1081 regulation of the department if [he] the commissioner considers it necessary to protect the
 1082 interest of depositors, creditors, and other customers of a failing or failed depository institution
 1083 or failing or failed depository institution holding company in a supervisory merger or a
 1084 supervisory acquisition.

1085 Section 38. Section **7-19-5** is amended to read:

1086 **7-19-5 . Findings prerequisite to requiring or authorizing supervisory**
1087 **acquisitions or mergers by commissioner.**

1088 The commissioner may not authorize or require any transaction pursuant to Section
1089 7-19-2 unless [he] the commissioner determines that:

- 1090 (1) the acquiring or resulting depository institution or depository institution holding
1091 company has demonstrated an acceptable record of meeting the credit needs of the
1092 communities which it serves; and
1093 (2) the acquiring or resulting depository institution or depository institution holding
1094 company has a record of sound performance, capital adequacy, financial capacity, and
1095 efficient management such that the acquisition or merger will not jeopardize the
1096 financial stability of the acquired or merged depository institution and will not be
1097 detrimental to the interests of depositors, creditors, other customers of the depository
1098 institution, or to the public.

1099 Section 39. Section **7-19-9** is amended to read:

1100 **7-19-9 . Commissioner's powers not limited -- Immunity -- Rules -- Reports.**

- 1101 (1) This chapter does not limit any power otherwise granted to the commissioner or to any
1102 depository institution or depository institution holding company by the laws of this state.
1103 (2) The commissioner is not subject to any civil liability or penalty nor to any criminal
1104 prosecution for any error in judgment or discretion in any action taken or omitted by [
1105 ~~him~~] the commissioner in good faith under the provisions of this chapter.
1106 (3) The commissioner may promulgate such rules and regulations as may be necessary to
1107 implement this chapter.
1108 (4) By January 10 of each year, the commissioner shall report to the governor and the
1109 Legislature the nature and general terms and conditions of any supervisory acquisition or
1110 supervisory merger effectuated under the provisions of this chapter during the preceding
1111 year.

1112 Section 40. Section **8-2-2** is amended to read:

1113 **8-2-2 . Investment of funds by Division of Finance.**

1114 The Division of Finance shall with the approval of the governor invest the money which
1115 may be deposited with the state treasurer under the provisions of the preceding section in the
1116 name of the state, in bonds or other obligations of the state or of the United States, or in
1117 securities in which the division is authorized to invest money in behalf of the state, and
1118 semiannually in each year it shall cause to be paid the accrued interest thereof to such person,
1119 association or corporation for the care, maintenance or improvement of any cemetery or

1120 cemetery lot where the money has been deposited for that purpose. If such cemetery is not
 1121 held in private ownership, such interest shall be paid to the city or town in which the cemetery
 1122 is located. At the time of paying such interest the treasurer shall inform the person, city, or
 1123 town to whom it is paid of the purpose to which it is to be applied as stated in the copy of the
 1124 instrument which is filed with ~~[him]~~ the treasurer, and the person, city, or town to whom it is
 1125 paid shall apply it to such purpose.

1126 Section 41. Section **9-8-804** is amended to read:

1127 **9-8-804 . Statute of limitations for claiming repositied materials from a collecting**
 1128 **institution.**

1129 (1) Any repositied materials in a collecting institution that are not accompanied by a transfer
 1130 of title to those materials are considered a gift to the collecting institution when more
 1131 than 25 years have passed from the date of the last written contact between the depositor
 1132 or ~~[his]~~ the depositor's successors and the collecting institution.

1133 (2) No depositor or any of ~~[his]~~ the depositor's successors may bring an action against the
 1134 collecting institution to recover the repositied materials from the collecting institution
 1135 after 25 years have passed from the date of the last written contact between the depositor
 1136 or ~~[his]~~ the depositor's successors and the collecting institution.

1137 Section 42. Section **9-8-806** is amended to read:

1138 **9-8-806 . Claiming repositied materials held by a collecting institution.**

1139 (1) Any person claiming title to repositied materials held by a collecting institution shall
 1140 demonstrate that ~~[he]~~ the person owns all right, title, and interest in the repositied
 1141 materials to the reasonable satisfaction of the collecting institution.

1142 (2)(a) Any person claiming to represent a person claiming title to repositied materials
 1143 held by a collecting institution shall demonstrate, to the reasonable satisfaction of the
 1144 collecting institution, that:

1145 (i) ~~[he]~~ the person claiming to represent a person claiming title to the repositied
 1146 material represents every person who owns any right, title, or interest in the
 1147 repositied materials; and

1148 (ii) the represented persons ~~[he represents]~~ own all right, title, and interest in the
 1149 repositied materials.

1150 (b) Any person claiming ~~[he represents]~~ to represent persons holding all right, title, and
 1151 interest in the repositied materials may demonstrate that representation by providing
 1152 the collecting institution with a notarized authorization from every person having any
 1153 right, title, or interest in the repositied materials.

1154 Section 43. Section **9-9-203** is amended to read:

1155 **9-9-203 . Acceptance or rejection of cession of state jurisdiction -- Proclamation**
1156 **by governor.**

1157 (1) If the governor receives a resolution signed by the majority of any tribe, tribal council,
1158 or other governing body duly recognized by the Bureau of Indian Affairs of any tribe,
1159 community, band or group in the state certifying the results of a special election
1160 expressly ceding criminal or civil jurisdiction of the Indian tribe, community, band, or
1161 group or its lands or any portion thereof to the state of Utah within the limits authorized
1162 by federal law, [he] the governor shall either accept or reject the cession of jurisdiction
1163 within 60 days.

1164 (2) If the governor accepts jurisdiction, [he] the governor shall issue a proclamation within
1165 60 days to the effect that civil or criminal jurisdiction shall apply, subject to the
1166 limitations of this chapter, to all Indians and all Indian territory, country, lands or any
1167 portion thereof of the Indian body involved to the extent authorized by the resolution.
1168 Failure to issue the proclamation within the time prescribed is considered a rejection of
1169 the assumption of jurisdiction.

1170 Section 44. Section **10-3-202** is amended to read:

1171 **10-3-202 . Terms of elected municipal officers.**

1172 Each elected officer of a municipality shall hold office for the term for which [he] the
1173 officer is elected and until [his] the officer's successor is chosen and qualified, unless the office
1174 becomes vacant under Section 10-3-301.

1175 Section 45. Section **10-3-705** is amended to read:

1176 **10-3-705 . Requirements as to form -- Effective date.**

1177 Ordinances passed or enacted by the governing body shall be signed by the mayor, or if [
-1178 he] the mayor is absent, by the mayor pro tempore, or by a quorum of the governing body, and
1179 shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its
1180 failure to conform to the provisions of Subsection 10-3-704(1), (2), (3) or (4). Ordinances
1181 which do not have an effective date shall become effective 20 days after publication or
1182 posting, or 30 days after final passage by the governing body, whichever is sooner.

1183 Section 46. Section **10-3-829** is amended to read:

1184 **10-3-829 . Acts of officials not voided.**

1185 No official act of any municipal officer shall be invalid for the reason that [he] the officer
1186 failed to take the oath of office.

1187 Section 47. Section **10-3-904** is amended to read:

1188 **10-3-904 . Books and supplies -- Recording, filing, and inspection.**

1189 The city engineer's office shall be supplied with all necessary books, cases and supplies
 1190 for recording and filing as required. The city engineer shall record and file all drawings and
 1191 documents pertaining to public lands and improvements. Those made in [his] the city engineer's
 1192 office shall be placed on record as soon as completed and shall then be open for public
 1193 inspections, and any person copying the same or taking notes therefrom may do so in pencil
 1194 only. [He] The city engineer shall keep the records and files in good condition and turn the
 1195 same over to [his] the city engineer's successor in office. [He] The city engineer shall allow no
 1196 alteration, mutilation or changes to be made in any matter of record, and shall be held strictly
 1197 accountable for the same.

1198 Section 48. Section **10-3-906** is amended to read:

1199 **10-3-906 . Seal.**

1200 The city engineer shall be provided with a seal by the city for [his] the city engineer's
 1201 use, containing the words " ____ City, Utah, Engineering Department." The seal shall be
 1202 affixed to every certification approval.

1203 Section 49. Section **10-3-915** is amended to read:

1204 **10-3-915 . Rights to arrest without warrant.**

1205 The members of the police force shall have the power and authority, without process, to
 1206 arrest and take into custody any person who shall commit or threaten or attempt to commit in
 1207 the presence of the officer, or within [his] the officer's view, any breach of the peace, or any
 1208 offense directly prohibited by the laws of this state or by ordinance.

1209 Section 50. Section **10-8-50** is amended to read:

1210 **10-8-50 . Disturbing the peace -- Public intoxication -- Fighting -- Obscene**
 1211 **language -- Disorderly conduct -- Lewd behavior -- Interference with officers -- Trespass.**

1212 (1) Boards of commissioners and city councils of cities may provide for the punishment of
 1213 any person or persons for:

1214 (a) disturbing the peace or good order of the city;

1215 (b) disturbing the peace of any person or persons;

1216 (c) disturbing any lawful assembly;

1217 (d) public intoxication;

1218 (e) challenging, encouraging, or engaging in fighting;

1219 (f) using obscene or profane language in a place or under circumstances which could
 1220 cause a breach of the peace or good order of the city;

1221 (g) engaging in indecent or disorderly conduct;

- 1222 (h) engaging in lewd or lascivious behavior or conduct in the city; and
1223 (i) interfering with any city officer in the discharge of ~~[his]~~ the officer's duty.
- 1224 (2) Boards of commissioners and city councils of cities may provide for the punishment of
1225 trespass and such other petty offenses as the board of commissioners or city council may
1226 consider proper.
- 1227 (3)(a) A woman's breast feeding, including breast feeding in any location where she
1228 otherwise may rightfully be, does not under any circumstance constitute a lewd or
1229 indecent act, irrespective of whether or not the breast is covered during or incidental
1230 to feeding.
- 1231 (b) Boards of commissioners and city councils of cities may not prohibit a woman's
1232 breast feeding in any location where she otherwise may rightfully be, irrespective of
1233 whether the breast is uncovered during or incidental to the breast feeding.

1234 Section 51. Section **11-3-4** is amended to read:

1235 **11-3-4 . Enforcement -- Seizure of fireworks sold unlawfully -- Revocation of**
1236 **license.**

- 1237 (1) Each county and municipal officer charged with the enforcement of state and municipal
1238 laws, including all fire enforcement officials and the State Fire Marshal Division of the
1239 Department of Public Safety, shall enforce this chapter and Sections 53-7-220 through
1240 53-7-225, Utah Fireworks Act.
- 1241 (2) Any official charged with enforcing this chapter and the Utah Fireworks Act may:
- 1242 (a) seize display fireworks, fireworks, and unclassified fireworks that are offered for
1243 sale, sold, or in the possession of an individual in violation of this chapter or the Utah
1244 Fireworks Act; and
- 1245 (b) recommend to the state fire ~~[marshall]~~ marshal that ~~the state fire marshal revoke the~~
1246 license of each importer or wholesaler selling or offering to sell display fireworks,
1247 fireworks, or unclassified fireworks in violation of this chapter or the Utah Fireworks
1248 Act~~[have his license revoked]~~.

1249 Section 52. Section **11-30-6** is amended to read:

1250 **11-30-6 . Contest of petition by attorney general or county attorney -- Attorney**
1251 **general and county attorney as parties.**

- 1252 (1) A copy of the petition and order shall be served on the attorney general at least 20 days
1253 before the hearing. Upon receipt of the petition, the attorney general shall carefully
1254 examine the petition and, if the petition is believed to be defective, insufficient, or
1255 untrue, or if, in the attorney general's opinion, a reasonable question exists as to the

1256 validity of the bonds, the attorney general shall contest the petition. If neither of those
 1257 conditions exists or if one or more other parties to the action will, in the attorney
 1258 general's opinion, competently contest the petition, the attorney general may, upon
 1259 approval of the court, be dismissed as a defendant.

1260 (2) If the petition is filed by the state or any agency, authority, instrumentality, or institution
 1261 of the state, the attorney general may not be made a party to the proceeding and notice
 1262 shall be served on the county attorney in the county in which the largest expenditure of
 1263 the proceeds of the bonds is expected to be made. That county attorney shall then in all
 1264 respects perform the role of the attorney general as set forth in this section.

1265 (3) The attorney general or county attorney, as the case may be, may waive [~~his~~] the right of
 1266 appeal and that waiver shall be binding on all successors and assigns.

1267 (4) All costs of the attorney general or county attorney incurred in performing duties
 1268 imposed by this section shall be reimbursed from the proceeds of the bonds if the bonds
 1269 are issued.

1270 Section 53. Section **13-1-5** is amended to read:

1271 **13-1-5 . Executive director's authority over division directors.**

1272 The executive director has policymaking and management jurisdiction over directors of
 1273 the divisions and agencies within the department. [He] The executive director shall appoint the
 1274 division directors, subject to approval by the governor, unless otherwise provided by law and
 1275 shall determine their compensation.

1276 Section 54. Section **13-7-4** is amended to read:

1277 **13-7-4 . Business establishment, place of public accommodation, or enterprise**
 1278 **regulated by the state denying rights deemed public nuisance -- Investigation and**
 1279 **conciliation -- Action to enjoin -- Civil action for damages -- Expenses of defending action.**

1280 Any business establishment or place of public accommodation or enterprise regulated by
 1281 the state in which a violation of the rights provided in Section 13-7-3 of this chapter occurs is a
 1282 public nuisance. The operator of any such business establishment or place of public
 1283 accommodation or enterprise regulated by the state is guilty of maintaining a public nuisance
 1284 and may be enjoined as hereinafter provided.

1285 (1) Upon application to the attorney general by any person denied the rights guaranteed by
 1286 Section 13-7-3, the attorney general shall investigate and seek to conciliate the matter.

1287 (2) An action to enjoin any nuisance defined in this section may be brought in the name of
 1288 the state of Utah by the attorney general. Upon the trial of the cause, on finding that the
 1289 material allegations of the complaint are true, the court shall order such nuisance to be

1290 abated, and enjoin all persons from maintaining or permitting such nuisance. When any
1291 injunction as herein provided has been granted it shall be binding upon the defendant
1292 and shall act as an injunction in personam against the defendant throughout the state.

1293 (3) Any person who is denied the rights provided for in Section 13-7-3 shall have a civil
1294 action for damages and any other remedy available in law or equity against any person
1295 who denies [him] that person the rights provided for in Section 13-7-3 or who aids,
1296 incites or conspires to bring about such denial.

1297 (4) Any business establishment or place of public accommodation or enterprises regulated
1298 by the state charged with maintaining a public nuisance in violation of this chapter,
1299 which is determined or found not to be in violation of this chapter, may be awarded all
1300 actual and necessary expenses incurred in defending such action, as determined and
1301 approved by the court having jurisdiction of the matter.

1302 *The following section is affected by a coordination clause at the end of this bill.*

1303 Section 55. Section **13-11-9** is amended to read:

1304 **13-11-9 . Rule-making requirements.**

1305 (1) In addition to complying with other rule-making requirements imposed by this act, the
1306 enforcing authority shall:

1307 (a) adopt as a rule a description of the organization of [his] the enforcing authority's
1308 office, stating the general course and method of operation of [his] the office and
1309 method whereby the public may obtain information or make submissions or requests;

1310 (b) adopt rules of practice setting forth the nature and requirements of all formal and
1311 informal procedures available, including a description of the forms and instructions
1312 used by the enforcing authority of [his] the enforcing authority's office; and

1313 (c) make available for public inspection all rules, written statements of policy, and
1314 interpretations formulated, adopted, or used by the enforcing authority in discharging [
1315 his] the enforcing authority's functions.

1316 (2) A rule of the enforcing authority is invalid, and may not be invoked by the enforcing
1317 authority for any purpose, until it has been made available for public inspection under
1318 Subsection (1). This provision does not apply to a person who has knowledge of a rule
1319 before engaging in an act or practice that violates this act.

1320 Section 56. Section **13-11-16** is amended to read:

1321 **13-11-16 . Investigatory powers of enforcing authority.**

1322 (1) If, by [his] the enforcing authority's own inquiries or as a result of complaints, the
1323 enforcing authority has reason to believe that a person has engaged in, is engaging in, or

1324 is about to engage in an act or practice that violates this act, [he] the enforcing authority
 1325 may administer oaths and affirmations, subpoena witnesses or matter, and collect
 1326 evidence.

1327 (2) If matter that the enforcing authority subpoenas is located outside this state, the person
 1328 subpoenaed may either make it available to the enforcing authority at a convenient
 1329 location within the state or pay the reasonable and necessary expenses for the enforcing
 1330 authority or [his] the enforcing authority's representative to examine the matter at the
 1331 place where it is located. The enforcing authority may designate representatives,
 1332 including officials of the state in which the matter is located, to inspect the matter on [his]
 1333 the enforcing authority's behalf, and [he] the enforcing authority may respond to similar
 1334 requests from officials of other states.

1335 (3) Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable
 1336 notice to all persons affected, the enforcing authority may apply to the court for an order
 1337 compelling compliance.

1338 (4) In the event a witness asserts a privilege against self-incrimination, testimony and
 1339 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants
 1340 of Immunity.

1341 Section 57. Section **13-14a-5** is amended to read:

1342 **13-14a-5 . Notice or consent required before changing terms of retailing**
 1343 **agreement -- Limitations on pledge of personal assets -- Cancellation of retailing**
 1344 **agreement.**

1345 (1) Each manufacturer, wholesaler, financing subsidiary or division of the manufacturer, or
 1346 any independent lender shall give the dealer prior written notice and obtain the dealer's
 1347 consent before:

1348 (a) changing either the time or manner of payment;

1349 (b) making any changes in notes or security;

1350 (c) adding or releasing guarantors; or

1351 (d) granting extensions or renewals in payment schedules on any contract that is
 1352 executed by the dealer in behalf of and in the name of any third purchaser of goods or
 1353 services in which the dealer is obligated to assume contingent liability for the
 1354 repurchase of that contract upon default by that third party.

1355 (2) A person who signs a security agreement or guarantee agreement with a manufacturer or
 1356 wholesaler may not be required to pledge or encumber [his] the person's personal assets
 1357 in a value in excess of the amount of the indebtedness secured.

1358 (3) If any manufacturer or wholesaler fails to give notice or obtain consent under
1359 Subsection (1), or fails to comply with Subsection (2), the guarantee or security
1360 agreement affected is considered cancelled and terminated.

1361 Section 58. Section **13-20-4** is amended to read:

1362 **13-20-4 . Nonconforming motor vehicles -- Replacement -- Refund -- Criteria --**
1363 **Defenses.**

1364 (1) If the manufacturer, its agent, or its authorized dealer is unable to conform the motor
1365 vehicle to any applicable express warranty by repairing or correcting any defect or
1366 condition that substantially impairs the use, market value, or safety of the motor vehicle
1367 after a reasonable number of attempts, the manufacturer shall replace the motor vehicle
1368 with a comparable new motor vehicle or accept return of the vehicle from the consumer
1369 and refund to the consumer the full purchase price including all collateral charges, less a
1370 reasonable allowance for the consumer's use of the vehicle. Refunds shall be made to
1371 the consumer, and any lienholders or lessors as their interests may appear.

1372 (2) A reasonable allowance for use is that amount directly attributable to use by the
1373 consumer prior to [his] the consumer's first report of the nonconformity to the
1374 manufacturer, its agent, or its authorized dealer, and during any subsequent period when
1375 the vehicle is not out of service because of repair.

1376 (3) Upon receipt of any refund or replacement under Subsection (1), the consumer,
1377 lienholder, or lessor shall furnish to the manufacturer clear title to and possession of the
1378 motor vehicle.

1379 (4) It is an affirmative defense to any claim under this chapter:

1380 (a) that an alleged nonconformity does not substantially impair the consumer's use of the
1381 motor vehicle and does not substantially impair the market value or safety of the
1382 motor vehicle; or

1383 (b) that an alleged nonconformity is the result of abuse, neglect, or unauthorized
1384 modifications or alterations of a motor vehicle by a consumer.

1385 Section 59. Section **13-21-4** is amended to read:

1386 **13-21-4 . Bond, letter of credit, or certificate of deposit -- Not required of agent if**
1387 **obtained by organization.**

1388 (1) If a credit services organization has obtained a bond, letter of credit, or certificate of
1389 deposit as set forth in Subsection 13-21-3(1) a salesperson, agent, or representative who
1390 sells the services of that organization is not required to post [~~his own~~] a separate bond,
1391 letter of credit, or certificate of deposit.

- 1392 (2) As used in this section, a person is not a salesperson, agent, or representative of a credit
 1393 services organization unless:
- 1394 (a) the person does business under the same name as the credit services organization; or
 1395 (b) the credit services organization and the issuer of the bond or letter of credit certify in
 1396 writing that the bond or letter of credit covers the person.

1397 Section 60. Section **13-28-7** is amended to read:

1398 **13-28-7 . Penalties -- Administrative and criminal.**

- 1399 (1) Any person who violates this chapter shall be subject to:
- 1400 (a) a cease and desist order; and
 1401 (b) an administrative fine of not less than \$100 or more than \$5,000 for each separate
 1402 violation.
- 1403 (2) All administrative fines shall be deposited in the Consumer Protection Education and
 1404 Training Fund created in Section 13-2-8.
- 1405 (3) Any person who intentionally violates this part is guilty of a class A misdemeanor and
 1406 may be fined up to \$10,000. A person intentionally violates this part if the violation
 1407 occurs after the division, attorney general, or a district or county attorney notifies the
 1408 person by certified mail that [he] the person is in violation of this chapter.

1409 Section 61. Section **15-8-11** is amended to read:

1410 **15-8-11 . Enforcement -- Penalties.**

- 1411 (1)(a) A lessor who fails to comply with the requirements of this chapter is liable to a
 1412 consumer in an amount equal to the greater of:
- 1413 (i) the actual damages sustained by the consumer as a result of the lessor's failure to
 1414 comply with this chapter; or
 1415 (ii) 25% of the total payments necessary to acquire ownership, but not less than \$100
 1416 nor more than \$1,000.
- 1417 (b) A lessor may also be liable to the consumer for the costs of the action and reasonable [
 1418 attorneys'] attorney fees, as determined by the court.
- 1419 (2) A consumer may not take any action to offset the amount for which a lessor is
 1420 potentially liable under Subsection (1) against any amount owed by the consumer,
 1421 unless the amount of the lessor's liability has been determined by judgment of a court of
 1422 competent jurisdiction in an action in which the lessor was a party. This subsection does
 1423 not bar a consumer then in default on an obligation from asserting a violation of this
 1424 chapter as an original action, or as a defense or counterclaim, to an action brought by a
 1425 lessor against the consumer.

1426 (3) No action under this section may be brought in any court of competent jurisdiction more
1427 than two years after the date the consumer made [his] the consumer's last rental payment
1428 or more than two years after the date of the occurrence of the violation that is the subject
1429 of the suit, whichever is later.

1430 Section 62. Section **16-7-2** is amended to read:

1431 **16-7-2 . Articles of incorporation -- Execution -- Filing.**

1432 Any person who is the archbishop, bishop, president, trustee in trust, president of stake,
1433 president of congregation, overseer, presiding elder, or clergyman of any church or religious
1434 society who has been duly chosen, elected, or appointed in conformity with the constitution,
1435 canons, rites, regulations, or discipline of such church or religious society, and in whom is
1436 vested the legal title to its property, may make and subscribe articles of incorporation,
1437 acknowledge the same before some officer authorized to take acknowledgments, and file the
1438 original articles with the Division of Corporations and Commercial Code; [he] the person who
1439 makes and subscribes the articles of incorporation shall retain a copy of these articles in [his]
1440 the person's possession.

1441 Section 63. Section **16-10a-129** is amended to read:

1442 **16-10a-129 . Penalty for signing false documents.**

1443 (1) A person commits an offense if [he] the person signs a document knowing it to be false
1444 in any material respect, with intent that the document be delivered to the division for
1445 filing.

1446 (2) An offense under this section is a class A misdemeanor punishable by a fine not to
1447 exceed \$2,500.

1448 Section 64. Section **16-10a-824** is amended to read:

1449 **16-10a-824 . Quorum and voting.**

1450 (1) Unless the articles of incorporation or bylaws require a greater number, or, as permitted
1451 in Subsection (2), a lower number, a quorum of a board of directors consists of:

1452 (a) a majority of the fixed number of directors if the corporation has a fixed board size;
1453 or

1454 (b) a majority of the number of directors prescribed, or if no number is prescribed, of the
1455 number in office immediately before the meeting begins, if a range for the size of the
1456 board is established pursuant to Subsection 16-10a-803(2).

1457 (2) The articles of incorporation or bylaws may authorize a quorum of a board of directors
1458 to consist of no fewer than 1/3 of the fixed or prescribed number of directors determined
1459 under Subsection (1).

- 1460 (3) If a quorum is present when a vote is taken, the affirmative vote of a majority of
1461 directors present is the act of the board of directors unless the articles of incorporation,
1462 bylaws, or this chapter require the vote of a greater number of directors.
- 1463 (4) A director who is present at a meeting of the board of directors when corporate action is
1464 taken is considered to have assented to the action taken at the meeting unless:
- 1465 (a) the director objects at the beginning of the meeting, or promptly upon arrival, to
1466 holding the meeting or transacting business at the meeting and does not thereafter
1467 vote for or assent to any action taken at the meeting;
- 1468 (b) the director contemporaneously requests [~~his~~] the director's dissent or abstention as to
1469 any specific action to be entered into the minutes of the meeting; or
- 1470 (c) the director causes written notice of a dissent or abstention as to any specific action
1471 to be received by the presiding officer of the meeting before adjournment of the
1472 meeting or by the corporation promptly after adjournment of the meeting.
- 1473 (5) The right of dissent or abstention as to a specific action pursuant to Subsection (4) is not
1474 available to a director who votes in favor of the action taken.

1475 Section 65. Section **16-10a-841** is amended to read:

1476 **16-10a-841 . Limitation of liability of directors.**

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

1494 the provision.

- 1495 (4) Any foreign corporation authorized to transact business in this state, including any
1496 federally chartered depository institution authorized under federal law to transact
1497 business in this state, may adopt any provision authorized under this section.
- 1498 (5) With respect to a corporation that is a depository institution regulated by the
1499 Department of Financial Institutions or by an agency of the federal government, any
1500 provision authorized under this section may include the elimination or limitation of the
1501 personal liability of a director or officer to the corporation's members or depositors.

1502 Section 66. Section **16-10a-853** is amended to read:

1503 **16-10a-853 . Shareholders' action.**

- 1504 (1) Shareholders' action respecting a transaction is effective for purposes of Subsection
1505 16-10a-851(2)(b) if a quorum existed pursuant to Subsection (2) and a majority of the
1506 votes entitled to be cast by holders of qualified shares present in person or by proxy at
1507 the meeting were cast in favor of the transaction after notice to shareholders describing
1508 the director's conflicting interest transaction, provision of the information referred to in
1509 Subsection (3), and required disclosure to the shareholders who voted on the transaction,
1510 to the extent the information was not known by them.
- 1511 (2) A majority of the votes entitled to be cast by the holders of all qualified shares
1512 constitutes a quorum for purposes of action that complies with this section. Subject to
1513 the provisions of Subsections (3) and (4), shareholders' action that otherwise complies
1514 with this section is not affected by the presence of holders of, or the voting of, shares
1515 that are not qualified shares.
- 1516 (3) For purposes of compliance with Subsection (1), a director who has a conflicting
1517 interest respecting the transaction shall, before the shareholders vote, inform the
1518 secretary or other officer or agent of the corporation authorized to tabulate votes of the
1519 number and the identity of persons holding or controlling the vote, of all shares that the
1520 director knows are beneficially owned, or the voting of which is controlled, by the
1521 director or by a related person of the director, or both.
- 1522 (4) If a shareholders' vote does not comply with Subsection (1) solely because of a failure
1523 of a director to comply with Subsection (3), and if the director establishes that the failure
1524 did not determine and was not intended by ~~him~~ the director to influence the outcome of
1525 the vote, the court may, with or without further proceedings under Subsection
1526 16-10a-851(2)(c), take any action respecting the transaction and the director, and give
1527 any effect to the shareholders' vote, as it considers appropriate in the circumstances.

1528 Section 67. Section **16-10a-902** is amended to read:

1529 **16-10a-902 . Authority to indemnify directors.**

- 1530 (1) Except as provided in Subsection (4), a corporation may indemnify an individual made
 1531 a party to a proceeding because [he] the individual is or was a director, against liability
 1532 incurred in the proceeding if:
- 1533 (a) [his] the individual's conduct was in good faith; [and]
 1534 (b) [he] the individual reasonably believed that [his] the individual's conduct was in, or
 1535 not opposed to, the corporation's best interests; and
 1536 (c) in the case of any criminal proceeding, [he] the individual had no reasonable cause to
 1537 believe [his] the individual's conduct was unlawful.
- 1538 (2) A director's conduct with respect to any employee benefit plan for a purpose [he] the
 1539 director reasonably believed to be in or not opposed to the interests of the participants in
 1540 and beneficiaries of the plan is conduct that satisfies the requirement of Subsection (1)(b).
- 1541 (3) The termination of a proceeding by judgment, order, settlement, conviction, or upon a
 1542 plea of nolo contendere or its equivalent is not, of itself, determinative that the director
 1543 did not meet the standard of conduct described in this section.
- 1544 (4) A corporation may not indemnify a director under this section:
- 1545 (a) in connection with a proceeding by or in the right of the corporation in which the
 1546 director was adjudged liable to the corporation; or
 1547 (b) in connection with any other proceeding charging that the director derived an
 1548 improper personal benefit, whether or not involving action in [his] the director's
 1549 official capacity, in which proceeding [he] the director was adjudged liable on the
 1550 basis that [he] the director derived an improper personal benefit.
- 1551 (5) Indemnification permitted under this section in connection with a proceeding by or in
 1552 the right of the corporation is limited to reasonable expenses incurred in connection with
 1553 the proceeding.

1554 Section 68. Section **16-10a-903** is amended to read:

1555 **16-10a-903 . Mandatory indemnification of directors.**

1556 Unless limited by its articles of incorporation, a corporation shall indemnify a director
 1557 who was successful, on the merits or otherwise, in the defense of any proceeding, or in the
 1558 defense of any claim, issue, or matter in the proceeding, to which [he] the director was a party
 1559 because [he] the director is or was a director of the corporation, against reasonable expenses
 1560 incurred by [him] the director in connection with the proceeding or claim with respect to which [
 -1561 he] the director has been successful.

1562 Section 69. Section **16-10a-908** is amended to read:

1563 **16-10a-908 . Insurance.**

1564 A corporation may purchase and maintain liability insurance on behalf of a person who
1565 is or was a director, officer, employee, fiduciary, or agent of the corporation, or who, while
1566 serving as a director, officer, employee, fiduciary, or agent of the corporation, is or was
1567 serving at the request of the corporation as a director, officer, partner, trustee, employee,
1568 fiduciary, or agent of another foreign or domestic corporation or other person, or of an
1569 employee benefit plan, against liability asserted against or incurred by ~~[him]~~ the person in that
1570 capacity or arising from ~~[his]~~ the person's status as a director, officer, employee, fiduciary, or
1571 agent, whether or not the corporation would have power to indemnify ~~[him]~~ the person against
1572 the same liability under Section 16-10a-902, 16-10a-903, or 16-10a-907. Insurance may be
1573 procured from any insurance company designated by the board of directors, whether the
1574 insurance company is formed under the laws of this state or any other jurisdiction of the
1575 United States or elsewhere, including any insurance company in which the corporation has an
1576 equity or any other interest through stock ownership or otherwise.

1577 Section 70. Section **16-10a-1302** is amended to read:

1578 **16-10a-1302 . Right to dissent.**

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

- 1596 corporation were entitled to vote upon the consent of the corporation to the
1597 disposition pursuant to Subsection 16-10a-1202(2).
- 1598 (2) A shareholder is entitled to dissent and obtain payment of the fair value of [~~his~~] the
1599 shareholder's shares in the event of any other corporate action to the extent the articles of
1600 incorporation, bylaws, or a resolution of the board of directors so provides.
- 1601 (3) Notwithstanding the other provisions of this part, except to the extent otherwise
1602 provided in the articles of incorporation, bylaws, or a resolution of the board of
1603 directors, and subject to the limitations set forth in Subsection (4), a shareholder is not
1604 entitled to dissent and obtain payment under Subsection (1) of the fair value of the
1605 shares of any class or series of shares which either were listed on a national securities
1606 exchange registered under the federal Securities Exchange Act of 1934, as amended, or
1607 on the National Market System of the National Association of Securities Dealers
1608 Automated Quotation System, or were held of record by more than 2,000 shareholders,
1609 at the time of:
- 1610 (a) the record date fixed under Section 16-10a-707 to determine the shareholders entitled
1611 to receive notice of the shareholders' meeting at which the corporate action is
1612 submitted to a vote;
- 1613 (b) the record date fixed under Section 16-10a-704 to determine shareholders entitled to
1614 sign writings consenting to the proposed corporate action; or
- 1615 (c) the effective date of the corporate action if the corporate action is authorized other
1616 than by a vote of shareholders.
- 1617 (4) The limitation set forth in Subsection (3) does not apply if the shareholder will receive
1618 for [~~his~~] the shareholder's shares, pursuant to the corporate action, anything except:
- 1619 (a) shares of the corporation surviving the consummation of the plan of merger or share
1620 exchange;
- 1621 (b) shares of a corporation which at the effective date of the plan of merger or share
1622 exchange either will be listed on a national securities exchange registered under the
1623 federal Securities Exchange Act of 1934, as amended, or on the National Market
1624 System of the National Association of Securities Dealers Automated Quotation
1625 System, or will be held of record by more than 2,000 shareholders;
- 1626 (c) cash in lieu of fractional shares; or
- 1627 (d) any combination of the shares described in Subsection (4), or cash in lieu of
1628 fractional shares.
- 1629 (5) A shareholder entitled to dissent and obtain payment for [~~his~~] the shareholder's shares

1630 under this part may not challenge the corporate action creating the entitlement unless the
1631 action is unlawful or fraudulent with respect to [~~him~~] the shareholder or to the
1632 corporation.

1633 Section 71. Section **16-10a-1327** is amended to read:

1634 **16-10a-1327 . Special provisions relating to shares acquired after announcement**
1635 **of proposed corporate action.**

1636 (1) A corporation may, with the dissenters' notice given pursuant to Section 16-10a-1322,
1637 state the date of the first announcement to news media or to shareholders of the terms of
1638 the proposed corporate action creating dissenters' rights under Section 16-10a-1302 and
1639 state that a shareholder who asserts dissenters' rights must certify in writing, in or with
1640 the payment demand, whether or not [~~he~~] the dissenter or the person on whose behalf [~~he~~
1641 asserts] the dissenters' rights are being asserted acquired beneficial ownership of the
1642 shares before that date. With respect to any dissenter who does not certify in writing, in
1643 or with the payment demand that [~~he~~] the dissenter or the person on whose behalf the
1644 dissenters' rights are being asserted, acquired beneficial ownership of the shares before
1645 that date, the corporation may, in lieu of making the payment provided in Section
1646 16-10a-1325, offer to make payment if the dissenter agrees to accept it in full
1647 satisfaction of [~~his~~] the dissenter's demand.

1648 (2) An offer to make payment under Subsection (1) shall include or be accompanied by the
1649 information required by Subsection 16-10a-1325(2).

1650 Section 72. Section **16-10a-1328** is amended to read:

1651 **16-10a-1328 . Procedure for shareholder dissatisfied with payment or offer.**

1652 (1) A dissenter who has not accepted an offer made by a corporation under Section
1653 16-10a-1327 may notify the corporation in writing of [~~his~~] the dissenter's own estimate of
1654 the fair value of [~~his~~] the dissenter's shares and demand payment of the estimated
1655 amount, plus interest, less any payment made under Section 16-10a-1325, if:

- 1656 (a) the dissenter believes that the amount paid under Section 16-10a-1325 or offered
1657 under Section 16-10a-1327 is less than the fair value of the shares;
- 1658 (b) the corporation fails to make payment under Section 16-10a-1325 within 60 days
1659 after the date set by the corporation as the date by which it must receive the payment
1660 demand; or
- 1661 (c) the corporation, having failed to take the proposed corporate action creating
1662 dissenters' rights, does not return the deposited certificates or release the transfer
1663 restrictions imposed on uncertificated shares as required by Section 16-10a-1326.

1664 (2) A dissenter waives the right to demand payment under this section unless [he] the
1665 dissenter causes the corporation to receive the notice required by Subsection (1) within
1666 30 days after the corporation made or offered payment for [his] the dissenter's shares.

1667 Section 73. Section **16-10a-1408** is amended to read:

1668 **16-10a-1408 . Enforcement of claims against dissolved corporations.**

1669 A claim may be enforced:

- 1670 (1) under Section 16-10a-1406 or 16-10a-1407 against the dissolved corporation, to the
1671 extent of its undistributed assets; or
- 1672 (2) against a shareholder of the dissolved corporation, if the assets have been distributed in
1673 liquidation; but a shareholder's total liability for all claims under this section may not
1674 exceed the total value of assets distributed to [him] the shareholder, as that value is
1675 determined at the time of distribution. Any shareholder required to return any portion of
1676 the value of assets received by [him] the shareholder in liquidation shall be entitled to
1677 contribution from all other shareholders. The contributions shall be in accordance with
1678 the shareholders' respective rights and interests and may not exceed the value of the
1679 assets received in liquidation.

1680 Section 74. Section **16-10a-1602** is amended to read:

1681 **16-10a-1602 . Inspection of records by shareholders and directors.**

- 1682 (1) A shareholder or director of a corporation is entitled to inspect and copy, during regular
1683 business hours at the corporation's principal office, any of the records of the corporation
1684 described in Subsection 16-10a-1601(5) if [he] the shareholder or director gives the
1685 corporation written notice of the demand at least five business days before the date on
1686 which [he] the shareholder or director wishes to inspect and copy.
- 1687 (2) In addition to the rights set forth in Subsection (1), a shareholder or director of a
1688 corporation is entitled to inspect and copy, during regular business hours at a reasonable
1689 location specified by the corporation, any of the following records of the corporation if
1690 the shareholder or director meets the requirements of Subsection (3) and gives the
1691 corporation written notice of the demand at least five business days before the date on
1692 which [he] the shareholder or director wishes to inspect and copy:
- 1693 (a) excerpts from:
- 1694 (i) minutes of any meeting, records of any action taken by the board of directors, or
1695 by a committee of the board of directors while acting on behalf of the corporation
1696 in place of the board of directors;
- 1697 (ii) minutes of any meeting of the shareholders;

- 1698 (iii) records of any action taken by the shareholders without a meeting; and
1699 (iv) waivers of notices of any meeting of the shareholders, of any meeting of the
1700 board of directors, or of any meeting of a committee of the board of directors;
- 1701 (b) accounting records of the corporation; and
1702 (c) the record of shareholders described in Subsection 16-10a-1601(3).
- 1703 (3) A shareholder or director is entitled to inspect and copy records as described in
1704 Subsection (2) only if:
1705 (a) the demand is made in good faith and for a proper purpose;
1706 (b) the shareholder or director describes with reasonable particularity [~~his~~] the
1707 shareholder's or director's purpose and the records [~~he~~] the shareholder or director
1708 desires to inspect; and
1709 (c) the records are directly connected with [~~his~~] the shareholder's or director's purpose.
- 1710 (4) For purposes of this section:
1711 (a) "proper purpose" means a purpose reasonably related to the demanding shareholder's
1712 or director's interest as a shareholder or director; and
1713 (b) "shareholder" includes a beneficial owner whose shares are held in a voting trust and
1714 any other beneficial owner who establishes beneficial ownership.
- 1715 (5) The right of inspection granted by this section may not be abolished by a corporation's
1716 articles of incorporation or bylaws.
- 1717 (6) This section does not affect:
1718 (a) the right of a shareholder or director to inspect records under Section 16-10a-720 or,
1719 if the shareholder or director is in litigation with the corporation, to the same extent
1720 as any other litigant; or
1721 (b) the power of a court, independent of this chapter, to compel the production of
1722 corporate records for examination.
- 1723 (7) A shareholder or director may not use any information obtained through the inspection
1724 or copying of records permitted by Subsection (2) for any purposes other than those set
1725 forth in a demand made under Subsection (3).
- 1726 Section 75. Section **16-10a-1603** is amended to read:
1727 **16-10a-1603 . Scope of inspection right.**
- 1728 (1) A shareholder's or director's agent or attorney has the same inspection and copying
1729 rights as the shareholder or director represented by the agent or attorney.
- 1730 (2) The right to copy records under Section 16-10a-1602 includes, if reasonable, the right to
1731 receive copies made by photographic, xerographic, or other means.

1732 (3) Except as provided in Section 16-10a-1606, the corporation may impose a reasonable
 1733 charge, payable in advance, covering the costs of labor and material, for copies of any
 1734 documents to be provided to the shareholder or director. The charge may not exceed the
 1735 estimated cost of production or reproduction of the records.

1736 (4) The corporation may comply with a shareholder's or director's demand to inspect the
 1737 record of shareholders under Subsection 16-10a-1602(2)(c) by providing ~~him~~ the
 1738 shareholder or director with a list of the corporation's shareholders that complies with
 1739 Subsection 16-10a-1601(3) and was compiled no earlier than the date of the
 1740 shareholder's or director's demand.

1741 Section 76. Section **16-10a-1605** is amended to read:

1742 **16-10a-1605 . Financial statements.**

1743 Upon the written request of any shareholder, a corporation shall mail to ~~him~~ the
 1744 shareholder its most recent annual or quarterly financial statements showing in reasonable
 1745 detail its assets and liabilities and the results of its operations.

1746 Section 77. Section **16-10a-1606** is amended to read:

1747 **16-10a-1606 . Information respecting shares.**

1748 Upon the written request of any shareholder, a corporation at its own expense shall mail
 1749 to ~~him~~ the shareholder the information specified by Subsection 16-10a-625(3), whether or not
 1750 the information is also contained or summarized on any share certificate of the shareholder.
 1751 The corporation may comply with this section by mailing articles of incorporation including
 1752 the designations, preferences, limitations, and relative rights applicable to each class and series
 1753 of shares and the authority of the board of directors to determine variations for any existing or
 1754 future class or series.

1755 Section 78. Section **16-10a-1608** is amended to read:

1756 **16-10a-1608 . Statement of person named as director or officer.**

1757 ~~(4)~~ Any person named as a director or officer of a domestic or foreign corporation in an
 1758 annual report or other document on file with the division may, if ~~he~~ the person does not
 1759 hold the named position, deliver to the division for filing a statement setting forth:

1760 ~~(a)~~ (1) ~~his~~ the person's name;

1761 ~~(b)~~ (2) the domestic or foreign corporation's name;

1762 ~~(c)~~ (3) information sufficient to identify the report or other document in which ~~he~~ the
 1763 person is named as a director or officer; and

1764 ~~(d)~~ (4) the date on which ~~he~~ the person ceased to be a director or officer of the domestic
 1765 or foreign corporation, or a statement that ~~he~~ the person did not hold the position for

1766 which [he] the person was named in the corporate report or other document.

1767 Section 79. Section **19-1-302** is amended to read:

1768 **19-1-302 . Violation of laws and orders unlawful.**

1769 It is unlawful for any person:

1770 (1) to violate the provisions of the laws of this title or the terms of any order or rule issued
1771 under it; or

1772 (2) to fail to remove or abate from private property under the person's control at [his] the
1773 person's own expense within 48 hours, or such other reasonable time as the department
1774 determines, after being ordered to do so, any nuisance, source of filth, or other sanitation
1775 violation.

1776 Section 80. Section **19-6-304** is amended to read:

1777 **19-6-304 . Inspections.**

1778 (1) Upon presentation of appropriate credentials and at any reasonable time, any authorized
1779 officer, employee, or representative of the department may:

1780 (a) enter and inspect any property, premises, or place where [he] the officer, employee, or
1781 representative has reason to believe there is a hazardous materials or substances
1782 release;

1783 (b) copy any records relating to those hazardous materials or substances to determine
1784 compliance with this part and the rules made under authority of this part; and

1785 (c) inspect and take samples of any suspected hazardous material or substance.

1786 (2) If the department's representative takes samples of any suspected hazardous material or
1787 substance under authority of this section, [he] the representative shall:

1788 (a) give a receipt describing the sample taken to the owner, operator, or agent who has
1789 control of the suspected hazardous material or substance;

1790 (b) if requested and if possible, give the owner, operator, or agent a split sample of the
1791 suspected hazardous material or substance equal in volume or weight to the portion [
1792 he] the representative retains; and

1793 (c) if an analysis of any sample is made, upon request, promptly furnish a copy of the
1794 results of the analysis to the owner, operator, or agent.

1795 Section 81. Section **19-6-309** is amended to read:

1796 **19-6-309 . Emergency provisions.**

1797 (1)(a) If the executive director has reason to believe any hazardous materials release that
1798 occurred after March 18, 1985, is presenting a direct and immediate threat to public
1799 health or the environment, the executive director may:

- 1800 (i) issue an order requiring the owner or operator of the facility to take abatement
 1801 action within the time specified in the order; or
- 1802 (ii) bring suit on behalf of the state in a court with jurisdiction under Title 78A,
 1803 Judiciary and Judicial Administration, to require the owner or operator to take
 1804 immediate abatement action.
- 1805 (b) If the executive director determines the owner or operator cannot be located or is
 1806 unwilling or unable to take abatement action, the executive director may:
- 1807 (i) reach an agreement with one or more potentially responsible parties to take
 1808 abatement action; or
- 1809 (ii) use fund money to investigate the release and take abatement action.
- 1810 (2) The executive director may use money from the fund created in Section 19-6-307:
 1811 (a) for abatement action even if an adjudicative proceeding or judicial review
 1812 challenging an order or a decision to take abatement action is pending; and
 1813 (b) to investigate a suspected hazardous materials release if [he] the executive director
 1814 has reason to believe the release may present a direct and immediate threat to public
 1815 health.
- 1816 (3) This section takes precedence over any conflicting provision in this part.
 1817 Section 82. Section **19-6-312** is amended to read:
 1818 **19-6-312 . Preinvestigation requirements.**
 1819 Before undertaking any remedial investigations on a facility on the hazardous substances
 1820 priority list, the executive director shall make reasonable attempts to:
- 1821 (1) identify potentially responsible parties for each facility; and
 1822 (2) send written notice to each potentially responsible party informing [him] the party of [his]
 1823 the party's potential responsibility.
- 1824 Section 83. Section **19-6-314** is amended to read:
 1825 **19-6-314 . Remedial investigations of priority list sites -- Parties involved --**
 1826 **Powers of the executive director.**
- 1827 (1) All remedial investigations conducted under the authority of this section shall:
 1828 (a) meet the substantive requirements of CERCLA;
 1829 (b) follow procedures established by the National Contingency Plan to avoid
 1830 inconsistent state and federal action; and
 1831 (c) include recommendations for remedial action.
- 1832 (2)(a) After determining that a hazardous substance release is occurring from a national
 1833 priority list site or proposed national priority list site, and identifying responsible

1834 parties under Section 19-6-312, the executive director shall make reasonable efforts
1835 to reach an agreement with the identified responsible parties to conduct a remedial
1836 investigation.

1837 (b) The executive director may define in the agreement the scope of the remedial
1838 investigation, the form of the report, and the time limits for completion of the
1839 investigation.

1840 (c) If any responsible party fails to perform as required under an agreement entered
1841 under the authority of this section, the executive director may take action to enforce
1842 the agreement.

1843 (3)(a) If the executive director is unable to reach an agreement with one or more
1844 responsible parties to perform a remedial investigation, the executive director may
1845 issue an order directing one or more responsible parties to perform the remedial
1846 investigation.

1847 (b) The executive director may define in the order the scope of the remedial
1848 investigation, the form of the report, and the time limits for completion of the
1849 remedial investigation.

1850 (4)(a) If the executive director is unable to obtain an agreement with one or more
1851 responsible parties to perform a remedial investigation, chooses not to order any
1852 responsible party to perform the remedial investigation, or determines that the
1853 remedial investigation performed by a responsible party does not meet the
1854 substantive requirements of CERCLA, [he] the executive director may direct the
1855 department to conduct or correct the remedial investigation.

1856 (b) The executive director may recover the costs incurred in conducting a remedial
1857 investigation from responsible parties according to the standards contained in Section
1858 19-6-316.

1859 Section 84. Section **19-6-315** is amended to read:

1860 **19-6-315 . Remedial investigations of scored sites -- Parties involved -- Powers of**
1861 **the executive director.**

1862 (1) All remedial investigations conducted under the authority of this section shall:

1863 (a) meet the substantive requirements of CERCLA; and

1864 (b) include recommendations for remedial action.

1865 (2)(a) After determining that a hazardous substance release is occurring from a scored
1866 site and identifying responsible parties under Section 19-6-312, the executive director
1867 shall make reasonable efforts to reach an agreement with the identified responsible

- 1868 parties to perform a remedial investigation.
- 1869 (b) The executive director may define in the agreement the scope of the investigation,
1870 the form of the report, and the time limits for completion of the investigation.
- 1871 (c) If the potentially responsible parties fail to perform as required under an agreement
1872 entered under the authority of this section, the executive director may take action to
1873 enforce the agreement.
- 1874 (3)(a) If the executive director is unable to reach an agreement with one or more
1875 responsible parties to perform a remedial investigation, or determines that the
1876 remedial investigation performed by responsible parties does not meet the substantive
1877 requirements of CERCLA, [~~he~~] the executive director may direct the department to
1878 conduct or correct the remedial investigation.
- 1879 (b) The executive director may recover the costs incurred in conducting a remedial
1880 investigation from responsible parties according to the standards contained in Section
1881 19-6-316.
- 1882 Section 85. Section **19-6-317** is amended to read:
- 1883 **19-6-317 . Remedial investigation report -- Remedial action plan implementation**
1884 **-- Legal remedies.**
- 1885 (1) Upon receipt of a remedial investigation report for a national priority list site, the
1886 executive director shall:
- 1887 (a) review the report;
- 1888 (b) provide a period for public comment;
- 1889 (c) issue an order defining a remedial action plan consistent with CERCLA for the
1890 facility; and
- 1891 (d) follow the procedures established by the National Contingency Plan to avoid
1892 inconsistent state and federal action.
- 1893 (2)(a) To implement the remedial action plan, the executive director shall seek to reach
1894 an agreement with all responsible parties to perform the remedial action.
- 1895 (b) The executive director may define in the agreement the remedial action required and
1896 the time limits for completion of the remedial action.
- 1897 (c) If the responsible parties fail to perform as required under an agreement entered
1898 under the authority of this section, the executive director may take action to enforce
1899 the agreement.
- 1900 (3)(a) If the executive director is unable to reach an agreement with one or more
1901 responsible parties to perform remedial action, [~~he~~] the executive director may order

1902 all responsible parties to perform the remedial action.

1903 (b) The executive director may define in the order the remedial action required and the
1904 time limits for completion of the remedial action.

1905 Section 86. Section **19-6-422** is amended to read:

1906 **19-6-422 . Participation by state risk manager in suit, claim, or settlement.**

1907 (1) If a suit is filed or a claim is made against a responsible party who is eligible for
1908 payments from the fund for bodily injury or property damage connected with a release
1909 of petroleum from a petroleum storage tank, the state risk manager and [~~his~~] the state risk
1910 manager's legal counsel may participate with the responsible party and [~~his~~] the
1911 responsible party's legal counsel in:

1912 (a) the defense of any suit;

1913 (b) determination of legal strategy and any other decisions affecting the defense of any
1914 suit; and

1915 (c) any settlement negotiations.

1916 (2) The state risk manager shall approve any settlement between the responsible party and a
1917 third party before payment of fund money is made.

1918 Section 87. Section **19-8-110** is amended to read:

1919 **19-8-110 . Voluntary cleanup work plans and reports.**

1920 (1) After the applicant and the executive director have signed the voluntary cleanup
1921 agreement, the applicant shall prepare and submit the appropriate work plans and reports
1922 to the executive director as provided in the agreement.

1923 (2) The executive director shall review and evaluate the work plans and reports for
1924 accuracy, quality, and completeness.

1925 (3) The executive director may approve a voluntary cleanup work plan or report, or if [~~he~~]
1926 the executive director does not approve the work plan or a report, [~~he~~] the executive
1927 director shall notify the applicant in writing concerning additional information or
1928 commitments necessary to obtain approval.

1929 (4) At any time during the evaluation of a work plan or report, the executive director may
1930 request the applicant to submit additional or corrected information.

1931 (5) After considering the proposed future use of the property that is the subject of the
1932 agreement, the executive director may approve work plans and reports submitted under
1933 this section that do not require removal or remedy of all discharges, releases, and
1934 threatened releases on the property if the applicant's response actions under the
1935 agreement:

- 1936 (a) will be completed in a manner that protects human health and the environment;
- 1937 (b) will not cause, contribute to, or exacerbate discharges, releases, or threatened
- 1938 releases on the property that are not required to be removed or remedied under the
- 1939 work plan; and
- 1940 (c) will not interfere with or substantially increase the costs of response actions to
- 1941 address any remaining discharges, releases, or threatened releases resulting from
- 1942 releases initially generated on the property.

1943 Section 88. Section **31A-2-105** is amended to read:

1944 **31A-2-105 . Constitutional oath.**

1945 Before entering upon the duties of [his] the commissioner's office, the commissioner

1946 shall take, subscribe, and file the constitutional oath. If the commissioner takes action in [his]

1947 the commissioner's office before complying with this section, in good faith and without

1948 knowledge of this requirement, and the validity of [his] the commissioner's action is then

1949 challenged, that person may take the oath after the action and the oath shall be given

1950 retroactive effect to the date on which [he] the commissioner began [his] the commissioner's

1951 duties.

1952 Section 89. Section **31A-2-106** is amended to read:

1953 **31A-2-106 . Ethical requirements for Insurance Department staff.**

- 1954 (1) No employee of the Insurance Department, including the commissioner, may:
- 1955 (a) make any solicitation for any partisan political purpose or for anything that is not
- 1956 related to the public interest, as it is affected by insurance; or
- 1957 (b) continue or initiate a monetary relationship, except as policyholder, with an
- 1958 insurance agency or brokerage firm, insurance service organization, insurance
- 1959 adjuster, insurer or person affiliated with an insurer, except that:
- 1960 (i) a commissioner may receive renewal commissions or other deferred compensation
- 1961 earned before [his] the commissioner's appointment if this commission or
- 1962 compensation does not require [him] the commissioner to personally perform
- 1963 further service;
- 1964 (ii) a commissioner may continue to be obligated under the terms of a mortgage
- 1965 entered into prior to [his] the commissioner's appointment; and
- 1966 (iii) a commissioner may continue to have the beneficial interest in or own stock in
- 1967 an insurer, noninsurance company with insurance subsidiaries, insurance agency,
- 1968 brokerage firm, or insurance service organization acquired before appointment if
- 1969 the commissioner's ownership or interest is not of such total value that the

1970 commissioner might receive a substantial monetary benefit by failing to act
 1971 impartially towards the organization. A partnership interest shall be treated as if it
 1972 were shares in a corporation.

1973 (2) If the commissioner has any beneficial interest or ownership in an organization outlined
 1974 under Subsection (1)(b)(iii), or if it is known to the commissioner that ~~[his]~~ the
 1975 commissioner's spouse, parent, sibling, or child has an interest in any organization that,
 1976 if held by the commissioner, would disqualify ~~[him]~~ the commissioner from serving as
 1977 commissioner, ~~[he shall disqualify himself]~~ the commissioner is disqualified and shall
 1978 abstain from all actions respecting the particular organization. The commissioner shall
 1979 then delegate a senior staff member who is not also disqualified to act in ~~[his]~~ the
 1980 commissioner's place with regard to that organization. There is a rebuttable presumption
 1981 that the commissioner or the delegate service staff member knows of any disqualifying
 1982 holdings. The commissioner shall report a disqualification in each annual report to the
 1983 governor as long as the disqualification continues.

1984 (3) The commissioner shall give the governor at least 10 days written notice of any
 1985 solicitation to be made by the commissioner or other member of the department staff.

1986 (4) In addition to any other penalty, an employee violating this section may be removed
 1987 from office.

1988 Section 90. Section **31A-2-111** is amended to read:

1989 **31A-2-111 . Delegation.**

1990 (1) Any power, duty, or function vested in the commissioner by law may be exercised,
 1991 discharged, or performed by an employee of the Insurance Department acting in the
 1992 commissioner's name and under ~~[his]~~ the commissioner's delegated authority.

1993 (2) Any person whose own course of action depends in good faith upon proof of the
 1994 validity of an alleged delegation is not obligated to act until shown a written delegation
 1995 of the commissioner with the signature of the commissioner or deputy commissioner.

1996 Section 91. Section **31A-2-112** is amended to read:

1997 **31A-2-112 . Advisory councils and committees.**

1998 The commissioner may create advisory councils and committees to assist ~~[him. He]~~ the
 1999 commissioner. The commissioner may appoint members and provide by rule for the creation,
 2000 governance, duties, and termination of any council or committee established.

2001 Section 92. Section **31A-2-311** is amended to read:

2002 **31A-2-311 . Reciprocal enforcement of foreign decrees.**

2003 (1) As used in this section:

- 2004 (a) "Reciprocal state" means a state whose laws contain procedures substantially similar
2005 to those specified in this section for the enforcement of decrees or orders issued by
2006 courts located in other states against an insurer authorized to do business in the
2007 reciprocal state, and which recognizes Utah as a reciprocal state under its law.
- 2008 (b) "Foreign decree" means a decree or order of a court located in a reciprocal state,
2009 including a United States court located in a reciprocal state against an insurer
2010 authorized to do business in Utah.
- 2011 (2) The commissioner shall determine which states qualify as reciprocal states and shall
2012 maintain a list of them.
- 2013 (3) The attorney general, upon request of the commissioner, may proceed in the courts of
2014 Utah or any other state to enforce an order or decision issued in Utah in any court
2015 proceeding or in any administrative proceeding before the insurance commissioner.
- 2016 (4)(a) A copy of any foreign court decree authenticated under Utah statutes or court
2017 rules may be filed in the office of the clerk of the Third District Court for Salt Lake
2018 County. The clerk, upon verifying with the commissioner that the decree or order
2019 qualifies as a foreign court decree, shall treat it in the same manner and give it the
2020 same effect as a decree of a district court of Utah.
- 2021 (b)(i) When filing the foreign decree, the filer shall deposit with the clerk of the court
2022 an affidavit setting forth the name and last-known post-office address of the
2023 defendant in Utah.
- 2024 (ii) When the foreign decree and the affidavit are filed, the clerk shall immediately
2025 mail notice of the filing of the foreign decree to the defendant at the address given
2026 by the filer and to the commissioner, and shall note the mailing in the docket. In
2027 addition, the attorney general may mail a notice of the filing of the foreign decree
2028 to the defendant and to the commissioner. Alternatively, the commissioner may
2029 mail a notice of the filing of the foreign decree to the defendant, and either the
2030 attorney general or the commissioner may file proof of this mailing with the clerk.
2031 The clerk's failure to mail notice of the filing does not affect the enforcement
2032 proceedings if the attorney general or the commissioner has filed a proof of
2033 mailing.
- 2034 (iii) No execution or other process for enforcement of a foreign decree may issue
2035 until 30 days after the foreign decree is filed.
- 2036 (c)(i) If the defendant shows the court that an appeal from the foreign decree is
2037 pending or will be taken, or that a stay of execution has been granted, the court

2038 shall stay enforcement of the foreign decree until the appeal is concluded, the time
2039 for appeal expires, or the stay of execution expires or is vacated, upon proof by
2040 the defendant that [he] the defendant has furnished the security for the satisfaction
2041 of the decree required by the state in which it was rendered.

2042 (ii) If the defendant shows the court any ground upon which enforcement of a similar
2043 decree of any district court of Utah would be stayed, the court shall stay
2044 enforcement of the foreign decree for an appropriate period, upon proof by the
2045 defendant that [he] the defendant has furnished the same security for satisfaction of
2046 the decree as is required in Utah.

2047 (d) A person filing a foreign decree shall pay to the clerk of the court the same fee for an
2048 enforcement proceeding as is required for enforcing a decree of the district court.

2049 Section 93. Section **31A-5-103** is amended to read:

2050 **31A-5-103 . Orders imposing and relaxing restrictions.**

2051 (1) The commissioner may by order subject an individual corporation not otherwise subject
2052 to some or all of the restrictions of Subsections 31A-5-304(4), 31A-5-305(1)(a),
2053 31A-5-305(2)(a)(i) and (ii), and 31A-5-410(1)(b) if [he] the commissioner finds after a
2054 hearing that the individual corporation's financial condition, management, and other
2055 circumstances require additional regulation for the protection of the interests of insureds
2056 or the public. The commissioner shall detail in writing the grounds for [his] the
2057 commissioner's order.

2058 (2) The commissioner may by order free a new corporation from any or all of the
2059 restrictions generally applicable to new corporations under the provisions listed in
2060 Subsection (1), if [he] the commissioner is satisfied that the corporation's financial
2061 condition, management, and other circumstances give assurance that the interests of
2062 insureds and the public will not be endangered by doing so.

2063 Section 94. Section **31A-5-206** is amended to read:

2064 **31A-5-206 . Sale of securities by authorized insurer.**

2065 A domestic insurer that has already received a certificate of authority may issue
2066 additional securities to obtain further financing, after obtaining a solicitation permit from the
2067 commissioner. The organizational permit requirements in Section 31A-5-204 apply if the
2068 commissioner prescribes its application. The phrase "organization permit" in Section
2069 31A-5-204 means "solicitation permit" when being applied to this section. The solicitation
2070 permit terminates one year from the date of its issuance. However, this permit may be
2071 extended for not more than one additional year by the commissioner on terms [he] the

2072 commissioner considers sufficient to protect the policyholders, the shareholders, and the public.

2073 Section 95. Section **31A-5-209** is amended to read:

2074 **31A-5-209 . Termination and revocation of organization permit and payment of**
2075 **organization expenses.**

2076 (1) The organization permit terminates upon:

2077 (a) issuance of a certificate of authority under Section 31A-5-212;

2078 (b) revocation of the organization permit under Subsection (2); or

2079 (c) expiration of one year after issuance, except that:

2080 (i) filing with the commissioner a good-faith application for a certificate of authority
2081 tolls the running of the expiration period for 30 days or until the commissioner
2082 rejects the application, whichever is earlier; and

2083 (ii) on application before expiration of the year the commissioner may grant a
2084 reasonable extension if [~~he~~] the commissioner states that [~~he~~] the commissioner
2085 expects the corporation to be able to satisfy the requirements for a certificate of
2086 authority within the extended period.

2087 (2) The commissioner may revoke an organization permit if:

2088 (a) he finds, after a hearing, that because of changes in circumstances, or because the
2089 facts are not as represented in the application, the conditions for issuance of a permit
2090 are not satisfied; or

2091 (b) he denies an application for a certificate of authority and finds that the corporation
2092 cannot reasonably be expected to satisfy the requirements for a certificate of authority
2093 within the remaining term of the organization permit or extension allowable under
2094 Subsection (1)(c).

2095 (3)(a) Except in cases under Subsections (3)(b) and (3)(c), if the organization permit is
2096 revoked or expires before a certificate of authority is granted, after payment of the
2097 expenses of the state and payments to creditors under Section 31A-5-205,
2098 incorporators who have advanced money for the reasonable and authorized expenses
2099 of organization, including underwriting expenses, may be reimbursed in cash from
2100 the proceeds of share, mutual bond, or contribution note subscriptions under the
2101 organization permit, on itemized receipts audited by the commissioner. The total
2102 reimbursement may not exceed 5% of the amount received from subscribers. The
2103 remainder in the escrow account shall then be distributed among the subscribers in
2104 proportion to their contributions, valued as of the time the contributions were made.
2105 The bond under Section 31A-5-205 shall be discharged or the deposits under Section

- 2106 31A-5-205 shall be released to the extent they are not needed for other purposes.
- 2107 (b) Reimbursement may be refused to any incorporator under Subsection (3), if the
2108 commissioner finds that in connection with the organization of the corporation, the
2109 incorporator has wilfully or negligently violated in a material way any provision of
2110 this chapter.
- 2111 (c) No reimbursement may be made under Subsection (3)(a) to an incorporator of an
2112 assessable mutual until all advance premiums collected under Subsection
2113 31A-5-211(5) have been repaid in full.
- 2114 (4) The legal existence of the corporation terminates upon completion of the payments
2115 under Subsection (3).
- 2116 (5) This section does not apply to stock or mutual insurance corporations already in
2117 existence on July 1, 1986.
- 2118 Section 96. Section **31A-5-213** is amended to read:
2119 **31A-5-213 . Accelerated organization procedure.**
- 2120 (1) The incorporators may apply for a certificate of authority without first obtaining an
2121 organization permit if:
- 2122 (a) their number is not more than 15;
- 2123 (b) no compensation is paid directly or indirectly for soliciting any of them;
- 2124 (c) they purchase for their own accounts all the shares proposed to be issued in the case
2125 of a stock corporation, or in the case of a mutual, they supply all the minimum
2126 permanent surplus and initial expendable surplus by contribution notes or otherwise;
2127 and
- 2128 (d) the shares are promotional securities and are subject to Subsections 31A-5-304(3)
2129 and (4).
- 2130 (2) The application for a certificate of authority shall include:
- 2131 (a) proof that the purchase price for the shares or the proceeds of contribution notes have
2132 been deposited on behalf of the proposed corporation;
- 2133 (b) a statement concerning whether and what property other than money is held in trust
2134 for the proposed corporation; and
- 2135 (c) the information which the commissioner reasonably requires under Subsection
2136 31A-5-204(2).
- 2137 (3) The commissioner shall issue a certificate of authority if ~~he~~ the commissioner finds
2138 that:
- 2139 (a) all requirements of law have been met;

- 2140 (b) all natural persons who are incorporators, the directors and principal officers of
2141 corporate incorporators, and the proposed directors and officers of the corporation
2142 being formed are trustworthy and collectively have the competence and experience to
2143 engage in the particular insurance business proposed; and
- 2144 (c) the business plan is consistent with the interests of the corporation's potential
2145 insureds and of the public.
- 2146 (4) The director of the Division of Corporations and Commercial Code shall issue a
2147 certificate of incorporation upon notice from the insurance commissioner that all the
2148 applicable requirements of law have been met, including the payment of fees.
- 2149 (5) When the certificate of incorporation is issued, the corporation's legal existence begins,
2150 the articles and bylaws become effective, and the proposed directors and officers take
2151 office. The certificate is conclusive evidence of compliance with this section, except in
2152 a proceeding by the state against the corporation.
- 2153 (6) This section does not apply to stock or mutual insurance corporations already in
2154 existence on July 1, 1986.

2155 Section 97. Section **31A-5-216** is amended to read:

2156 **31A-5-216 . Change of domicile.**

- 2157 (1) A foreign insurance corporation may become a Utah insurance corporation if it submits
2158 an application which evidences that the corporation complies with all of the
2159 requirements imposed on domestic Utah corporations. The commissioner may, by order
2160 after a hearing, relax the requirements of this chapter applicable to corporations in the
2161 process of organization that, because of the developed status of the insurer, [~~he~~] the
2162 commissioner finds unnecessary to protect policyholders and the public. The
2163 commissioner shall simultaneously issue a certificate of organization under Subsection
2164 31A-5-204(3) and a certificate of authority under Subsection 31A-5-212(2) when the
2165 conditions for both have been satisfied.
- 2166 (2) Upon approval by the commissioner, a domestic insurer may transfer its domicile to any
2167 other state in which it is admitted. The commissioner shall approve the transfer of
2168 domicile unless [~~he~~] the commissioner finds that the transfer will prejudice the interests
2169 of policyholders, creditors, or the public in Utah. The commissioner may require a
2170 special deposit, reinsurance, or other protective measures as an alternative to rejecting
2171 the insurer's application to move. After or simultaneous with the removal of the
2172 corporation, it may seek entry into this state as a foreign corporation under Chapter 14,
2173 Foreign Insurers.

2174 (3) The transfer of domicile of an insurance corporation under either Subsection (1) or
2175 Subsection (2) does not affect the obligations of the corporation under its existing
2176 insurance contracts or any other existing contracts.

2177 Section 98. Section **31A-5-303** is amended to read:

2178 **31A-5-303 . Insider trading of securities.**

2179 (1) Every person who is directly or indirectly the beneficial owner of more than 10% of any
2180 class of any equity security of a domestic stock insurance corporation, or who is a
2181 director or officer of a domestic stock corporation, shall file with the commissioner
2182 within 10 days after [he] the person becomes a beneficial owner, director, or officer, and
2183 within 10 days after the close of any following calendar month in which there has been a
2184 change in [his] the person's ownership or office, a statement in a form prescribed by the
2185 commissioner, of [his] the person's office and of all the equity securities of the company
2186 which [he] the person beneficially owns, and of all the changes in either. The
2187 commissioner may accept a copy of a similar statement filed with another regulatory
2188 authority in satisfaction of this subsection's requirement.

2189 (2) To prevent the unfair use of information which may have been obtained by a beneficial
2190 owner, director, or officer because of [his] the beneficial owner's, director's, or officer's
2191 relationship to the corporation, any profit realized by [him] the beneficial owner,
2192 director, or officer from the purchase and sale or sale and purchase of any equity
2193 security of the corporation within any period of less than six months, unless the security
2194 was acquired in good faith in connection with a debt previously contracted, is
2195 recoverable by the corporation. This recovery may be made in spite of any intention by
2196 the beneficial owner, director, or officer in entering into the transaction to hold the
2197 security purchased or not to repurchase the security sold for a period exceeding six
2198 months. A suit to recover the profit may be instituted in any court of competent
2199 jurisdiction by the corporation. If the corporation fails to bring suit within 60 days after
2200 request by the owner of a security of the corporation or if the corporation fails to
2201 prosecute it diligently, the owner of any security of the corporation may bring suit or
2202 prosecute the action in the name and on behalf of the corporation. This suit may not be
2203 brought more than two years after the date the profit was realized. This subsection does
2204 not apply to any transaction where the beneficial owner was not a beneficial owner both
2205 at the time of the purchase and sale, or the sale and purchase, of the security involved,
2206 nor does it apply to any transaction which the commissioner, by rule, exempts as not
2207 within the purpose of this subsection.

- 2208 (3)(a) A dealer in the ordinary course of [his] the dealer's business and incident to [his]
2209 the dealer's establishment or maintenance of a primary or secondary market for the
2210 security other than on an exchange as defined in the federal Securities Exchange Act
2211 of 1934, is not governed by Subsection (2) regarding a purchase and sale or sale and
2212 purchase. The commissioner may by rule define terms and prescribe conditions
2213 regarding securities held in an investment account and transactions made in the
2214 ordinary course of business and incident to the establishment or maintenance of a
2215 primary or secondary market.
- 2216 (b) Subsections (1) and (2) do not apply to foreign or domestic arbitrage transactions
2217 unless made in contravention of rules the commissioner adopts to carry out this
2218 section.
- 2219 (c) Subsections (1) and (2) do not apply to equity securities of a corporation if:
2220 (i) the securities are registered, or are required to be registered, under Section 12 of
2221 the federal Securities Exchange Act of 1934, as amended; or
2222 (ii) the corporation did not have any class of its equity securities held of record by
2223 100 or more persons on the last business day of the year preceding the year in
2224 which equity securities of the corporation would otherwise be subject to
2225 Subsections (1) and (2).
- 2226 (4) No person may, in contravention of rules the commissioner adopts for the protection of
2227 investors or the public, solicit or permit the use of [his] the person's name to solicit a
2228 proxy, consent, or authorization regarding an equity security of a domestic stock
2229 corporation having 100 or more shareholders of record.
- 2230 (5) No provision of this section imposing liability applies to an act done or omitted in good
2231 faith in conformity with any rule of the commissioner. Liability does not apply even if
2232 the rule is amended, rescinded, or determined by judicial or other authority to be invalid
2233 after the act or omission.
- 2234 (6) As used in this section, "equity security" means any stock or similar security; any
2235 security convertible, with or without consideration, into stock or a similar security;
2236 carrying any warrant or right to subscribe to or purchase stock or a similar security; any
2237 such warrant or right; or any other security which the commissioner considers to be of
2238 similar nature and designates as an equity security by rules promulgated in the public
2239 interest or for the protection of investors.
- 2240 Section 99. Section **31A-5-304** is amended to read:
2241 **31A-5-304 . Promoter stock.**

- 2242 (1) While the organization permit is effective, the incorporators, directors, and principal
2243 officers of a stock corporation shall in the aggregate subscribe and pay, at the public
2244 offering price, at least \$150,000 in cash or in property of equivalent value approved by
2245 the commissioner under Subsection 31A-5-207(1)(a) or (2)(a), for shares offered by the
2246 corporation under the organization permit.
- 2247 (2)(a) Certificates representing promotional securities and any stock received on those
2248 shares as the result of a stock dividend, stock split, or exercise of preemptive or
2249 conversion rights, shall be placed in escrow with a depository satisfactory to the
2250 commissioner under an agreement providing that the shares may not be transferred
2251 without the approval of the commissioner.
- 2252 (b) If the corporation issues any life insurance policies, any shares subject to this section
2253 shall be released from escrow five years after issuance of the certificate of authority.
2254 In other cases, the shares shall be released from escrow three years after issuance of
2255 the certificate of authority.
- 2256 (3) The commissioner's approval of the transfer of promoter stock under Subsection (2)(a):
2257 (a) shall be granted upon request, if the corporation has made an addition to earned
2258 surplus in each of the two immediately preceding years of at least 15% of the capital
2259 and surplus raised by the sale of shares under the organization permit; and
2260 (b) may be granted upon a showing of hardship by the shareholder or [his] the
2261 shareholder's estate or legatee, if the release from escrow of the shares or a portion of
2262 the shares would not, in the commissioner's opinion, endanger the interests of
2263 insureds or the public.
- 2264 (4) For three years after the issuance of the certificate of authority, an option to purchase
2265 stock may be issued only under a plan approved by the commissioner.
- 2266 (5) This section does not apply to promotional securities issued prior to July 1, 1986.

2267 Section 100. Section **31A-5-307** is amended to read:

2268 **31A-5-307 . Reduction in capital.**

2269 A stock corporation may reduce its capital by amendment of its articles of incorporation
2270 under Section 31A-5-219, if the commissioner is notified of the proposed reduction at least 60
2271 days prior to the proposed effective date of the reduction. The commissioner may disapprove
2272 the reduction within 45 days after the notice if [he] the commissioner finds that it would violate
2273 the law or would be contrary to the interests of insureds. [His] The commissioner's order shall
2274 explain in detail why the distribution is disapproved.

2275 Section 101. Section **31A-5-408** is amended to read:

2276 **31A-5-408 . Election and removal of directors and officers of stock corporations.**

- 2277 (1) Sections 16-10a-721, 16-10a-724, and 16-10a-728 apply to the voting of shares of a
 2278 stock corporation.
- 2279 (2) At each annual meeting of shareholders, the shareholders shall elect directors to hold
 2280 office until the next succeeding annual election, except as provided under Subsection (3)
 2281 or (4). Each director shall hold office for the term for which [he] the director is elected
 2282 and until [his] the director's successor is elected and qualified, if qualification is required.
- 2283 (3) Sections 16-10a-808 and 16-10a-832 apply to removal of directors and officers of a
 2284 stock corporation.
- 2285 (4) Each director shall be subject to election at least once every three years.
- 2286 (5) A vacancy in the board of directors may be filled by the affirmative vote of a majority
 2287 of the remaining directors even though the number of remaining directors is less than a
 2288 quorum. The director elected through this process shall serve only until the next regular
 2289 shareholders meeting at which a director's election may be held.

2290 Section 102. Section **31A-5-507** is amended to read:

2291 **31A-5-507 . Conversion of assessable to nonassessable and nonassessable to**
 2292 **assessable mutuals.**

- 2293 (1) When an assessable mutual accumulates enough surplus to satisfy the financial
 2294 requirements for the operation of a nonassessable mutual, it may apply for a certificate
 2295 of authority authorizing it to sell nonassessable policies. The commissioner shall issue a
 2296 certificate of authority designating it a nonassessable mutual, if [he] the commissioner
 2297 finds that the applicant satisfies the requirements of the law and that the issuance of
 2298 nonassessable policies will not endanger the interests of its insureds or the public.
 2299 Policies issued after the issuance of this certificate of authority are nonassessable.
 2300 Existing policies remain in effect and are nonassessable.
- 2301 (2) A nonassessable mutual may apply to the commissioner for a certificate of authority
 2302 designating it an assessable mutual. The commissioner shall issue the certificate if the
 2303 law permits the corporation to issue assessable policies and if [he] the commissioner
 2304 finds that the conversion will not endanger the interests of insureds or the public. All
 2305 policies issued after conversion are assessable, unless otherwise provided by contract.

2306 Section 103. Section **31A-5-509** is amended to read:

2307 **31A-5-509 . Conversion of a domestic mutual life insurance company into a**
 2308 **fraternal.**

2309 A domestic mutual life insurance company may be converted into a fraternal under

- 2310 Chapter 9, Insurance Fraternal, in the following manner:
- 2311 (1) The board of directors of the company shall adopt a plan of conversion stating:
- 2312 (a) the basis for and the purposes of the proposed action;
- 2313 (b) the proposed articles and bylaws for the new fraternal; and
- 2314 (c) the proposed procedure and estimated expenses for implementing the conversion.
- 2315 (2) The plan shall be filed with the commissioner for approval, together with the
- 2316 information under Subsection 31A-9-205(2) required by the commissioner. The
- 2317 commissioner shall approve the plan unless [he] the commissioner finds, after a hearing,
- 2318 that:
- 2319 (a) the conversion would be contrary to the law;
- 2320 (b) the new fraternal would not satisfy the requirements for a certificate of authority
- 2321 under Section 31A-5-212 as incorporated by Section 31A-9-210; or
- 2322 (c) the plan would be contrary to the interests of the policyholders or the public.
- 2323 (3) After being approved by the commissioner, the plan shall be submitted to the
- 2324 policyholders for their approval.
- 2325 (4) A copy of the plan adopted by the policyholders shall be filed with the commissioner,
- 2326 with a statement indicating the number and percentages of policyholders voting, the
- 2327 method of voting, and the number of votes cast in favor of the plan.
- 2328 (5) If all requirements of the law are met, the commissioner shall issue a certificate of
- 2329 authority for the new fraternal. Upon this issuance, the mutual ceases its legal existence
- 2330 and the corporate existence of the new fraternal begins. The new fraternal is considered
- 2331 as having been incorporated on the date the converted mutual was incorporated. The
- 2332 new fraternal has all of the assets and is liable for all of the obligations of the converted
- 2333 mutual. The commissioner may grant a fraternal an adjustment period, not to exceed
- 2334 one year, for compliance with the requirements of Chapter 9, Insurance Fraternal. The
- 2335 commissioner's extension shall specify the extent to which particular provisions of
- 2336 Chapter 9, Insurance Fraternal, do not apply.
- 2337 Section 104. Section **31A-5-601** is amended to read:
- 2338 **31A-5-601 . Duties of officers, directors, agents, and employees.**
- 2339 (1) Any officer, director, agent, attorney, or employee upon whom legal process is properly
- 2340 served or who receives notice of any legal action that may affect or involve the property
- 2341 or business of the insurer, shall promptly communicate the service or notice and detailed
- 2342 information about it to facilitate informed response to persons in the insurer's
- 2343 organization who have authority to take responsive action or to instigate responsive

2344 action by those in authority.

2345 (2) A director of an insurer is assumed to have enough knowledge of its affairs to determine
 2346 whether any act, proceeding, or omission of its directors is a violation of any provision
 2347 of this chapter. If a director is present at a meeting of directors at which a violation of
 2348 any provision of this chapter occurs, [he] the director is considered as concurring in the
 2349 violation unless at the meeting [he] the director requires [his] the director's dissent to be
 2350 entered on the minutes. If a director is absent from the meeting, [he] the director is
 2351 considered as concurring in any violation if the facts of violation appear on the minutes
 2352 of the meeting and [he] the director remains a director for six months after the violation
 2353 without requiring that [his] the director's dissent from the violation be entered upon the
 2354 record or the minutes.

2355 Section 105. Section **31A-7-303** is amended to read:

2356 **31A-7-303 . Board of directors.**

- 2357 (1) Subject to other provisions under this section, Sections 16-6a-801 through 16-6a-805,
 2358 and Sections 16-6a-810, 16-6a-812, 16-6a-814, 16-6a-815, and 16-6a-816 apply to the
 2359 board of directors of insurers organized or operating under this chapter.
- 2360 (2) The property and lawful business of every corporation subject to this chapter shall be
 2361 held and managed by a governing board of trustees or directors with the powers and
 2362 authority as is necessary or incidental to the complete execution of the purposes of each
 2363 corporation as limited by its articles of incorporation and bylaws. A board may not
 2364 consist of less than five members. A majority of the directors shall be residents of Utah.
- 2365 (3) Any person employed by or receiving more than 10% of [his] the person's income from a
 2366 corporation licensed under this chapter, and any person related to that person within the
 2367 second degree by blood or marriage, is an "insider." Insiders may not constitute a
 2368 majority of the board of a corporation organized and operating under this chapter.
- 2369 (4) The board shall manage the business and affairs of the corporation and may not delegate
 2370 its power or responsibility to do so, except to the extent authorized by Section 31A-7-307.
- 2371 (5) Section 16-6a-814 applies to the place and notice of directors' meetings.
- 2372 (6) Any director may be removed from office for cause by an affirmative vote of a majority
 2373 of the full board at a meeting of the board called for that purpose.

2374 Section 106. Section **31A-7-403** is amended to read:

2375 **31A-7-403 . Conversion to a Title 31A, Chapter 5, mutual insurer.**

- 2376 (1) An insurer organized and operating under this chapter may be converted into a mutual
 2377 insurer under Chapter 5, Domestic Stock and Mutual Insurance Corporations, as

- 2378 provided in this section.
- 2379 (2)(a) The board shall pass a resolution that the conversion is not contrary to the
2380 interests of the policyholders specifying the reasons for and the purposes of the
2381 proposed conversion, and the manner in which the conversion is expected to affect
2382 policyholders, particularly the policyholders that are members.
- 2383 (b) The board's resolution shall also set forth a plan of conversion which shall include:
- 2384 (i) the articles of incorporation of the new Chapter 5, Domestic Stock and Mutual
2385 Insurance Corporations, mutual insurer, including a description of the classes of
2386 policyholders who, by virtue of being policyholders, will have an interest in the
2387 converted insurer;
- 2388 (ii) the bylaws of the new Chapter 5, Domestic Stock and Mutual Insurance
2389 Corporations, mutual insurer;
- 2390 (iii) a description of any changes in the insurer's mode of operations after conversion
2391 to a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual
2392 insurer; and
- 2393 (iv) any other items specified by rule.
- 2394 (3) The provisions of Chapter 16, Insurance Holding Companies, apply to the conversion of
2395 a Chapter 7, Nonprofit Health Service Insurance Corporations, insurer to a Chapter 5,
2396 Domestic Stock and Mutual Insurance Corporations, mutual insurance corporation.
- 2397 (4) The plan of conversion shall be submitted to the commissioner for approval, together
2398 with a projection of the planned or anticipated financial condition of the insurer for two
2399 years after the conversion.
- 2400 (5) The commissioner shall hold an adjudicative proceeding concerning the conversion
2401 application.
- 2402 (6) The commissioner shall approve the plan of conversion, unless ~~he~~ the commissioner
2403 finds that the plan violates the law, is contrary to the interests of policyholders or the
2404 public, or would result in an unfair distribution of interest among the insurer's
2405 policyholders.
- 2406 (7)(a) Upon the commissioner approving the conversion under Subsection (6), the
2407 commissioner shall issue a new certificate of authority.
- 2408 (b) The issuance of the certificate is the conversion, and upon issuance of the certificate
2409 the Chapter 7, Nonprofit Health Service Insurance Corporations, insurer at once
2410 becomes a mutual insurance corporation organized under and fully subject to Chapter
2411 5, Domestic Stock and Mutual Insurance Corporations.

- 2412 (c) The mutual insurer is considered to have been organized at the time the converted
 2413 Chapter 7, Nonprofit Health Service Insurance Corporations, insurer was organized.
- 2414 (d) Unless otherwise provided in the plan of conversion, the directors, officers, agents,
 2415 and employees of the Chapter 7, Nonprofit Health Service Insurance Corporations,
 2416 insurer shall continue in like capacity with the mutual insurance corporation.

2417 Section 107. Section **31A-9-103** is amended to read:

2418 **31A-9-103 . Orders imposing and relaxing restrictions.**

- 2419 (1) The commissioner may subject any fraternal to some or all of the restrictions of
 2420 Subsections 31A-5-305(2)(a)(i) and (ii), and Subsection 31A-5-410(1)(b), as such
 2421 provisions are incorporated by Sections 31A-9-303 and 31A-9-407.
- 2422 (2) The commissioner may free a fraternal from any of the restrictions applicable to
 2423 fraternal under the provisions enumerated in Subsection (1), if [he] the commissioner is
 2424 satisfied that the fraternal's financial condition, management, and other circumstances
 2425 give assurance that the interests of insureds and the public will not be endangered by the
 2426 waiver.

2427 Section 108. Section **31A-11-106** is amended to read:

2428 **31A-11-106 . Application for certificate of authority -- Deposit or bond.**

- 2429 (1) Any corporation may apply, in the form specified by the commissioner, for a certificate
 2430 of authority to transact a motor club business. The applicant shall include with the
 2431 application any documents the commissioner may reasonably require, the deposit
 2432 described in Subsection (2), which may be waived if net worth exceeds the deposit
 2433 requirements, and the fee provided for in Section 31A-3-103. No person may engage in
 2434 the motor club business without complying with this section and receiving a certificate
 2435 of authority under Section 31A-11-107.
- 2436 (2) The deposit required under Subsection (1) shall comply with the requirements of
 2437 Section 31A-2-206, and is \$100,000. In lieu of the deposit, the applicant may supply a
 2438 bond of a corporate surety authorized to do a surety business in this state, in the same
 2439 sum and in a form prescribed by the commissioner, payable to the state. The deposit, or
 2440 the bond, shall be conditioned upon the corporation's faithful performance in the sale or
 2441 rendering of motor club service under the provisions of this chapter, and the payment of
 2442 fines, fees, or penalties imposed on the motor club under this title. Any person with a
 2443 claim against the deposit or bond arising from the motor club's breach of the conditions
 2444 of the deposit or bond may bring suit in [his] the person's own name to make a claim
 2445 against the deposit or bond, or the commissioner may bring suit on behalf of claimants.

2446 In no event shall the liability of the surety exceed the amount of the bond, regardless of
2447 the number of claimants or claims made on the bond. Regardless of the number of years
2448 the bond continues in force or the number of premiums payable or paid, the limit of the
2449 surety's liability, specified as the amount of liability of the bond, is not cumulative from
2450 year to year or from period to period. The bond shall be forfeited up to the amount of
2451 actual damages sustained by any claimant or claimants. No cause of action shall be filed
2452 against the bond after two years from the date of termination of the bond.

2453 (3) If a motor club is a separate division of a corporation, the commissioner may increase
2454 the deposit or bond requirements to take into account the increased risk created by the
2455 other business of the corporation. However, the deposit or bond requirement may not be
2456 more than twice the amounts required under Subsection (2).

2457 Section 109. Section **31A-11-108** is amended to read:

2458 **31A-11-108 . Denial of certificate of authority.**

2459 If the commissioner declines or fails to issue a certificate of authority under Section
2460 31A-11-107 within a reasonable time, [~~he~~] the commissioner shall issue an order giving a
2461 reasonably detailed explanation for the refusal or the delay.

2462 Section 110. Section **31A-11-110** is amended to read:

2463 **31A-11-110 . Registration of agents.**

2464 No person may execute, issue, or deliver any motor club service contract to any person
2465 or receive anything of value for the contract either before or after its execution, unless [~~he~~] the
2466 person executing, issuing, or delivering the contract is registered with the commissioner. A
2467 person is registered upon filing a statement including [~~his~~] the person's name, home and
2468 business address, telephone number, and motor club represented with the commissioner, on a
2469 form prescribed by the commissioner, and upon payment of all the fees due under Section
2470 31A-3-103. Registered persons shall give the commissioner notice of any change in
2471 registration information.

2472 Section 111. Section **31A-11-112** is amended to read:

2473 **31A-11-112 . Bail for traffic violations.**

2474 (1) Any insurance company that is qualified to transact a surety business in Utah may
2475 contract to become surety for any guaranteed arrest bond certificates issued by it or by a
2476 motor club, by filing with the commissioner an undertaking to become surety. The
2477 undertaking shall be in a form prescribed by the commissioner and shall state the
2478 following:

2479 (a) The name and address of the motor club or clubs issuing the guaranteed arrest bond

2480 certificates on which the company will be surety, and whether the motor club will
2481 issue the certificates itself.

2482 (b) The unqualified obligation of the company to be surety to pay, up to a specified
2483 dollar amount, the fine or forfeiture of any person who fails to make an appearance to
2484 answer the charges for which the guaranteed arrest bond certificate is posted.

2485 (2) Any guaranteed arrest bond certificate under Subsection (1), when posted by the
2486 signatory, shall be accepted in lieu of cash bail or other bond in an amount not
2487 exceeding the dollar amount specified under Subsection (1)(b), to guarantee the
2488 appearance of the person when required by any court in Utah when the person is arrested
2489 for violation of any Utah motor vehicle law, or any motor vehicle ordinance of any Utah
2490 municipality, except for driving under the influence of drugs or intoxicating liquors or
2491 for any felony. A law enforcement officer who issues a citation to an operator of a
2492 vehicle who has a valid guaranteed arrest bond certificate in [his] the operator's
2493 possession shall obtain the necessary information for the arrest citation, and if the
2494 guaranteed arrest bond certificate covers the fine for the violation, the officer shall
2495 release the vehicle and operator after serving the citation and receiving the guaranteed
2496 arrest bond from the operator. The officer shall deliver the guaranteed arrest bond to the
2497 appropriate court to be held as a bail bond.

2498 (3) A guaranteed arrest bond certificate posted as a bail bond in a district court is subject to
2499 the forfeiture and enforcement provisions which govern bail bonds in criminal cases. A
2500 guaranteed arrest bond certificate posted as a bail bond in a justice court is subject to the
2501 forfeiture and enforcement provisions of the charter or ordinance of the particular
2502 municipality which pertains to bail bonds.

2503 (4) A motor club may not agree to exonerate or indemnify an authorized surety issuing
2504 guaranteed arrest bonds under Subsection (1) for losses in connection with these bonds.

2505 Section 112. Section **31A-14-202** is amended to read:

2506 **31A-14-202 . Certificate of authority.**

2507 (1) The commissioner shall either issue a certificate of authority to an applicant under
2508 Section 31A-14-201 or issue an order refusing the certificate which explains why [he] the
2509 commissioner finds that:

2510 (a) not all specific requirements of the law have been met, including the requirements of
2511 Section 31A-14-209 for an alien insurer;

2512 (b) the applicant is not sound, reliable, entitled to public confidence, or cannot
2513 reasonably be expected to perform its obligations continuously in the future;

- 2514 (c) the applicant's directors and officers or, in the case of an alien insurer, its United
 2515 States manager, are not sufficiently trustworthy and competent to engage in the
 2516 proposed business in this state and to comply with the laws of this state; or
 2517 (d) the applicant has not been in existence long enough to demonstrate its competence to
 2518 engage in the proposed business in this state.
- 2519 (2) If the commissioner finds that the applicant does not comply with all requirements of
 2520 the law, the commissioner may, after a hearing under Section 31A-2-301, issue a
 2521 certificate of authority if the purposes of each unsatisfied requirement and the protection
 2522 of insureds, creditors, and the public in this state are otherwise achieved by:
- 2523 (a) a deposit in trust to be established and maintained under Section 31A-2-206;
 2524 (b) a bond acceptable to the commissioner conditioned on the satisfaction of the
 2525 purposes of the requirement;
 2526 (c) special limits on the applicant's business or methods of operation in this state or
 2527 elsewhere; or
 2528 (d) other protective devices satisfactory to the commissioner.
- 2529 (3) The certificate of authority shall specify the terms of any deposit or bond required as a
 2530 condition for authorization, any limits placed on the insurer's business or methods of
 2531 operation in this state, and any other conditions imposed under Subsection (2).
- 2532 (4) An insurer may apply to the commissioner for a new certificate of authority, removing,
 2533 altering, or adding limits on its business or methods of operation. The application shall
 2534 be accompanied by the information specified in Section 31A-14-201 that the
 2535 commissioner reasonably requires. The commissioner shall issue the new certificate as
 2536 requested if ~~he~~ the commissioner would do so if an initial application were being made.
- 2537 Section 113. Section **31A-14-216** is amended to read:
 2538 **31A-14-216 . Release from regulation.**
- 2539 (1) A foreign insurer authorized under this chapter is subject to regulation under the
 2540 applicable provisions of the Insurance Code, unless it is released from regulation under
 2541 this section.
- 2542 (2) A foreign insurer may apply for release from regulation by filing with the commissioner:
 2543 (a) its certificate of authority;
 2544 (b) a schedule of its outstanding liabilities from policies issued in this state to residents
 2545 of Utah or on risks located in Utah, and from other business transactions in Utah;
 2546 (c) a plan for securing the discharge of those outstanding liabilities; and
 2547 (d) any other information as reasonably required by the commissioner.

- 2548 (3) The commissioner shall promptly release the insurer from regulation if [he] the
2549 commissioner finds all the following:
- 2550 (a) The insurer has stopped doing any new business in Utah.
- 2551 (b) The discharge of existing liabilities to creditors in Utah is sufficiently secured.
- 2552 (c) The release would not otherwise be prejudicial to the interests of insureds or
2553 creditors in Utah or, if the insurer is an alien insurer and Utah is the state of entry into
2554 the United States, of all insureds and creditors in the United States.
- 2555 (4) Before deciding on the release, the commissioner may require the insurer to notify, at its
2556 own expense, all agents or other classes of potentially interested persons in a manner the
2557 commissioner prescribes, including publication of its withdrawal from Utah. The notice
2558 shall advise affected persons to communicate to the commissioner any objections they
2559 may have to the insurer's release from regulation.
- 2560 (5) As a prerequisite for releasing the insurer, the commissioner may require a deposit
2561 under Section 31A-2-206, a bond issued by a surety authorized in Utah, or other
2562 appropriate security or reinsurance in a sufficient amount to secure the proper discharge
2563 of the insurer's remaining liabilities in Utah. The commissioner may also require the
2564 insurer to sign an agreement to remain subject to the jurisdiction of the commissioner
2565 and the courts of Utah with respect to any matter arising out of business done in Utah
2566 prior to the release.

2567 Section 114. Section **31A-15-107** is amended to read:

2568 **31A-15-107 . Defense of action by unauthorized person.**

- 2569 (1) Except under Subsection (3), no pleading, notice, order, or process in any action in court
2570 or in any administrative proceeding before the commissioner instituted against an
2571 unauthorized person under Sections 31A-2-309 and 31A-2-310 may be filed by or on
2572 behalf of the unauthorized person unless one of the following conditions exists:
- 2573 (a) The unauthorized person deposits with the clerk of the court in which the action or
2574 proceeding is pending, or with the commissioner in administrative proceedings, cash,
2575 securities, or a bond with sureties in an amount fixed by the court or the
2576 commissioner, sufficient to secure the payment or performance of any probable final
2577 judgment or order.
- 2578 (b) That person procures proper authorization to do an insurance business in Utah.
- 2579 (c) The commissioner, after a hearing, issues an order stating that [he] the commissioner
2580 is satisfied the person has funds or securities, in a state of the United States, in trust
2581 or otherwise, which are readily available and adequate to satisfy any probable final

2582 judgment or to perform in accordance with any order.

2583 (2) The court in any action or proceeding under this section, or the commissioner in any
2584 administrative proceeding under this section, may order any postponement [~~he~~] the
2585 commissioner considers necessary to give the unauthorized person a reasonable
2586 opportunity to comply with Subsection (1).

2587 (3) Subsection (1) does not prevent an unauthorized person from filing a motion to quash a
2588 writ or to set aside service on the ground that the person has not done any of the acts
2589 specified under Subsection 31A-15-102(2).

2590 Section 115. Section **31A-21-310** is amended to read:

2591 **31A-21-310 . Dividends on policies.**

2592 (1) Section 31A-22-418 applies to life insurance and annuities.

2593 (2) Any insurer may distribute a portion of surplus attributable to policies other than life
2594 insurance or annuities, in amounts and with classifications the board of directors
2595 determines to be fair and reasonable. This distribution may not be contingent on the
2596 renewal of any policy or of premium payments unless the policy stated that limitation
2597 when it was written. A schedule explaining the basis for the distribution shall be filed
2598 with the commissioner prior to the distribution. The schedule shall be kept confidential
2599 by the commissioner unless [~~he~~] the commissioner finds that the interests of insureds and
2600 the public require that it be made public.

2601 (3) Any insurer may distribute surplus to any class of policyholder, even if their policies do
2602 not provide for it. A schedule explaining the basis for the distribution shall be filed with
2603 the commissioner under Subsection (2) at least 30 days prior to the distribution. The
2604 commissioner shall disallow any distribution which is materially unfair to other
2605 policyholders or which would place the insurer in a financially hazardous condition.

2606 (4) It is permissible to provide an indivisible dividend to classes of policyholders having
2607 more than one type of policy, including a combination of life or annuities with other
2608 types of insurance.

2609 Section 116. Section **31A-22-105** is amended to read:

2610 **31A-22-105 . Common control of fiduciary funds permissible.**

2611 Any fiduciary from whom a bond, undertaking, or other obligation is required may agree
2612 and arrange with [~~his~~] the fiduciary's sureties for the deposit for safekeeping of any and all
2613 assets for which [~~he~~] the fiduciary is responsible with a depository institution authorized by law
2614 to hold the assets, in a manner which prevents the withdrawal or alienation of any part of the
2615 property without the written consent of the sureties, or an order of the court made after notice

2616 is given to the sureties and a hearing is held as directed by the court. This deposit agreement
 2617 does not release or change the fiduciary responsibility of the principal, or the liability of the
 2618 principal or sureties as established under the bond.

2619 Section 117. Section **31A-22-308** is amended to read:

2620 **31A-22-308 . Persons covered by personal injury protection.**

2621 The following may receive benefits under personal injury protection coverage:

- 2622 (1) the named insured, when injured in an accident involving any motor vehicle, regardless
 2623 of whether the accident occurs in this state, the United States, its territories or
 2624 possessions, or Canada, except where the injury is the result of the use or operation of
 2625 the named insured's own motor vehicle not actually insured under the policy;
- 2626 (2) persons related to the insured by blood, marriage, adoption, or guardianship who are
 2627 residents of the insured's household, including those who usually make their home in the
 2628 same household but temporarily live elsewhere under the circumstances described in [
 2629 ~~Section~~] Subsection (1), except where the person is injured as a result of the use or
 2630 operation of [~~his~~] the person's own motor vehicle not insured under the policy; and
- 2631 (3) any other natural person whose injuries arise out of an automobile accident occurring:
 2632 (a) [-]while the person occupies a motor vehicle described in the policy with the express
 2633 or implied consent of the named insured; or
 2634 (b) [~~while~~] if the person is a pedestrian [~~if he~~] who is injured in an accident occurring in
 2635 Utah involving the described motor vehicle.

2636 Section 118. Section **31A-22-311** is amended to read:

2637 **31A-22-311 . Definitions.**

2638 As used in Sections 31A-22-312 and 31A-22-314:

- 2639 (1) "Authorized driver" means the person to whom the vehicle is rented and includes:
- 2640 (a) [~~his~~] the spouse of the person renting the vehicle if the spouse is a licensed driver
 2641 satisfying the rental company's minimum age requirement;
- 2642 (b) [~~his~~] the employer or coworker of the person renting the vehicle if the employer or
 2643 coworker is engaged in business activity with the renter and if [they] the employer or
 2644 coworker are licensed drivers satisfying the rental company's minimum age
 2645 requirement;
- 2646 (c) any person who operates the vehicle during an emergency situation;
- 2647 (d) any person who operates the vehicle while parking the vehicle at a commercial
 2648 establishment; or
- 2649 (e) any person expressly listed by the rental company on the rental agreement as an

2650 authorized driver.

2651 (2) "Damage" means any damage or loss to the rented vehicle resulting from a collision,
2652 including loss of use and any costs and expenses incident to the damage or loss.

2653 (3) "Rental agreement" means any written agreement stating the terms and conditions
2654 governing the use of a private passenger motor vehicle provided by a rental company.

2655 (4) "Rental company" means any person or organization in the business of providing
2656 private passenger motor vehicles to the public.

2657 (5) "Renter" means any person or organization obtaining the use of a private passenger
2658 motor vehicle from a rental company under the terms of a rental agreement.

2659 Section 119. Section **31A-22-312** is amended to read:

2660 **31A-22-312 . Liability for collision damage -- No security required -- No waiver --**
2661 **Section inapplicable to rental companies disclosing charges.**

2662 (1) No rental company may, in rental agreements of 30 continuous days or less, hold any
2663 authorized driver liable for any damage except when:

2664 (a) the damage is caused intentionally by an authorized driver or as a result of [his] the
2665 authorized driver's willful and wanton misconduct;

2666 (b) the damage arises out of the authorized driver's operation of the vehicle while
2667 illegally intoxicated or under the influence of any illegal drug as defined or
2668 determined under the law of the state where the damage occurred;

2669 (c) the damage is caused while the authorized driver is engaged in any speed contest;

2670 (d) the rental transaction is based on information supplied by the renter with the intent to
2671 defraud the rental company;

2672 (e) the damage arises out of the use of the vehicle while committing or otherwise
2673 engaged in a criminal act in which the use of the motor vehicle is substantially related
2674 to the nature of the criminal activity;

2675 (f) the damage arises out of the use of the motor vehicle to carry persons or property for
2676 hire; or

2677 (g) the damage arises out of the use of the motor vehicle outside of the United States or
2678 Canada unless the use is specifically authorized by the rental agreement.

2679 (2) No security or deposit for damage in any form may be required or requested by the
2680 rental company during the rental period, or pending the resolution of any dispute.

2681 (3) No waiver may be offered to provide coverage for any of the exceptions listed in this
2682 section.

2683 (4) This section does not apply to any rental company:

- 2684 (a) whose advertising in this state clearly discloses all charges and costs incidental to the
 2685 basic daily rental rate; and
- 2686 (b) that provides written notice to renters clearly printed on the rental agreement and
 2687 prominently displayed at its place of business, that the renter's own motor vehicle
 2688 insurance or [his] the renter's credit card agreement may cover any damage or loss to
 2689 the rental vehicle.

2690 Section 120. Section **31A-22-401** is amended to read:

2691 **31A-22-401 . Prohibited life insurance policy provisions.**

2692 No life insurance company may issue or deliver any life insurance policy subject to this
 2693 chapter under Section 31A-21-101 which contains any provision:

- 2694 (1) forfeiting the policy for failure to repay any loan on the policy or to pay interest on the
 2695 loan while the total indebtedness on the policy is less than its loan value, and in
 2696 ascertaining the indebtedness due upon policy loans, the interest, if not paid when due,
 2697 may be added to the principal of those loans and may bear interest at the same rate as the
 2698 principal;
- 2699 (2) claiming that the policy was issued or became effective more than one year before the
 2700 original application for the insurance is executed, if the insured would then be rated at an
 2701 age more than one year younger than [his] the insured's age at the date of [his] the
 2702 insured's application, unless the aggregate amount of the annual premiums for the whole
 2703 term of the back-dated period is paid in cash;
- 2704 (3) allowing assessments or calls to be made upon policyholders; or
- 2705 (4) allowing an insurer to cancel or terminate a policy for a reason other than:
- 2706 (a) nonpayment of a premium when due; or
- 2707 (b) as allowed pursuant to Subsection 31A-21-105(2).

2708 Section 121. Section **31A-22-512** is amended to read:

2709 **31A-22-512 . Individual insurability.**

- 2710 (1) An insurer may exclude or limit the coverage under a group life policy on any person,
 2711 including a group member's dependent, as to whom the evidence of individual
 2712 insurability is not satisfactory to the insurer.
- 2713 (2) The group life insurance policy shall contain a provision setting forth the conditions, if
 2714 any, under which the insurer reserves the right to require a person eligible for insurance
 2715 to furnish satisfactory evidence to the insurer of the individual insurability as a condition
 2716 to part or all of [his] the person's coverage.

2717 Section 122. Section **31A-22-514** is amended to read:

2718 **31A-22-514 . Incontestability.**

2719 The group life insurance policy shall contain a provision that the validity of the policy
2720 may not be contested, except for nonpayment of premiums, after it has been in force for two
2721 years from its date of issue. This provision shall also state that no statement made by any
2722 person insured under the policy relating to [~~his~~] the person's insurability may be used in
2723 contesting the validity of the insurance with respect to which the statement was made after the
2724 insurance has been in force, prior to the contest, for a period of two years during the person's
2725 lifetime, nor may the statement be used unless it is contained in a written instrument signed by [
-2726 ~~him~~] the person. This type of provision does not preclude the assertion of defenses based upon
2727 provisions in the policy which relate to eligibility for coverage.

2728 Section 123. Section **31A-22-1005** is amended to read:

2729 **31A-22-1005 . Payment as bar to recovery.**

2730 Payment of compensation under a workers' compensation insurance policy, whether in
2731 whole or in part, by either the employer or the insurer, bars recovery by the employee or [~~his~~]
2732 the employee's dependents to the extent of the payment.

2733 Section 124. Section **31A-22-1007** is amended to read:

2734 **31A-22-1007 . Employer's insolvency.**

2735 Every workers' compensation policy or contract shall contain a provision that the
2736 insolvency of the employer and [~~his~~] the employer's discharge does not relieve the insurer from
2737 the payment of compensation for injuries or death sustained by an employee during the life of
2738 that policy or contract.

2739 Section 125. Section **31A-22-1102** is amended to read:

2740 **31A-22-1102 . Policy and certificate forms.**

- 2741 (1) Legal expense insurance may be written as individual, group, blanket, or franchise
2742 insurance. Each contractual obligation for legal expense insurance shall be evidenced by
2743 a policy. Each person insured under a group policy shall be issued a certificate of
2744 coverage.
- 2745 (2) Policies and certificates of legal expense insurance are subject to Section 31A-21-201.
- 2746 (3) The commissioner may not approve any form that does not meet all of the following
2747 requirements:
- 2748 (a) Policies shall contain a list and description of the legal services promised or the legal
2749 matters for which expenses are to be reimbursed, and any limits on the amounts to be
2750 reimbursed.
- 2751 (b) Certificates issued under group policies shall contain a full statement of the benefits

- 2752 provided, but may summarize the other terms of the master policy.
- 2753 (c) Policies promising legal services to be provided by a limited number of attorneys
 2754 who have concluded provider contracts with the insurer, whether the attorney in an
 2755 individual case is to be selected by the insured or by the insurer, shall provide for
 2756 alternative benefits in case the insured is unable to find a participating attorney
 2757 willing to perform the promised services or the attorney selected by the insurer is
 2758 disqualified or otherwise unable to perform the promised services. The alternative
 2759 benefit may consist of furnishing the services of an attorney selected and paid by the
 2760 insurer or paying the fee of an attorney selected by the insured. The policy shall also
 2761 provide a procedure that includes impartial review for settling disagreements about
 2762 the grounds for demanding an alternative benefit.
- 2763 (d) No policy, except one issued by a mutual insurance company, may provide for
 2764 assessments on policyholders or for reductions of benefits to maintain the insurer's
 2765 solvency.
- 2766 (4) The commissioner may disapprove a policy or certificate form if [~~he~~] the commissioner
 2767 finds that it:
- 2768 (a) is unfair, unfairly discriminatory, misleading, or encourages misrepresentation or
 2769 misunderstanding of the contract;
- 2770 (b) provides coverage or benefits or contains other provisions that would endanger the
 2771 solidity of the insurer; or
- 2772 (c) is contrary to law.
- 2773 (5) The commissioner may require the submission of relevant information [~~he~~] the
 2774 commissioner considers to be reasonably necessary in determining whether to approve
 2775 or disapprove a filing.
- 2776 Section 126. Section **31A-22-1305** is amended to read:
- 2777 **31A-22-1305 . Persons authorized to issue annuities.**
- 2778 No person may issue an annuity to another person unless the issuer is:
- 2779 (1) an insurer authorized to issue annuities under Chapter 5, Domestic Stock and Mutual
 2780 Insurance Corporations, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers;
- 2781 (2) a domestic corporation created under Title 16, Chapter 6a, Utah Revised Nonprofit
 2782 Corporation Act, or other applicable law, or a foreign corporation conducted without
 2783 profit, which is engaged solely in bona fide charitable, religious, missionary,
 2784 educational, medical, or philanthropic activities; or
- 2785 (3) a natural person who issues an annuity to [~~his~~] the person's spouse, children,

2786 grandchildren, great-grandchildren, parents, grandparents, uncles, aunts, brothers,
2787 sisters, nieces, or nephews, whether those relationships are by birth, marriage, or legal
2788 adoption.

2789 Section 127. Section **31A-25-201** is amended to read:

2790 **31A-25-201 . License and authority from insurers required.**

2791 (1) A person may not perform, offer to perform, or advertise any service as a third party
2792 administrator in Utah, without a valid license under Section 31A-25-203 and express
2793 authority from all insurers it represents. A person may not utilize the services of another
2794 as a third party administrator if [he] the person knows or should know that the other does
2795 not have a license or the insurer authority as required by law. The commissioner shall
2796 be notified of the commencement or termination of insurer authority in a form
2797 established by rules.

2798 (2) The commissioner may by rule exempt certain persons or classes of persons from the
2799 license requirement of Subsection (1) if the functions they perform do not require the
2800 special competence, trustworthiness, or regulatory surveillance made possible by
2801 licensing.

2802 (3) A contract is not invalid as a result of a violation of this section.

2803 Section 128. Section **31A-26-211** is amended to read:

2804 **31A-26-211 . Claims liaison.**

2805 Authorized insurers with employees engaged in insurance adjusting may be required by
2806 the commissioner to designate one or more natural persons to whom the commissioner or [his]
2807 the commissioner's staff may direct inquiries concerning the insurer's claims adjustments.
2808 Insurers shall report to the commissioner the name, title, business address, telephone number
2809 of, and any changes in its designees under this section.

2810 Section 129. Section **31A-26-212** is amended to read:

2811 **31A-26-212 . Emergency license.**

2812 In the event of a catastrophe or emergency which arises out of a disaster, act of God,
2813 riot, civil commotion, conflagration, or other similar occurrence, the commissioner shall, upon
2814 application, issue emergency licenses to persons who are not licensed adjusters. An
2815 emergency license shall be applied for within a week of beginning claims adjustment. It may
2816 remain in force for not more than 90 days, unless extended by the commissioner before it
2817 expires for an additional period of not more than 90 additional days. The insurer who
2818 contracts with an independent adjuster who is so licensed is responsible for all [his] the
2819 independent adjuster's claims practices while so engaged, as if [he] the independent adjuster

2820 were a regular salaried employee. The fee for an emergency license is the same as the fee
2821 required of other licensed adjusters, unless the commissioner waives the fee.

2822 Section 130. Section **31A-28-217** is amended to read:

2823 **31A-28-217 . Immunity.**

- 2824 (1) There is no liability on the part of and no cause of action of any nature shall arise
2825 against any member insurer or its agents or employees, the association or its agents or
2826 employees, members of the board of directors, or the commissioner or [his] the
2827 commissioner's representatives, for any action or omission by them in effecting this part.
2828 (2) The state does not waive any defense under this part, including the defense of
2829 governmental immunity. The state is not liable for any action or omission of the
2830 association, its members, or their respective agents or employees. The state is not liable
2831 for any failure of the association to perform its duties or to fulfill its stated purpose
2832 under this part.

2833 Section 131. Section **34-23-303** is amended to read:

2834 **34-23-303 . Civil action allowed.**

- 2835 (1) In addition to the administrative action authorized by Section 34-23-401, and criminal
2836 actions authorized by Sections 34-23-302 and 34-23-402, a minor employee may bring a
2837 civil action to enforce [his] the minor employee's right to a minimum wage under Section
2838 34-23-301.
2839 (2)(a) An aggrieved minor employee is entitled to injunctive relief and may recover the
2840 difference between the wage paid and the minimum wage, plus interest.
2841 (b) The court may award court costs and attorney fees to the prevailing party.
2842 (3) An action brought under this section shall be brought within two years of the alleged
2843 violation.

2844 Section 132. Section **34-26-1** is amended to read:

2845 **34-26-1 . Extent and condition of preference.**

2846 If any property of any person is seized through any process of any court, or when [his] a
2847 person's business is suspended by the act of creditors or is put into the hands of a receiver,
2848 assignee, or trustee, either by voluntary or involuntary action, the amount owing to workmen,
2849 clerks, traveling or city salesmen, or servants, for work or labor performed within five months
2850 next preceding the seizure or transfer of the property shall be considered and treated as
2851 preferred debts, and the workmen, clerks, traveling and city salesmen, and servants shall be
2852 preferred creditors, the first to be paid in full. If there are not sufficient proceeds to pay them
2853 in full, then the proceeds shall be paid to them pro rata, after paying costs. No officer,

2854 director, or general manager of a corporation employer or any member of an association
2855 employer or partner of a partnership employer is entitled to this preference.

2856 Section 133. Section **34-38-4** is amended to read:

2857 **34-38-4 . Samples -- Identification and collection.**

2858 In order to test reliably for the presence of drugs or alcohol, an employer may require
2859 samples from [his] the employer's employees and prospective employees, and may require
2860 presentation of reliable identification to the person collecting the samples. Collection of the
2861 sample shall be in conformance with the requirements of Section 34-38-6. The employer may
2862 designate the type of sample to be used for testing.

2863 Section 134. Section **34-38-7** is amended to read:

2864 **34-38-7 . Employer's written testing policy -- Purposes and requirements for**
2865 **collection and testing -- Employer's use of test results.**

- 2866 (1) Testing or retesting for the presence of drugs or alcohol by an employer shall be carried
2867 out within the terms of a written policy which has been distributed to employees and is
2868 available for review by prospective employees.
- 2869 (2) Within the terms of [his] the employer's written policy, an employer may require the
2870 collection and testing of samples for the following purposes:
- 2871 (a) investigation of possible individual employee impairment;
 - 2872 (b) investigation of accidents in the workplace or incidents of workplace theft;
 - 2873 (c) maintenance of safety for employees or the general public; or
 - 2874 (d) maintenance of productivity, quality of products or services, or security of property
2875 or information.
- 2876 (3) The collection and testing of samples shall be conducted in accordance with Sections
2877 34-38-4, 34-38-5, and 34-38-6, and need not be limited to circumstances where there are
2878 indications of individual, job-related impairment of an employee or prospective
2879 employee.
- 2880 (4) The employer's use and disposition of all drug or alcohol test results are subject to the
2881 limitations of Sections 34-38-8 and 34-38-13.

2882 Section 135. Section **34-39-2** is amended to read:

2883 **34-39-2 . Definitions.**

2884 As used in this chapter:

- 2885 (1) "Employment invention" means any invention or part thereof conceived, developed,
2886 reduced to practice, or created by an employee which is:
- 2887 (a) conceived, developed, reduced to practice, or created by the employee:

- 2888 (i) within the scope of [~~his~~] the employee's employment;
- 2889 (ii) on [~~his~~] the employer's time; or
- 2890 (iii) with the aid, assistance, or use of any of [~~his~~] the employer's property, equipment,
- 2891 facilities, supplies, resources, or intellectual property;
- 2892 (b) the result of any work, services, or duties performed by an employee for [~~his~~] the
- 2893 employer;
- 2894 (c) related to the industry or trade of the employer; or
- 2895 (d) related to the current or demonstrably anticipated business, research, or development
- 2896 of the employer.

2897 (2) "Intellectual property" means any and all patents, trade secrets, know-how, technology,

2898 confidential information, ideas, copyrights, trademarks, and service marks and any and

2899 all rights, applications, and registrations relating to them.

2900 Section 136. Section **34-39-3** is amended to read:

2901 **34-39-3 . Scope of act -- When agreements between an employee and employer**

2902 **are enforceable or unenforceable with respect to employment inventions -- Exceptions.**

- 2903 (1) An employment agreement between an employee and [~~his~~]employer is not enforceable
- 2904 against the employee to the extent that the agreement requires the employee to assign or
- 2905 license, or to offer to assign or license, to the employer any right or intellectual property
- 2906 in or to an invention that is:
- 2907 (a) created by the employee entirely on [~~his~~] the employee's own time; and
- 2908 (b) not an employment invention.
- 2909 (2) An agreement between an employee and [~~his~~]employer may require the employee to
- 2910 assign or license, or to offer to assign or license, to [~~his~~] the employer any or all of [~~his~~]
- 2911 the employee's rights and intellectual property in or to an employment invention.
- 2912 (3) Subsection (1) does not apply to:
- 2913 (a) any right, intellectual property or invention that is required by law or by contract
- 2914 between the employer and the United States government or a state or local
- 2915 government to be assigned or licensed to the United States; or
- 2916 (b) an agreement between an employee and [~~his~~]employer which is not an employment
- 2917 agreement.
- 2918 (4) Notwithstanding Subsection (1), an agreement is enforceable under Subsection (1) if the
- 2919 employee's employment or continuation of employment is not conditioned on the
- 2920 employee's acceptance of such agreement and the employee receives a consideration
- 2921 under such agreement which is not compensation for employment.

- 2922 (5) Employment of the employee or the continuation of [his] the employee's employment is
2923 sufficient consideration to support the enforceability of an agreement under Subsection
2924 (2) whether or not the agreement recites such consideration.
- 2925 (6) An employer may require [his-]employees to agree to an agreement within the scope of
2926 Subsection (2) as a condition of employment or the continuation of employment.
- 2927 (7) An employer may not require [his-]employees to agree to anything unenforceable under
2928 Subsection (1) as a condition of employment or the continuation of employment.
- 2929 (8) Nothing in this chapter invalidates or renders unenforceable any employment agreement
2930 or provisions of an employment agreement unrelated to employment inventions.
2931 Section 137. Section **34-40-205** is amended to read:
2932 **34-40-205 . Civil action allowed.**
- 2933 (1) In addition to the administrative and criminal actions authorized by this chapter, an
2934 employee may bring a civil action to enforce [his] the employee's rights under this
2935 chapter.
- 2936 (2)(a) An aggrieved employee is entitled to injunctive relief and may recover the
2937 difference between the wage paid and the minimum wage, plus interest.
- 2938 (b) The court may award court costs and attorney fees to the prevailing party.
- 2939 (3) An action brought under this section shall be brought within two years of the alleged
2940 violation.
- 2941 Section 138. Section **34A-2-207** is amended to read:
2942 **34A-2-207 . Noncompliance -- Civil action by employees.**
- 2943 (1)(a) Employers who fail to comply with Section 34A-2-201 are not entitled to the
2944 benefits of this chapter or Chapter 3, Utah Occupational Disease Act, during the
2945 period of noncompliance, but shall be liable in a civil action to their employees for
2946 damages suffered by reason of personal injuries arising out of or in the course of
2947 employment caused by the wrongful act, neglect, or default of the employer or any of
2948 the employer's officers, agents, or employees, and also to the dependents or personal
2949 representatives of such employees when death results from such injuries.
- 2950 (b) In any action described in Subsection (1)(a), the defendant may not [~~avail himself of~~]
2951 use any of the following defenses:
2952 (i) the fellow-servant rule;
2953 (ii) assumption of risk; or
2954 (iii) contributory negligence.
- 2955 (2) Proof of the injury shall constitute prima facie evidence of negligence on the part of the

2956 employer and the burden shall be upon the employer to show freedom from negligence
 2957 resulting in the injury.

2958 (3) An employer who fails to comply with Section 34A-2-201 is subject to Sections
 2959 34A-2-208 and 34A-2-212.

2960 (4) In any civil action permitted under this section against the employer, the employee shall
 2961 be entitled to necessary costs and a reasonable attorney fee assessed against the
 2962 employer.

2963 Section 139. Section **35A-4-102** is amended to read:

2964 **35A-4-102 . Public policy -- General welfare requires creation of unemployment**
 2965 **reserves -- Employment offices.**

2966 As a guide to the interpretation and application of this chapter, the public policy of this
 2967 state is declared to be as follows: Economic insecurity due to unemployment is a serious
 2968 menace to the health, morals, and welfare of the people of this state. Unemployment is
 2969 therefore a subject of general interest and concern that requires appropriate action by the
 2970 Legislature to prevent its spread and to lighten its burden which now so often falls with
 2971 crushing force upon the unemployed worker and [his] the unemployed worker's family. The
 2972 achievement of social security requires protection against this greatest hazard of our economic
 2973 life. This objective can be furthered by operating free public employment offices in affiliation
 2974 with a nation-wide system of employment services, by devising appropriate methods for
 2975 reducing the volume of unemployment and by the systematic accumulation of funds during
 2976 periods of employment from which benefits may be paid for periods of unemployment, thus
 2977 maintaining purchasing power and limiting the serious social consequences of unemployment.
 2978 The Legislature, therefore, declares that in its considered judgment the public good, and the
 2979 general welfare of the citizens of this state require the enactment of this measure, under the
 2980 police power of the state, for the establishment and maintenance of free public employment
 2981 offices and for the compulsory setting aside of unemployment reserves to be used for the
 2982 benefit of unemployed persons.

2983 Section 140. Section **35A-4-105** is amended to read:

2984 **35A-4-105 . Department may be represented by attorneys in actions.**

2985 (1) In any civil action to enforce the provisions of this chapter the department may be
 2986 represented by any qualified attorney who is employed by the department and is
 2987 designated by it for this purpose, or at the department's request by the attorney general,
 2988 or if the action is brought in the courts of any other state by any attorney qualified to
 2989 appear in the courts of that state.

2990 (2) All criminal actions for violation of any provision of this chapter, or of any rules or
2991 regulations issued pursuant thereto, shall be prosecuted by the attorney general of the
2992 state; or, at [his] the attorney general's request and under [his] the attorney general's
2993 direction, by the prosecuting attorney of any county in which the employing unit has a
2994 place of business or the violator resides.

2995 Section 141. Section **35A-4-207** is amended to read:

2996 **35A-4-207 . Unemployment.**

2997 (1)(a) An individual is "unemployed" in any week during which [~~he~~] the individual
2998 performs no services and with respect to which no wages are payable to [~~him~~] the
2999 individual, or in any week of less than full-time work if the wages payable to [~~him~~]
3000 the individual with respect to the week are less than [his] the individual's weekly
3001 benefit amount.

3002 (b) The department shall prescribe rules applicable to unemployed individuals making
3003 distinctions in the procedure as to total unemployment, part-total unemployment,
3004 partial unemployment of individuals attached to their regular jobs, and other forms of
3005 short-time work, as the department considers necessary.

3006 (2) The department may by rule prescribe in the case of individuals working on a regular
3007 attachment basis the existence of unemployment for periods longer than a week if:

3008 (a) it is a period of less than full-time work;

3009 (b) insofar as possible the loss of wages required as a condition of being considered
3010 unemployed in those periods shall be such as to allow comparable benefits, for
3011 comparable loss in wages, to those individuals working less than full-time in each
3012 week as would be payable on a weekly claim period basis to those individuals
3013 working full-time and not at all in alternate weeks.

3014 (3) Unemployment shall in no case be measured on a basis of longer than a four-week
3015 period.

3016 Section 142. Section **35A-4-402** is amended to read:

3017 **35A-4-402 . Extended benefits.**

3018 (1) Except when the result would be inconsistent with the other provisions of this section or
3019 the rules of the department, the provisions of this chapter that apply to claims for or
3020 payments of regular benefits apply to claims for and payments of extended benefits.

3021 (2) An individual is eligible to receive extended benefits with respect to any week of
3022 unemployment in [his] the individual's eligibility period only if the division finds that
3023 with respect to that week the individual:

- 3024 (a) is an "exhaustee" as defined in this section;
- 3025 (b) has satisfied the requirements of this chapter for the receipt of regular benefits that
- 3026 are applicable to individuals claiming extended benefits, including not being subject
- 3027 to a disqualification for the receipt of benefits; and
- 3028 (c) has satisfied the federal requirements as adopted by state regulation for the receipt of
- 3029 extended benefits.
- 3030 (3) The weekly extended benefit amount payable to an individual for a week of total
- 3031 unemployment in ~~his~~ the individual's eligibility period is an amount equal to the weekly
- 3032 benefit amount payable to ~~him~~ the individual during ~~his~~ the individual's applicable
- 3033 benefit year.
- 3034 (4) The total extended benefit amount payable to any eligible individual with respect to ~~his~~
- 3035 the individual's applicable benefit year is the lesser of the following amounts:
- 3036 (a) 50% of the total amount of regular benefits which were payable to ~~him~~ the
- 3037 individual under this chapter in ~~his~~ the individual's applicable benefit year;
- 3038 (b) 13 times ~~his~~ the individual's weekly benefit amount which was payable to ~~him~~ the
- 3039 individual under this chapter for a week of total unemployment in the applicable
- 3040 benefit year; or
- 3041 (c) 39 times ~~his~~ the individual's weekly benefit amount which was payable to ~~him~~ the
- 3042 individual under this chapter for a week of total unemployment in the applicable
- 3043 benefit year, reduced by the total amount of regular benefits which were paid or
- 3044 deemed paid to ~~him~~ the individual under this chapter with respect to the benefit year.
- 3045 (5) Notwithstanding any other provision of this chapter, if the benefit year of any
- 3046 individual ends within an extended benefit period, the remaining balance of extended
- 3047 benefits that the individual would, but for this section, be entitled to receive in that
- 3048 extended benefit period, with respect to weeks of unemployment beginning after the end
- 3049 of the benefit year, shall be reduced, but not below zero, by the product of the number of
- 3050 weeks for which the individual received any amounts as trade adjustment allowances
- 3051 within that benefit year, multiplied by the individual's weekly benefit amount for
- 3052 extended benefits.
- 3053 (6)(a) Whenever an extended benefit period is to become effective in this state as a result
- 3054 of a state "on" indicator, or an extended benefit period is to be terminated in this state
- 3055 as a result of a state "off" indicator, the division shall make an appropriate public
- 3056 announcement.
- 3057 (b) Computations required by Subsection (7)(f) shall be made by the division, in

3058 accordance with regulations prescribed by the United States Secretary of Labor.

3059 (7) As used in this section:

3060 (a) "Extended benefit period" means a period that:

3061 (i) begins with the third week after a week for which there is a state "on" indicator;

3062 and

3063 (ii) ends with either:

3064 (A) the third week after the first week for which there is a state "off" indicator; or

3065 (B) after the 13th consecutive week of duration of that period, whichever occurs

3066 later; however, no extended benefit period may begin by reason of a state "on"

3067 indicator before the 14th week following the end of a prior extended benefit

3068 period which was in effect with respect to this state.

3069 (b) There is a "state 'on' indicator" for this state for a week if the division determines, in

3070 accordance with the regulations of the Secretary of Labor, that for the period

3071 consisting of that week and the immediately preceding 12 weeks, the rate of insured

3072 unemployment, not seasonally adjusted, under this chapter equaled or exceeded

3073 120% of the average of the rates for the corresponding 13-week period ending in

3074 each of the preceding two calendar years and that the rate equaled or exceeded 4%

3075 until the weeks beginning after September 25, 1982, at which time it will become 5%.

3076 (c) There is a "state 'off' indicator" for this state for a week if the division determines, in

3077 accordance with the regulations of the Secretary of Labor, that for the period

3078 consisting of that week and the immediately preceding 12 weeks, the rate of insured

3079 unemployment, not seasonally adjusted, under this chapter was less than 120% of the

3080 average of the rates for the corresponding 13-week period ending in each of the

3081 preceding two calendar years or that the rate was less than 4% until the weeks

3082 beginning after September 25, 1982, at which time it will become 5%.

3083 (d) "Rate of insured unemployment," for purposes of Subsections (7)(b) and (7)(c),

3084 means the percentage derived by dividing the average weekly number of individuals

3085 filing claims for regular compensation in this state for weeks of unemployment with

3086 respect to the most recent 13-consecutive-week period, as determined by the division

3087 on the basis of its reports to the Secretary of Labor, by the average monthly

3088 employment covered under this chapter for the first four of the most recent six

3089 completed calendar quarters ending before the end of the 13-week period.

3090 (e) "Regular benefits" means benefits payable to an individual under this chapter or

3091 under any other state law, including benefits payable to federal civilian employees

- 3092 and to ex-servicemen under 5 U.S.C. Chapter 85, other than extended benefits.
- 3093 (f) "Extended benefits" means benefits, including benefits payable to federal civilian
3094 employees and to ex-servicemen under 5 U.S.C. Chapter 85, payable to an individual
3095 under the provisions of this section for weeks of unemployment in [his] the
3096 individual's eligibility period.
- 3097 (g) "Eligibility period" of an individual means the period consisting of the weeks in [his]
3098 the individual's benefit year which begin in an extended benefit period and, if [his] the
3099 individual's benefit year ends within the extended benefit period, any weeks
3100 thereafter which begin in that period.
- 3101 (h) "Exhaustee" means an individual who, with respect to any week of unemployment in [
3102 his] the individual's eligibility period:
- 3103 (i) has received, prior to that week, all of the regular benefits that were available to [
3104 ~~him~~] the individual under this chapter or any other state law, including dependent's
3105 allowances and benefits payable to federal civilian employees and ex-servicemen
3106 under 5 U.S.C. Chapter 85, in [his] the individual's current benefit year that
3107 includes such week. An individual, for the purposes of this subsection, shall be
3108 deemed to have received all of the regular benefits that were available to [~~him~~] the
3109 individual although, as a result of a pending appeal with respect to wages or
3110 employment, or both, that were not considered in the original monetary
3111 determination in [his] the individual's benefit year, [~~he~~] the individual may
3112 subsequently be determined to be entitled to added regular benefits; or
- 3113 (ii) has no, or insufficient, wages or employment or both on the basis of which [~~he~~]
3114 the individual could establish a new benefit year that would include that week, [his]
3115 the individual's benefit year having expired prior to that week; and
- 3116 (iii) has no right to unemployment benefits or allowances, as the case may be, under
3117 the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the
3118 Automotive Products Trade Act of 1965, or any other federal laws as are specified
3119 in regulations issued by the Secretary of Labor and has not received, and is not
3120 seeking, unemployment benefits under the unemployment compensation law of
3121 the Virgin Islands or of Canada. However, if that [~~person~~] individual is seeking
3122 such benefits and the appropriate agency finally determines that [~~he~~] the individual
3123 is not entitled to benefits under that law [~~he~~] the individual is considered an
3124 "exhaustee," provided that the reference in this subsection to the Virgin Islands
3125 shall be inapplicable effective on the day on which the U. S. Secretary of Labor

3126 approves under Section 3304 (a) of the Internal Revenue Code of 1954, 26 U.S.C.
3127 3304(a), an unemployment compensation law submitted to the Secretary by the
3128 Virgin Islands for approval.

3129 (i) "State law" means the unemployment insurance law of any state, approved by the
3130 Secretary of Labor under Section 3304 of the Internal Revenue Code of 1954, 26
3131 U.S.C. 3304(a).

3132 Section 143. Section **35A-4-406** is amended to read:

3133 **35A-4-406 . Claims for benefits -- Continuing jurisdiction -- Appeal -- Notice of**
3134 **decision -- Repayment of benefits fraudulently received.**

3135 (1)(a) Claims for benefits shall be made and shall be determined by the division or
3136 referred to an administrative law judge in accordance with rules adopted by the
3137 department.

3138 (b) Each employer shall post and maintain in places readily accessible to individuals in [
3139 his] the employer's service printed statements concerning benefit rights, claims for
3140 benefits, and the other matters relating to the administration of this chapter as
3141 prescribed by rule of the department.

3142 (c) Each employer shall supply to individuals in [his] the employer's service copies of the
3143 printed statements or other materials relating to claims for benefits when and as the
3144 department may by rule prescribe. The printed statements and other materials shall
3145 be supplied by the division to each employer without cost to the employer.

3146 (2)(a) Jurisdiction over benefits shall be continuous.

3147 (b) Upon its own initiative or upon application of any party affected, the division may on
3148 the basis of change in conditions or because of a mistake as to facts, review a
3149 decision allowing or disallowing in whole or in part a claim for benefits.

3150 (c) The review shall be conducted in accordance with rules adopted by the department
3151 and may result in a new decision that may award, terminate, continue, increase, or
3152 decrease benefits, or may result in a referral of the claim to an appeal tribunal.

3153 (d) Notice of any redetermination shall be promptly given to the party applying for
3154 redetermination and to other parties entitled to notice of the original determination, in
3155 the manner prescribed in this section with respect to notice of an original
3156 determination.

3157 (e) The new order shall be subject to review and appeal as provided in this section.

3158 (f) A review may not be made after one year from the date of the original determination,
3159 except in cases of fraud or claimant fault as provided in Subsection (4).

- 3160 (3)(a) The claimant or any other party entitled to notice of a determination as provided
3161 by department rule may file an appeal from the determination with the Division of
3162 Adjudication within 10 days after the date of mailing of the notice of determination
3163 or redetermination to the party's last-known address or, if the notice is not mailed,
3164 within 10 days after the date of delivery of the notice.
- 3165 (b) Unless the appeal or referral is withdrawn with permission of the administrative law
3166 judge, after affording the parties reasonable opportunity for a fair hearing, the
3167 administrative law judge shall make findings and conclusions and on that basis
3168 affirm, modify, or reverse the determination or redetermination.
- 3169 (c) The administrative law judge shall first give notice of the pendency of an appeal to
3170 the division, which may then be a party to the proceedings. The administrative law
3171 judge shall receive into the record of the appeal any documents or other records
3172 provided by the division, and may obtain or request any additional documents or
3173 records held by the division or any of the parties that the administrative law judge
3174 considers relevant to the proper determination of the appeal.
- 3175 (d) The parties shall be promptly notified of the administrative law judge's decision and
3176 shall be furnished with a copy of the decision and the findings and conclusions in
3177 support of the decision.
- 3178 (e) The decision is considered to be final unless, within 30 days after the date of mailing
3179 of notice and a copy of the decision to the party's last-known address, or in the
3180 absence of mailed notice, within 30 days after the delivery of the notice, further
3181 appeal is initiated in accordance with Section 35A-4-508 and Chapter 1, Part 3,
3182 Adjudicative Proceedings.
- 3183 (4)(a) Any person who, by reason of [~~his~~] that person's fraud, has received any sum as
3184 benefits under this chapter to which [~~he~~] the person was not entitled shall repay the
3185 sum to the division for the fund.
- 3186 (b) If any person, by reason of [~~his~~] that person's own fault, has received any sum as
3187 benefits under this chapter to which under a redetermination or decision pursuant to
3188 this section [~~he~~] the person has been found not entitled, [~~he~~] the person shall repay the
3189 sum, or shall, in the discretion of the division, have the sum deducted from any future
3190 benefits payable to [~~him~~] the person, or both.
- 3191 (c) In any case in which under this subsection a claimant is liable to repay to the division
3192 any sum for the fund, the sum shall be collectible in the same manner as provided for
3193 contributions due under this chapter.

3194 (5)(a) If any person has received any sum as benefits under this chapter to which under a
3195 redetermination or decision [he] that person was not entitled, and it has been found
3196 that [he] the person was without fault in the matter, [he] the person is not liable to
3197 repay the sum but shall be liable to have the sum deducted from any future benefits
3198 payable to [him] the person.

3199 (b) The division may waive recovery of the overpayment if it is shown to the satisfaction
3200 of the division that the claimant has the inability to meet more than the basic needs of
3201 survival for an indefinite period lasting at least several months.

3202 Section 144. Section **36-19-1** is amended to read:

3203 **36-19-1 . Conflict of interest -- Prohibition of benefit.**

3204 (1) A legislator, member of [his] the legislator's household, or client shall not be a party to
3205 or have an interest in the profits or benefits of a state contract when the state contract is
3206 the direct result of a bill sponsored by the legislator unless the contract is let in
3207 compliance with state procurement policies and is open to the general public.

3208 (2) Any person violating this section shall be guilty of a class B misdemeanor.

3209 Section 145. Section **38-2-4** is amended to read:

3210 **38-2-4 . Disposal of property by lienholder -- Procedure.**

3211 (1) Any party holding a lien upon personal property as provided in this chapter may dispose
3212 of the property in the manner provided in Subsection (2).

3213 (2)(a) The lienor shall give notice to the owner of the property, to the customer as
3214 indicated on the work order, and to all other persons claiming an interest in or lien on
3215 it, as disclosed by the records of the Motor Vehicle Division, lieutenant governor's
3216 office, or of corresponding agencies of any other state in which the property appears
3217 registered or an interest in or lien on it is evidenced if known by the lienor.

3218 (b) The notice shall be sent by certified mail at least 30 days before the proposed or
3219 scheduled date of any sale and shall contain:

3220 (i) a description of the property and its location;

3221 (ii) the name and address of the owner of the property, the customer as indicated on
3222 the work order, and any person claiming an interest in or lien on the property;

3223 (iii) the name, address, and telephone number of the lienor;

3224 (iv) notice that the lienor claims a lien on the property for labor and services
3225 performed and interest and storage fees charged, if any, and the cash sum which,
3226 if paid to the lienor, would be sufficient to redeem the property from the lien
3227 claimed by the lienor;

- 3228 (v) notice that the lien claimed by the lienor is subject to enforcement under this
 3229 section and that the property may be sold to satisfy the lien;
 3230 (vi) the date, time, and location of any proposed or scheduled sale of the property and
 3231 whether the sale is private or public, except that no property may be sold earlier
 3232 than 45 days after completion of the repair work; and
 3233 (vii) notice that the owner of the property has a right to recover possession of the
 3234 property without instituting judicial proceedings by posting bond.

3235 (3) If the owner of the property is unknown or [his] the property owner's whereabouts
 3236 cannot be determined, or if the owner or any person notified under Subsection (2) fails
 3237 to acknowledge receipt of the notice, the lienor, at least 20 days before the proposed or
 3238 scheduled date of sale of the property, shall publish the notice required by this section
 3239 once in a newspaper circulated in the county where the vehicle is held.

3240 (4) A lienee may have [his] the lienee's property released from any lien claimed on it under
 3241 this chapter by filing with the clerk of a court a cash or surety bond, payable to the
 3242 person claiming the lien, and conditioned for the payment of any judgment that may be
 3243 recovered on the lien, with costs, interest, and storage fees.

3244 (5)(a) The lienor has 60 days after receiving notice that the lienee has filed the bond
 3245 provided in Subsection (4) to file suit to foreclose [his] the lien.

3246 (b) If the lienor fails to timely file an action, the clerk of the court shall release the bond.

3247 (6) Property subject to lien enforcement under this section may be sold by the lienor at
 3248 public or private sale; however, in the case of a private sale, every aspect of the sale,
 3249 including the method, manner, time, place, and terms shall be commercially reasonable.

3250 (7) This section may not be construed to affect an owner's right to redeem [his] the owner's
 3251 property from the lien at any time prior to sale by paying the amount claimed by the
 3252 lienor for work done, interest, and storage fees charged and any costs incurred by the
 3253 repair shop for using enforcement procedures under this section.

3254 Section 146. Section **38-3-5** is amended to read:

3255 **38-3-5 . When attachment will issue -- Determination of priorities.**

3256 Upon the filing of such complaint, affidavit and bond it shall be the duty of the court
 3257 wherein the same are filed to issue a writ of attachment to the proper officer, commanding [him]
 3258 the officer to seize the property of the defendant subject to such lien, or so much thereof as
 3259 will satisfy the demand, and to make a determination of the priorities of the claims, liens, and
 3260 security interests in such property.

3261 Section 147. Section **38-7-2** is amended to read:

3262 **38-7-2 . Notice of lien required -- Filing with district court -- Mailing to injured**
3263 **person, heirs or legal representative, and insurance carrier.**

3264 A hospital lien upon damages recovered or to be recovered for personal injuries or
3265 death shall be effective if:

- 3266 (1) a verified written notice is filed in the district court of the county in which the hospital
3267 asserting the lien is located containing:
- 3268 (a) an itemized statement of the services rendered to the injured person and the dates of
3269 the services;
 - 3270 (b) the name and address of the hospital making the claim;
 - 3271 (c) the name of the person, firm, or corporation alleged to be liable to the injured party
3272 for the injuries and damages sustained; and
 - 3273 (d) the full name and address of the injured person;
- 3274 (2) the hospital sends by certified mail with return receipt requested, prior to the payment of
3275 any money to the injured person or [his] the injured person's attorney or heirs or legal
3276 representatives as compensation for the injuries and/or damages sustained, a copy of the
3277 written notice, together with a statement of the date of filing, to the person, firm, or
3278 corporation alleged to be liable to the injured party for the injuries and/or damages
3279 sustained; and
- 3280 (3) the hospital mails a copy of the written notice by certified mail with return receipt
3281 requested to the home office of any insurance carrier that has insured the person, firm, or
3282 corporation against liability, if the name and address is known.

3283 Section 148. Section **38-10-102.1** is amended to read:

3284 **38-10-102.1 . Perfection of lien -- Notice of subcontractor's claim -- Information**
3285 **required to be provided -- Payments to be held in trust.**

- 3286 (1)(a) To perfect a lien a subcontractor must comply with the requirements of this
3287 section and Section 38-10-105.
- 3288 (b) This section shall apply only to a subcontractor's claim or a portion of a claim for
3289 amounts more than \$5,000, for work performed upon or materials or equipment
3290 furnished for each production unit.
- 3291 (2) A subcontractor shall provide notice of a subcontractor's claim to the owner and
3292 operator designated by the owner within 20 days after the commencement of work or the
3293 furnishing of materials or equipment.
- 3294 (3) The notice shall:
- 3295 (a) be delivered, or mailed by certified mail, return receipt requested, to the:

- 3296 (i) owner; and
 3297 (ii) operator designated by the owner;
 3298 (b) be considered delivered when deposited in the mail; and
 3299 (c) contain a statement setting forth the following information:
 3300 (i) identification of the lien claimant by full name, address, and telephone number;
 3301 (ii) the name of the person by whom [he] the subcontractor was employed or to whom [
 3302 he] the subcontractor furnished material or equipment; and
 3303 (iii) a description of the property comprising the production unit.
 3304 (4) Failure to deliver or mail the notice shall discharge and satisfy the lien attaching to the
 3305 interest of the owner to the extent the owner pays a contractor or operator [his] the
 3306 contractor's or operator's share of all, or part, of the lien claimant's agreed contract price.
 3307 (5)(a) Any contractor or subcontractor shall provide, in writing, to each person with
 3308 whom [he] the contractor or subcontractor contracts:
 3309 (i) the full name and address of the:
 3310 (A) owner of the production unit; and
 3311 (B) the operator designated by the owner; and
 3312 (ii) a description of the property comprising the production unit.
 3313 (b) Failure to provide the information required under this section within three days after
 3314 the work is commenced or the materials and equipment are furnished shall entitle the
 3315 claimant to an award of costs and [attorneys'] attorney fees in an action against the
 3316 person to enforce the contract.
 3317 (6) Any contractor, operator, or subcontractor who receives payment for work performed
 3318 upon, or material or equipment furnished for any production unit, shall hold all
 3319 payments in trust for the person with whom [he] the contractor, operator, or subcontractor
 3320 contracts for work upon, or the furnishing of materials or equipment for the production
 3321 unit, for any amount remaining unpaid under the contract.

3322 Section 149. Section **38-10-108** is amended to read:

3323 **38-10-108 . Limitation upon owner's liability.**

3324 Except as provided in Section 38-10-102 and Section 38-10-114, nothing in this chapter
 3325 shall be construed to fix a greater liability against the owner than the price or sum agreed by
 3326 the owner to be paid for [his] a contractor's or subcontractor's share of the work performed or
 3327 the materials or equipment furnished.

3328 Section 150. Section **38-10-109** is amended to read:

3329 **38-10-109 . Limitation on liability for other owners in production unit if notice**

3330 **provided -- Contents of notice -- Filing of notice -- Time for filing -- Failure to file does**
3331 **not affect other defenses.**

- 3332 (1) Where work is performed or materials or equipment are furnished for any production
3333 unit under a contract with an owner of an interest in the production unit, any interest of
3334 any other owner in the production unit shall not be subject to a lien under this chapter, if
3335 such other owner gives written notice that [he] the other owner will not be responsible
3336 for work performed or materials or equipment provided.
- 3337 (2) Written notice shall be:
- 3338 (a) in recordable form;
- 3339 (b) filed with the county recorder of the county where the production unit is located; and
- 3340 (c) filed within 10 working days after the latter of:
- 3341 (i) the owner obtaining knowledge of the performance of such work or the providing
3342 of such materials or equipment; or
- 3343 (ii) the execution by the last party of:
- 3344 (A) a farmout agreement;
- 3345 (B) a lease or sublease;
- 3346 (C) an operating agreement;
- 3347 (D) an assignment of less than 100% of the lessee's interest or operating rights
3348 under a lease;
- 3349 (E) a sales contract; or
- 3350 (F) an option agreement.
- 3351 (3) Failure to file under this section shall not impair any other defense available to such
3352 owner.

3353 Section 151. Section **40-1-6** is amended to read:

3354 **40-1-6 . Affidavit of performance of annual labor or payment of maintenance fee.**

- 3355 (1) As used in this section, "assessment work" means the performance of labor or making of
3356 improvements on or for the benefit of a mining claim.
- 3357 (2) Within 30 days after the end of the annual period specified in 30 U.S.C. Sec. 28 the
3358 owner of an unpatented lode or placer mining claim, [-]or a mill or tunnel site claim or
3359 someone [-]on [his] the owner's behalf, shall record an affidavit in the office of the
3360 county recorder of the county in which the claim is located setting forth:
- 3361 (a) the name and address of the owner of the claim;
- 3362 (b) the name of the claim and the serial number, if any, assigned to the claim by the
3363 United States Bureau of Land Management;

- 3364 (c) if assessment work was required to be performed under 30 U.S.C. Sec. 28 or other
 3365 federal law to maintain the claim, a statement that the annual assessment work
 3366 required to maintain the claim was performed; and
- 3367 (d) if the assessment work was not required to be performed under 30 U.S.C. Sec. 28 or
 3368 other federal law, a statement that it is the intention of the owner to hold the claim,
 3369 and if a claim maintenance fee was paid as required by the Omnibus Budget
 3370 Reconciliation Act of 1993, Pub. L. 103-66 or other federal law, a statement that the
 3371 fee was paid in a timely manner.
- 3372 (3) The affidavit, or a certified copy, shall be prima facie evidence of the facts stated in the
 3373 affidavit.
- 3374 (4) The amendments made in this section do not affect any act or right accruing or which
 3375 has accrued or been established or any suit or proceeding commenced before May 1,
 3376 1995.

3377 Section 152. Section **40-8-19** is amended to read:

3378 **40-8-19 . Transfer of mining operation under approved notice of intention.**

3379 Whenever an operator succeeds to the interest of another operator who holds an
 3380 approved notice of intention or revision covering a mining operation, by sale, assignment,
 3381 lease, or other means, the division may release the first operator from [his] the first operator's
 3382 responsibilities under [his] the first operator's approved notice of intention, including surety,
 3383 provided the successor assumes all of the duties of the former operator, to the satisfaction of
 3384 the division, under this approved notice of intention, including its then approved reclamation
 3385 plan and the posting of surety. Upon the satisfactory assumption of such responsibilities by the
 3386 successor operator, under conditions approved by the division, the approved notice of intention
 3387 shall be transferred to the successor operator.

3388 Section 153. Section **40-8-23** is amended to read:

3389 **40-8-23 . Effective dates -- Exceptions.**

3390 This act shall become effective 60 days after adjournment of the Legislature except as
 3391 follows:

- 3392 (1) Mining operations which are active on the effective date of this act will be required to
 3393 prepare and submit a notice of intention on or before July 1, 1977, and shall be
 3394 authorized to continue such existing operations until the operator obtains approval of [his]
 3395 a notice of intention. Such approval shall be obtained by the operator within 36 months
 3396 from the date of submission of this notice. Subsequent to approval of the notice of
 3397 intention, the operator shall be bound by the provisions of the approved notice of

- 3398 intention and surety requirements as provided in Sections 40-8-13 and 40-8-14.
- 3399 (2) Mining operations which are active on the effective date of this act and which are
3400 suspended or terminated on or before July 1, 1977, shall advise the division of this fact
3401 before July 10, 1977, and shall not be required to submit a notice of intention.
- 3402 (3) Mining operations which are inactive on the effective date of this act and which resume
3403 operations on or before July 1, 1977, shall be required to prepare and submit a notice of
3404 intention within 12 months following the effective date of this act or within six months
3405 of the resumption of such operations, whichever is earlier, and shall be authorized to
3406 conduct operations as described in the notice of intention until the operator obtains
3407 approval of [his] a notice of intention. Such approval shall be obtained by the operator
3408 within 36 months from the date of submission of the notice. Subsequent to approval of
3409 the notice of intention the operator shall be bound by the provisions of the approved
3410 notice of intention and surety requirements as provided in Sections 40-8-13 and 40-8-14.
- 3411 (4) The board and division, in the initial application of this act and until July 1, 1977, shall
3412 not be bound by the 30 day time limitation within which to take action on a notice of
3413 intention; but all notices of intention filed before July 1, 1977, shall be acknowledged as
3414 received within 30 days of receipt and action shall be commenced by the division within
3415 12 months from the date of receipt.
- 3416 (5) This act and the rules and regulations promulgated under it shall be fully effective for
3417 all operators and mining operations active on the effective date of this act or commenced
3418 or reactivated on and after July 1, 1977.

3419 Section 154. Section **40-10-5** is amended to read:

3420 **40-10-5 . Activities exempted from chapter.**

3421 This chapter does not apply to the following activities:

- 3422 (1) the extraction of coal by a landowner for [his] the landowner's own noncommercial use
3423 from land owned or leased by [him] the landowner; or
- 3424 (2) the extraction of coal as an incidental part of federal, state, or local
3425 government-financed highway or other construction under rules established by the
3426 division.

3427 Section 155. Section **40-10-19** is amended to read:

3428 **40-10-19 . Information provided by permittees to division -- Inspections by**
3429 **division -- Signs required at operations entrances -- Violations reported by reclamation**
3430 **officers -- Copies of records and reports available to public.**

- 3431 (1) For the purpose of developing, administering, and enforcing any permit under this

- 3432 chapter, or of determining whether any person is in violation of any requirement of this
3433 chapter, the division shall require any permittee to provide information relative to
3434 surface coal mining and reclamation operations as the division deems reasonable and
3435 necessary in the division's rules.
- (2) The authorized representatives of the division, without advance notice and upon
3436 presentation of appropriate credentials:
3437
- (a) shall have the right of entry into, upon, or through any surface coal mining and
3438 reclamation operations or any premises in which any records required to be
3439 maintained under Subsection (2) are located; and
3440
- (b) may at reasonable times, and without delay, have access to and copy any records,
3441 inspect any monitoring equipment or method of operation required under this
3442 chapter. As required by Subsection 40-8-17(2), this entry and access are conditions
3443 to obtaining an approved state permit to conduct surface mining operations.
3444
- (3) The inspections by the division shall:
3445
- (a) occur on an irregular basis averaging not less than one partial inspection per month
3446 and one complete inspection per calendar quarter for the surface coal mining and
3447 reclamation operation covered by each permit;
3448
- (b) occur without prior notice to the permittee or [his] the permittee's agents or employees
3449 except for necessary onsite meetings with the permittee; and
3450
- (c) include the filing of inspection reports adequate to enforce the requirements of and to
3451 carry out the terms and purposes of this chapter.
3452
- (4) Each permittee shall conspicuously maintain at the entrances to the surface coal mining
3453 and reclamation operations a clearly visible sign which sets forth the names, business
3454 address, and phone number of the permittee and the permit number of the surface coal
3455 mining and reclamation operations.
3456
- (5) Each reclamation officer, upon detection of each violation of any requirement of this
3457 chapter, shall forthwith inform the operator in writing and shall report in writing the
3458 violation to the division.
3459
- (6) Copies of any records, reports, inspection materials, or information obtained under this
3460 chapter by the division shall be made immediately available to the public.
3461
- Section 156. Section **40-10-20** is amended to read:
3462
- 40-10-20 . Civil penalty for violation of chapter -- Informal conference -- Public
3463 hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties --
3464 Civil penalty for failure to correct violation.
3465**

- 3466 (1)(a) Any permittee who violates any permit condition or other provision of this chapter
3467 may be assessed a civil penalty by the division. If the violation leads to the issuance
3468 of a cessation order under Section 40-10-22, the civil penalty shall be assessed.
- 3469 (b)(i) The penalty may not exceed \$5,000 for each violation.
- 3470 (ii) Each day of a continuing violation may be deemed a separate violation for
3471 purposes of the penalty assessments.
- 3472 (c) In determining the amount of the penalty, consideration shall be given to:
- 3473 (i) the permittee's history of previous violations at the particular surface coal mining
3474 operation;
- 3475 (ii) the seriousness of the violation, including any irreparable harm to the
3476 environment and any hazard to the health or safety of the public;
- 3477 (iii) whether the permittee was negligent; and
- 3478 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid
3479 compliance after notification of the violation.
- 3480 (2)(a) Within 30 days after the issuance of a notice or order charging that a violation of
3481 this chapter has occurred, the division shall inform the permittee of the proposed
3482 assessment.
- 3483 (b) The person charged with the penalty shall then have 30 days to pay the proposed
3484 assessment in full, or request an informal conference before the division.
- 3485 (c) The informal conference held by the division may address either the amount of the
3486 proposed assessment or the fact of the violation, or both.
- 3487 (d) If the permittee who requested the informal conference and participated in the
3488 proceedings is not in agreement with the results of the informal conference, the
3489 permittee may, within 30 days of receipt of the decision made by the division in the
3490 informal conference, request a hearing before the board.
- 3491 (e)(i) Prior to any review of the proposed assessment or the fact of a violation by the
3492 board, and within 30 days of receipt of the decision made by the division in the
3493 informal conference, the permittee shall forward to the division the amount of the
3494 proposed assessment for placement in an escrow account.
- 3495 (ii) If the operator fails to forward the amount of the penalty to the division within 30
3496 days of receipt of the results of the informal conference, the operator waives any
3497 opportunity for further review of the fact of the violation or to contest the amount
3498 of the civil penalty assessed for the violation.
- 3499 (iii) If, through administrative or judicial review, it is determined that no violation

- 3500 occurred or that the amount of the penalty should be reduced, the division shall
3501 within 30 days remit the appropriate amount to the operator with interest
3502 accumulated.
- 3503 (3)(a) A civil penalty assessed by the division shall be final only after the person
3504 charged with a violation described under Subsection (1) has been given an
3505 opportunity for a public hearing.
- 3506 (b) If a public hearing is held, the board shall make findings of fact and shall issue a
3507 written decision as to the occurrence of the violation and the amount of the penalty
3508 which is warranted, incorporating, when appropriate, an order requiring that the
3509 penalty be paid.
- 3510 (c) When appropriate, the board shall consolidate the hearings with other proceedings
3511 under Section 40-10-22.
- 3512 (d) Any hearing under this section shall be of record and shall be conducted pursuant to
3513 board rules governing the proceedings.
- 3514 (e) If the person charged with a violation fails to [~~avail himself of~~] use the opportunity
3515 for a public hearing, a civil penalty shall be assessed by the division after the division:
3516 (i) has determined:
3517 (A) that a violation did occur; and
3518 (B) the amount of the penalty which is warranted; and
3519 (ii) has issued an order requiring that the penalty be paid.
- 3520 (4) At the request of the board, the attorney general may bring a civil action in a court with
3521 jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil
3522 penalty owed under this chapter.
- 3523 (5) Any person who willfully and knowingly violates a condition of a permit issued
3524 pursuant to this chapter or fails or refuses to comply with any order issued under Section
3525 40-10-22 or any order incorporated in a final decision issued by the board under this
3526 chapter, except an order incorporated in a decision under Subsection (3), shall, upon
3527 conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not
3528 more than one year, or both.
- 3529 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to this
3530 chapter or fails or refuses to comply with any order incorporated in a final decision
3531 issued by the board under this chapter, except an order incorporated in a decision issued
3532 under Subsection (3), any director, officer, or agent of the corporation who willfully and
3533 knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be

3534 subject to the same civil penalties, fines, and imprisonment that may be imposed upon a
3535 person under Subsections (1) and (5).

3536 (7) Whoever knowingly makes any false statement, representation, or certification, or
3537 knowingly fails to make any statement, representation, or certification in any
3538 application, record, report, plan, or other document filed or required to be maintained
3539 pursuant to this chapter or any order or decision issued by the board under this chapter
3540 shall, upon conviction, be punished by a fine of not more than \$10,000, or by
3541 imprisonment for not more than one year, or both.

3542 (8)(a) Any operator who fails to correct a violation for which a notice or cessation order
3543 has been issued under Subsection 40-10-22(1) within the period permitted for its
3544 correction shall be assessed a civil penalty of not less than \$750 for each day during
3545 which the failure or violation continues.

3546 (b) The period permitted for correction of a violation for which a notice of cessation
3547 order has been issued under Subsection 40-10-22(1) may not end until:

3548 (i) the entry of a final order by the board, in the case of any review proceedings
3549 initiated by the operator in which the board orders, after an expedited hearing, the
3550 suspension of the abatement requirements of the citation after determining that the
3551 operator will suffer irreparable loss or damage from the application of those
3552 requirements; or

3553 (ii) the entry of an order of the court, in the case of any review proceedings initiated
3554 by the operator wherein the court orders the suspension of the abatement
3555 requirements of the citation.

3556 Section 157. Section **40-10-29** is amended to read:

3557 **40-10-29 . Other enforcement and protection rights unaffected -- Operator to**
3558 **replace adversely affected water supply of legitimate users.**

3559 (1) Nothing in this chapter shall be construed as affecting in any way the right of any
3560 person to enforce or protect, under applicable law, [his] the person's interest in water
3561 resources affected by a surface coal mining operation.

3562 (2) The operator of a surface coal mine shall replace the water supply of an owner of
3563 interest in real property who obtains all or part of [his] the owner's supply of water for
3564 domestic, agricultural, industrial, or other legitimate use from an underground or surface
3565 source where this supply has been affected by contamination, diminution, or interruption
3566 proximately resulting from the surface coal mine operation.

3567 Section 158. Section **41-1a-224** is amended to read:

3568 **41-1a-224 . Registration of specially constructed, reconstructed, or foreign**
 3569 **vehicles -- Surrender of foreign registration.**

- 3570 (1) If the vehicle to be registered is a specially constructed, reconstructed, or foreign
 3571 vehicle, that fact shall be stated in the application.
- 3572 (2) The owner of a foreign vehicle that has been registered outside of this state shall
 3573 surrender to the division all registration cards, certificates of title, or other evidence of
 3574 foreign registration in [his] the owner's possession or under [his] the owner's control,
 3575 except as provided in Section 41-1a-223.

3576 Section 159. Section **41-1a-607** is amended to read:

3577 **41-1a-607 . Assignment by lienholder.**

- 3578 (1)(a) Any person holding a lien or encumbrance upon a vehicle, vessel, or outboard
 3579 motor, other than a lien dependent solely upon possession, may assign [his] the
 3580 person's title or interest in or to the vehicle, vessel, or outboard motor to a person
 3581 other than the owner without the consent of and without affecting the interest of the
 3582 owner or the registration of the vehicle, vessel, or outboard motor.
- 3583 (b) If assignment of the lien or encumbrance in any way modifies or affects the owner's
 3584 repayment agreement, the lien or encumbrance holder shall give to the owner a
 3585 written notice of the assignment.
- 3586 (2) Upon request to the division and upon receipt of a certificate of title assigned by the
 3587 holder of a lien or encumbrance shown on it and giving the name and address of the
 3588 assignee, accompanied by the fee provided by law, the division shall issue a new
 3589 certificate of title.

3590 Section 160. Section **41-1a-608** is amended to read:

3591 **41-1a-608 . Release by lienholder to owner.**

- 3592 (1) A person holding a lien or encumbrance as shown upon a certificate of title upon a
 3593 vehicle or vessel may release the lien or encumbrance or assign [his] the person's interest
 3594 to the owner without affecting the registration of the vehicle or vessel.
- 3595 (2) The division shall issue a new certificate of title without a lien previously recorded upon
 3596 receiving:
- 3597 (a) a certificate of title:
- 3598 (i) upon which a lienholder has released or assigned [his] the lienholder's interest to
 3599 the owner; or
- 3600 (ii) not so endorsed but accompanied by a legal release from a lienholder of [his] the
 3601 lienholder's interest in or to a vehicle, vessel, or outboard motor;

3602 (b) an application properly completed; and

3603 (c) the proper fee.

3604 Section 161. Section **41-1a-708** is amended to read:

3605 **41-1a-708 . Owner not liable for negligent operation after transfer.**

3606 The owner of a vehicle or vessel who has made a bona fide sale or transfer of [~~his~~] the
3607 owner's title or interest and who has delivered to the purchaser or transferee possession of the
3608 vehicle or vessel, the certificate of registration, and the properly endorsed certificate of title to
3609 the vehicle or vessel is not liable for any damages thereafter resulting from negligent operation
3610 of the vehicle or vessel by another.

3611 Section 162. Section **41-1a-801** is amended to read:

3612 **41-1a-801 . Altered or changed identification number -- State assigned**
3613 **identification number.**

3614 (1) The owner of a vehicle required to be registered [-]under this chapter, the identification
3615 number of which has been altered, removed, defaced, or has not been placed on it shall
3616 make application in the form prescribed by the division for a state assigned
3617 identification number.

3618 (2) The owner shall furnish [-]information that will satisfy the division that [~~he~~] the owner is
3619 the owner of the vehicle and furnish information to identify the vehicle with the
3620 registration of the vehicle for the current year, at which time the division shall assign a
3621 state identification number for the vehicle.

3622 (3) A record of state assigned numbers shall be maintained by the division.

3623 (4) The state assigned identification number is the identification number of the vehicle
3624 when:

3625 (a) the owner has stamped the state assigned identification number upon the vehicle as
3626 directed by the division;

3627 (b) a qualified identification number inspector has inspected and found the state assigned
3628 identification number stamped upon the vehicle as directed;

3629 (c) the owner has provided the division with a certificate of inspection; and

3630 (d) the owner has submitted an application for a certificate of title.

3631 Section 163. Section **41-1a-1301** is amended to read:

3632 **41-1a-1301 . Unpaid fees and penalty -- Lien -- Seizure and sale.**

3633 (1)(a) Every registration fee and penalty not paid by the due date is a lien upon all:

3634 (i) the unexempt personal property of the owner or operator of the vehicle, vessel, or
3635 outboard motor; and

3636 (ii) interest or equity of the owner or operator in all personal property, including
 3637 vehicles, vessels, or outboard motors used by the owner or operator in the conduct
 3638 or operation of [his] the owner's or operator's business.

3639 (b) The properties and vehicles, vessels, or outboard motors may be held under warrant,
 3640 issued by the commission, and sold in accordance with the law applicable to personal
 3641 property taxes.

3642 (2) Delinquency is a ground for the issuance of a writ of attachment against the owner or
 3643 operator.

3644 Section 164. Section **41-1a-1313** is amended to read:

3645 **41-1a-1313 . Third degree felony to possess motor vehicle, trailer, semitrailer, or**
 3646 **parts without identification number -- Presumption of knowledge.**

3647 (1) It is a third degree felony for a person to have in [his] the person's possession any motor
 3648 vehicle, trailer, or semitrailer, or any part or parts of a motor vehicle, trailer, or
 3649 semitrailer, from which any identification number has been removed, defaced,
 3650 destroyed, obliterated, or so covered as to be concealed, or where the identification
 3651 number has been altered or changed in any manner.

3652 (2) A person having possession of any motor vehicle, trailer, or semitrailer or part of them
 3653 under this section is presumed prima facie to have knowledge of this condition.

3654 Section 165. Section **41-1a-1316** is amended to read:

3655 **41-1a-1316 . Receiving or transferring stolen motor vehicle, trailer, or**
 3656 **semitrailer -- Penalty.**

3657 It is a second degree felony for a person:

3658 (1) with intent to procure or pass title to a motor vehicle, trailer, or semitrailer that [he] the
 3659 person knows or has reason to believe has been stolen or unlawfully taken to receive or
 3660 transfer possession of the motor vehicle, trailer, or semitrailer from or to another; or

3661 (2) to have in [his] the person's possession any motor vehicle, trailer, or semitrailer that [he]
 3662 the person knows or has reason to believe has been stolen or unlawfully taken if [he] the
 3663 person is not a peace officer engaged at the time in the performance of [his] the peace
 3664 officer's duty.

3665 Section 166. Section **41-1a-1317** is amended to read:

3666 **41-1a-1317 . Selling or buying without identification numbers -- Penalty.**

3667 It is a second degree felony for a person to knowingly buy, receive, dispose of, sell, offer
 3668 for sale, or have in [his] that person's possession any motor vehicle, trailer, semitrailer, or
 3669 engine removed from a motor vehicle, from which the identification number has been

3670 removed, defaced, covered, altered, or destroyed for the purpose of concealing or
3671 misrepresenting the identity of the motor vehicle or engine.

3672 Section 167. Section **41-3-207** is amended to read:

3673 **41-3-207 . New motor vehicle dealer's license -- Change, addition, or loss of**
3674 **franchise -- Notification -- Relinquishment of license and relicensing as used motor**
3675 **vehicle dealer -- Continuance in business to dispose of stock.**

3676 (1) If a dealer changes to, adds, cancels, or loses a franchise for the sale of new motor
3677 vehicles [he] the dealer shall immediately notify the administrator.

3678 (2)(a) If the dealer has cancelled or lost a franchise, the administrator shall determine
3679 whether the dealer should be licensed as a used motor vehicle dealer.

3680 (b) If the administrator determines that the dealer should be licensed as a used motor
3681 vehicle dealer, [he] the administrator shall issue to the dealer a used motor vehicle
3682 dealer's license.

3683 (c) A dealer relicensed as a used motor vehicle dealer may continue to sell new motor
3684 vehicles for up to six months from the date of the relicensing, to enable the dealer to
3685 dispose of [his] the dealer's existing stock of new motor vehicles.

3686 Section 168. Section **41-3-208** is amended to read:

3687 **41-3-208 . Salesperson's license -- Relinquishment upon loss or change of**
3688 **employment -- Notice to salesperson -- New license required.**

3689 (1) If a salesperson is discharged from or leaves [his] the salesperson's employer, the dealer
3690 who last employed the salesperson shall return the salesperson's license to the
3691 administrator.

3692 (2) The salesperson shall be notified at [his] the salesperson's last known place of residence
3693 that [his] the salesperson's license has been returned to the administrator.

3694 (3) A person may not act as a motor vehicle salesperson until a new license is procured.

3695 Section 169. Section **41-3-505** is amended to read:

3696 **41-3-505 . Special plates -- Application -- Security requirements.**

3697 (1) A dealer, dismantler, manufacturer, remanufacturer, or transporter may apply to the
3698 division upon the appropriate form for one or more special plates.

3699 (2) The applicant shall also submit proof of [his] the applicant's status as a licensed dealer,
3700 dismantler, manufacturer, remanufacturer, or transporter as required by the [-]division.

3701 (3) The applicant shall also establish to the satisfaction of the division that [he] the applicant
3702 complies with the security requirements of Sections 31A-22-302 and 31A-22-303.

3703 Section 170. Section **41-3-506** is amended to read:

3704 **41-3-506 . Special plates -- Expiration.**

- 3705 (1) A special plate issued expires:
- 3706 (a) on June 30 each year; or
- 3707 (b) upon the cancellation, suspension, or revocation of the licensee's license.
- 3708 (2) Under Subsection (1)(b), the plates shall be returned to the licensee upon reinstatement
- 3709 of [his] the licensee's license.
- 3710 (3) A new plate or plates, or renewal decal, for the ensuing year may be obtained by the
- 3711 licensee submitting a new application to the division and paying the dealer, dismantler,
- 3712 manufacturer, or transporter plate fee provided by law.

3713 Section 171. Section **41-3-508** is amended to read:

3714 **41-3-508 . Special plates -- Suspension or revocation -- Grounds -- Procedure --**

3715 **Appeal -- Confiscation.**

- 3716 (1) The division may suspend or revoke the special plate or plates issued to a dealer,
- 3717 dismantler, manufacturer, remanufacturer, or transporter if it determines that the person:
- 3718 (a) is not lawfully entitled to them;
- 3719 (b) has made or knowingly permitted illegal use of the plates;
- 3720 (c) has committed fraud in the registration of motor vehicles; or
- 3721 (d) failed to give notices of sales or transfers required under this chapter.
- 3722 (2)(a) Suspension or revocation of special plates takes effect immediately upon written
- 3723 notification to the licensee by the division.
- 3724 (b) Upon notification, the licensee shall immediately return all special plates to the
- 3725 division.
- 3726 (c) Failure to return the plates or permitting their continued use is a violation of this
- 3727 chapter.
- 3728 (3)(a) If a licensee desires to appeal the division's suspension or revocation, [he] the
- 3729 licensee shall file a written notice of appeal with the administrator within 10 days of
- 3730 the suspension or revocation.
- 3731 (b) Upon receipt of the notice, the administrator shall schedule a hearing for not more
- 3732 than 20 days from the date the written appeal is received.
- 3733 (c) The licensee may not continue to use or possess any special plates that have been
- 3734 suspended or revoked.
- 3735 (d) The hearing and subsequent appeal process are in accordance with the procedures in
- 3736 this chapter.
- 3737 (4)(a) A peace officer may confiscate any special plate that [he] the peace officer has

3738 reason to believe is being used illegally.

3739 (b) A special plate confiscated under this chapter or Title 41, Chapter 1a, Motor Vehicle
3740 Act, may not be returned to the licensee if the administrator determines that the plate
3741 was being used illegally.

3742 Section 172. Section **41-3-803** is amended to read:

3743 **41-3-803 . Consignment sales.**

3744 (1) A consignor may take possession of [his] the consignor's consigned vehicle at any time
3745 the consigned vehicle is in the possession of a consignee, provided that the consignor:

3746 (a) has notified the consignee in writing that [he] the consignor will take possession of
3747 the consigned vehicle; and

3748 (b) has paid all outstanding charges owing to the consignee that have been agreed to by
3749 the consignor in accordance with Subsection (2).

3750 (2) The agreed upon charges under Subsection (1)(b) shall be:

3751 (a) stated on a form designed by the department; and

3752 (b) included with the written consignment agreement.

3753 (3) A consignee who sells a consigned vehicle shall report to the consignor in writing the
3754 exact selling price of the consigned vehicle under either of the following circumstances:

3755 (a) the consignor and consignee agree in writing that the consignor shall receive a
3756 percentage of the selling price upon the sale of the vehicle; or

3757 (b) the consignor and consignee renegotiate in writing the selling price of the vehicle.

3758 (4) When a consignee sells a consigned vehicle:

3759 (a) the consignee, within seven calendar days of the date of sale, must give written
3760 notice to the consignor that the consigned vehicle has been sold; and

3761 (b) the consignee, within 21 calendar days of the date of sale, or within 15 calendar days
3762 of receiving payment in full for the consigned vehicle, whichever date is earlier, shall
3763 remit the payment received to the consignor, unless the agreement to purchase the
3764 consigned vehicle has been rescinded before expiration of the 21 days.

3765 (5) If the agreement to purchase the consigned vehicle has for any reason been rescinded
3766 before the expiration of 21 calendar days of the date of sale, the consignee shall within
3767 five calendar days thereafter give written notice to the consignor that the agreement to
3768 purchase has been rescinded.

3769 (6) Vehicles on consignment shall be driven with the consignee's dealer plates. All other
3770 license plates or registration indicia must be removed from the vehicle.

3771 (7) Prior to driving a consigned vehicle on the consignee's dealer plates, the consignee and

3772 the consignor shall execute a written consignment agreement that states:

3773 (a) the party responsible for damage or misuse to a consigned vehicle; and

3774 (b) the permitted uses a consignee may make of a consigned vehicle.

3775 (8) The consignee shall keep the written consignment agreement on file at [his] the
3776 consignee's principal place of business.

3777 Section 173. Section **41-12a-104** is amended to read:

3778 **41-12a-104 . Rules of construction.**

3779 (1) If a person maintains owner's security under this chapter, it does not limit [his] the
3780 person's liability to the face amount of the owner's security.

3781 (2) Nothing in this chapter prevents the plaintiff in any action at law from relying for relief
3782 upon the other processes provided by law.

3783 (3) This chapter is cumulative with the requirements of the laws of this state requiring
3784 policies of motor vehicle insurance against liability. This subsection does not preclude
3785 compliance through a single policy which, by its terms or by an appropriate
3786 endorsement, satisfies the requirements of both applicable laws.

3787 Section 174. Section **41-12a-411** is amended to read:

3788 **41-12a-411 . Duration of proof of owner's or operator's security.**

3789 (1) Except as otherwise provided under this section, any person required to give proof of
3790 owner's or operator's security shall maintain that proof with the department for a period
3791 of three years from the date the filing of proof was last requested. Subject to Subsection
3792 (2), the department shall:

3793 (a) upon request, consent to the immediate cancellation of any bond or certificate of
3794 insurance;

3795 (b) direct the state treasurer to return to the person entitled to it any money or securities
3796 deposited pursuant to this chapter as proof of owner's or operator's security; or

3797 (c) waive the requirement of filing proof, if the person on whose behalf the proof was
3798 filed dies or becomes permanently incapacitated to operate a motor vehicle or if the
3799 person who has given proof surrenders [his] the person's registration to the
3800 department, except that if [he] that person applies for a registration within three years
3801 from the date proof was originally required, the application shall be refused unless
3802 the applicant reestablishes proof of owner's or operator's security and maintains the
3803 proof for the remainder of the three-year period.

3804 (2)(a) The department may not consent to the cancellation of any bond or the return of
3805 any money or securities if any action for damages upon a liability covered by that

- 3806 proof is then pending, if:
- 3807 (i) any judgment of liability is unsatisfied; or
- 3808 (ii) the person who filed the bond or deposited the money or securities has, within
- 3809 one year immediately preceding the request, been involved as an operator or
- 3810 owner in any motor vehicle accident resulting in injury or damage to the person or
- 3811 property of others.
- 3812 (b) An affidavit of the applicant is sufficient evidence in the absence of contrary
- 3813 evidence in the records of the department if the affidavit declares:
- 3814 (i) the nonexistence of liability or accidents;
- 3815 (ii) that the person has been released from all liability; or
- 3816 (iii) that the person has been finally adjudicated not to be liable for the injury or
- 3817 damage.

3818 Section 175. Section **41-12a-503** is amended to read:

3819 **41-12a-503 . Conditions to license, registration, and privilege renewal.**

3820 The license, registration, and nonresident's operating privilege suspended under

3821 Subsection 41-12a-501(3) remain suspended and may not be renewed nor may that license or

3822 registration be issued until one of the following is satisfied:

- 3823 (1) The person deposits or has deposited on [his] that person's behalf the post-accident
- 3824 security required under Subsection 41-12a-501(1).
- 3825 (2) One year has elapsed following the effective date of the suspension and evidence
- 3826 satisfactory to the department has been filed that during that period no action for
- 3827 damages arising out of the accident has been commenced.
- 3828 (3) Evidence satisfactory to the department has been filed with it of a release from liability,
- 3829 of a final adjudication of nonliability, or of a duly acknowledged written agreement
- 3830 providing for the payment of an agreed amount in installments with respect to all claims
- 3831 for injuries or damages resulting from the accident. In the event of default in the
- 3832 payment of any installment under such an agreement, upon receiving notice of the
- 3833 default, the department shall suspend the license and registration or nonresident's
- 3834 operating privilege of the person defaulting. This license, registration, or nonresident's
- 3835 operating privilege may not be restored until either:
- 3836 (a) The person deposits and thereafter maintains security as required under Subsection
- 3837 41-12a-501(1).
- 3838 (b) One year has elapsed following the date when the security was required and during
- 3839 that period no action upon the agreement has been instituted in a Utah court.

3840 Section 176. Section **41-12a-506** is amended to read:

3841 **41-12a-506 . Application to persons without license or registration.**

3842 If the operator or the owner of a motor vehicle involved in an accident in Utah has no
3843 license or registration in Utah, or is a nonresident, [he] the operator or owner may not obtain a
3844 license or registration in Utah until [he] the operator or owner has complied with the
3845 requirements of this chapter to the extent that would be necessary if, at the time of the
3846 accident, [he] the operator or owner held a Utah license and registration.

3847 Section 177. Section **41-12a-507** is amended to read:

3848 **41-12a-507 . Cooperation with other states.**

3849 (1) When a nonresident's operating privilege is suspended under this chapter, the
3850 department shall send a certified copy of the record of the action to the official in charge
3851 of the issuance of licenses and registration certificates in the state in which the
3852 nonresident resides, if the law of the other state provides for action similar to that
3853 provided for in Subsection (2).

3854 (2) Upon receipt of certification from the official of another state that the operating
3855 privilege of a Utah resident has been suspended in the other state for failure to deposit
3856 post-accident security for the payment of judgments arising out of a motor vehicle
3857 accident, under circumstances which would require the deposit in Utah, the department
3858 shall suspend the license of the resident if [he] the resident was the operator, and all of [
3859 his] the resident's registrations if [he] the resident was the owner of a motor vehicle
3860 involved in the accident. These suspensions continue until the Utah resident furnishes
3861 evidence of [his] the resident's compliance with the law of the other state relating to the
3862 deposit of post-accident security.

3863 Section 178. Section **41-12a-509** is amended to read:

3864 **41-12a-509 . Custody and terms of post-accident security deposits.**

3865 Post-accident security deposited in compliance with Subsection 41-12a-501(1) shall be
3866 placed by the department in the custody of the state treasurer and may be applied only to the
3867 payment of judgments rendered against the persons on whose behalf the deposit was made, for
3868 damages arising out of the accident in question in an action at law, begun not later than one
3869 year after the date of the accident, or within one year after the date of deposit of any security
3870 under Subsection 41-12a-503(3)(a), or to the payment in settlement, agreed to by the depositor,
3871 of claims arising out of the accident. The deposit or any balance of it shall be returned to the
3872 depositor or [his] the depositor's personal representative when evidence satisfactory to the
3873 department has been provided that the conditions of either Subsection 41-12a-503(2) or (3)

3874 have been satisfied.

3875 Section 179. Section **41-12a-511** is amended to read:

3876 **41-12a-511 . Failure to satisfy judgment.**

- 3877 (1) Whenever any person fails within 60 days to satisfy any judgment, it is the duty of the
3878 clerk of the court or of the judge of a court which has no clerk in which any such
3879 judgment is rendered in Utah, upon the written request of the judgment creditor or [his]
3880 the creditor's attorney, to forward to the department immediately after the expiration of
3881 the 60 days, a certified copy of the judgment.
- 3882 (2) The department, upon the receipt of a certified copy of a judgment, shall suspend the
3883 license and registration and any nonresident's operating privilege of any person against
3884 whom the judgment was rendered, except as provided in Subsection (5) and Section
3885 41-12a-513.
- 3886 (3) Except as provided under Subsection (5) and Section 41-12a-513, a license, registration,
3887 and nonresident's operating privilege suspended under Subsection (2) remains suspended
3888 and may not be renewed nor may that license or registration be thereafter issued in the
3889 name of the same person, including a person not previously licensed, unless every such
3890 judgment is stayed or satisfied in full within the meaning of Section 41-12a-512, and
3891 until the person files proof of owner's or operator's security.
- 3892 (4) If the judgment debtor named in any certified copy of a judgment reported to the
3893 department is a nonresident, the department shall transmit a certified copy of the
3894 judgment to the official in charge of the issuance of licenses and registration certificates
3895 of the state of which the judgment debtor is a resident.
- 3896 (5) If the judgment creditor consents in writing, in a form the department prescribes, that
3897 the judgment debtor be allowed license and registration or nonresident's operating
3898 privilege, they may be allowed by the department for six months from the date of the
3899 consent and thereafter until that consent is revoked in writing, notwithstanding the
3900 default in the payment of the judgment or of any installments thereof prescribed in
3901 Section 41-12a-513, if the judgment debtor furnishes proof of owner's security.

3902 Section 180. Section **41-12a-604** is amended to read:

3903 **41-12a-604 . Suspension of license.**

- 3904 (1) A person convicted of a class A or a class B misdemeanor under this chapter, in
3905 addition to any other penalties which are imposed by law, shall have [his] the person's
3906 operator's license suspended by the department.
- 3907 (2) Whenever any person is convicted of an offense for which this chapter mandates the

3908 suspension of [his] that person's license or the registration of [his] that person's motor
 3909 vehicle, and that person does not produce proof of owner's or operator's security at the
 3910 time of [his] that person's appearance, the court in which the conviction takes place shall
 3911 require the surrender to it of all pertinent evidences of registration, including all
 3912 registration cards, license plates, nonresident temporary permits, and other similar
 3913 materials then held by the person so convicted. This court shall then forward the
 3914 registration materials to the Motor Vehicle Division of the State Tax Commission and
 3915 send the Driver License Division a record of the conviction. If the person so convicted
 3916 secures a judgment of acquittal or reversal of this conviction in any appellate court, the
 3917 department shall reinstate [his] that person's driver license or privilege and the Motor
 3918 Vehicle Division shall reinstate the registration of [his] that person's motor vehicle
 3919 immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

3920 (3) If the owner has surrendered the owner's registration materials to the Motor Vehicle
 3921 Division, the owner may, unless otherwise prohibited by law, apply for a new
 3922 registration, by providing proof of owner's security.

3923 Section 181. Section **42-3-1** is amended to read:

3924 **42-3-1 . Commissioner of agriculture and food to register names.**

3925 Any owner of a farm in this state may have the name of [his] the owner's farm, together
 3926 with a brief description of [his] the owner's lands to which such name applies, recorded in a
 3927 register kept for the purpose in the office of the commissioner of agriculture and food, and the
 3928 commissioner of agriculture and food shall furnish to such landowner a proper certificate
 3929 setting forth such name and a brief description of such lands. When any name shall have been
 3930 so recorded it shall not be recorded as the name of any other farm.

3931 Section 182. Section **45-2-2** is amended to read:

3932 **45-2-2 . Libel and slander defined.**

3933 As used in this chapter:

3934 (1) "Libel" means a malicious defamation, expressed either by printing or by signs or
 3935 pictures or the like, tending to blacken the memory of [one] an individual who is dead, or
 3936 to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of [
 3937 one] an individual who is alive, and thereby to expose [him] the individual to public
 3938 hatred, contempt or ridicule.

3939 (2) "Slander" means any libel communicated by spoken words.

3940 Section 183. Section **45-2-7** is amended to read:

3941 **45-2-7 . Limitations and restrictions -- Immune from liability -- Due care.**

3942 Except as provided in Section 45-2-1.5, nothing in this act contained shall be construed
3943 to relieve any person broadcasting over a radio or television station from liability under the
3944 law of libel, slander, or defamation. Nor shall anything else in this act be construed to relieve
3945 any person, firm, or corporation owning or operating a radio or television broadcasting station
3946 or network from liability under the law of libel, slander, or defamation on account of any
3947 broadcast prepared or made by any such person, firm, or corporation or by any officer or
3948 employee thereof in the course of ~~[his]~~ the officer's or employee's employment. In no event,
3949 however, shall any such person, firm, or corporation be liable for any damages for any
3950 defamatory statement or act published or uttered in or as a part of a visual or sound broadcast
3951 unless it shall be alleged and proved by the complaining party that such person, firm, or
3952 corporation has failed to exercise due care to prevent the publication or utterance of such
3953 statement or act in such broadcast. Bona fide compliance with any federal law or the regulation
3954 of any federal regulatory agency shall be deemed to constitute such due care as hereinabove
3955 mentioned.

3956 Section 184. Section **47-1-5** is amended to read:

3957 **47-1-5 . Order of abatement -- Execution -- Sale of personal property --**

3958 **Padlocking.**

3959 If the existence of the nuisance is established in an action as provided in this chapter, an
3960 order of abatement shall be entered as a part of the judgment in the case. The order shall direct
3961 the removal from the building or place of all fixtures, furniture, musical instruments, and
3962 movable property used in conducting the nuisance, and shall direct the sale thereof in the
3963 manner provided for the sale of chattels under execution, and shall further direct the effective
3964 closing of the building or place against its use for any purpose, and the keeping of it so closed
3965 for a period of one year, unless sooner released. If any person shall break and enter or use a
3966 building, structure, or place so directed to be closed, ~~[he]~~ that person shall be punished as for
3967 contempt as provided in Section 47-1-4. For removing and selling the movable property the
3968 officer shall be entitled to charge and receive the same fees as for levying upon and selling like
3969 property on execution; and for closing the premises and keeping them closed a reasonable sum
3970 shall be allowed by the court.

3971 Section 185. Section **47-2-6** is amended to read:

3972 **47-2-6 . Owners may reclaim -- Damages -- Taxes.**

3973 Any person owning any horses which are running at large in any county in which the
3974 county executive has given notice of intention to make a drive, as provided in this chapter,
3975 may within 30 days after the posting or the first publication of the notice mentioned in Section

3976 47-2-4 file with the county executive a description of such horses claimed by [him] the person,
 3977 giving the marks and brands, if any, which appear thereon, and, if the county executive shall
 3978 take into its possession any horses so claimed, it shall by registered letter addressed to the
 3979 owner or claimant of such horses notify [him] the owner or claimant that the same may be
 3980 claimed within 10 days from the mailing of such notice; and such owner or claimant shall be
 3981 permitted upon application to the county legislative body to take possession of such horses
 3982 upon payment of the expense of caring for the same from the date of capture. If any horses are
 3983 killed by order of the county executive under the provisions of this chapter, a description of
 3984 which has been reported by the owner thereof to the county legislative body, and ownership of
 3985 such animals can be satisfactorily established, such owner shall receive as damage therefor a
 3986 sum not exceeding \$10 for each animal; provided, that [he] the owner has paid all taxes
 3987 assessed against said animal; provided further, that payment of such claims may be made only
 3988 from proceeds of sales of captured horses.

3989 Section 186. Section **51-7-9** is amended to read:

3990 **51-7-9 . Quarterly reports by state treasurer -- Audit of accounts of state**
 3991 **treasurer -- Report of audit -- Employment of investment staff and services.**

3992 The state treasurer shall report not less often than quarterly to each participating state
 3993 officer, board, commission, institution, department, division, agency, or other similar
 3994 instrumentality, or political subdivision, the activities, investments, and performance of [his]
 3995 the state treasurer's office during the preceding period. The accounts of the state treasurer shall
 3996 be audited annually under the direction of the state auditor. The report of this audit shall be
 3997 open for inspection by the public in the offices of the state auditor and the state treasurer and a
 3998 copy of it shall be submitted to the legislature through the Office of the Legislative Fiscal
 3999 Analyst. The state treasurer is authorized, within the limits of available appropriations, to
 4000 employ such investment staff and secure such financial, investment, and other technical
 4001 services [he] the state treasurer considers necessary to properly carry out [his] the state
 4002 treasurer's responsibilities under this chapter.

4003 Section 187. Section **51-7-18.1** is amended to read:

4004 **51-7-18.1 . Qualified depositories list -- Reports -- Treatment of confidential**
 4005 **information -- Powers -- Staff -- Limits on powers.**

4006 (1)(a) The council shall provide a list of qualified depositories to each public treasurer at
 4007 least semiannually.

4008 (b) The list shall include:

4009 (i) the name of each qualified depository; and

- 4010 (ii) the maximum amount of public funds that each qualified depository is eligible to
4011 hold.
- 4012 (2) In determining the maximum amount of public deposits for a qualified depository, the
4013 council may not designate a maximum amount for any qualified depository that is more
4014 than twice that depository's capital as defined by council rule.
- 4015 (3)(a) The council may require each qualified depository to submit monthly reports to
4016 the commissioner of Financial Institutions disclosing the amount of public funds held
4017 by the depository at the close of business on a day designated by the council.
- 4018 (b) The council may also require the qualified depository to include in the report:
- 4019 (i) information about the character and condition of the qualified depository's assets;
4020 (ii) information about the qualified depository's deposits and other liabilities;
4021 (iii) information about the qualified depository's capital; and
4022 (iv) any other information that the council considers necessary in order for it to fulfill
4023 its responsibilities under this chapter.
- 4024 (c) The council shall require that any reports submitted be verified by the oath or
4025 affirmation of the president or vice-president of the qualified depository.
- 4026 (d) Any officer of a qualified depository who knowingly makes or causes to be made
4027 any false statement or report to the council or any false entry in the books or accounts
4028 of the qualified depository is guilty of a class A misdemeanor.
- 4029 (4)(a) Notwithstanding Section 7-1-802, the commissioner may disclose necessary
4030 information about the condition of any qualified depository to the council to assist it
4031 in evaluating the eligibility of any qualified depository to receive and hold public
4032 funds.
- 4033 (b) If the secretary of the council or any member of the council discloses confidential
4034 information obtained from the commissioner under this subsection, [~~he~~] the secretary
4035 or council member is guilty of a class A misdemeanor.
- 4036 (c) If any member of the council discloses confidential information obtained from the
4037 commissioner under this subsection, the governor shall remove [~~him~~] the council
4038 member from [~~his~~] the council member's position.
- 4039 (5) Upon the vote of at least three of the council members, the commissioner shall require
4040 any qualified depository to:
- 4041 (a) surrender deposits of public funds that exceed the amount that the qualified
4042 depository may legally hold under authority of this chapter and council rule; or
4043 (b) pledge collateral security for those excess deposits.

- 4044 (6)(a) If the commissioner orders the qualified depository to pledge collateral security
 4045 for the excess deposits, the collateral security pledged shall have a market value
 4046 determined upon the last day of the month of:
- 4047 (i) 110% of the amount of the excess deposits, if the collateral consists of obligations
 4048 of or fully guaranteed by the United States or its agencies as to principal and
 4049 interest, a segregated earmarked deposit account, or notes, drafts, bills of
 4050 exchange, or bankers' acceptances that are eligible for rediscount or purchase by a
 4051 federal reserve bank;
 - 4052 (ii) 120% of the amount of the excess deposits, if the collateral consists of obligations
 4053 of the state of Utah or any of its political subdivisions; and
 - 4054 (iii) 130% of the amount of the excess deposits, if the collateral consists of
 4055 obligations of other readily marketable bonds, notes, or debentures.
- 4056 (b) The qualified depository shall deposit any collateral pledged to secure excess
 4057 deposits with the state treasurer.
- 4058 (c) The state treasurer may not release the collateral until ~~he~~ the state treasurer has
 4059 received written confirmation from the commissioner that the qualified depository:
- 4060 (i) has relinquished the excess deposits; or
 - 4061 (ii) is in compliance with this chapter and council rules.
- 4062 (7) Any qualified depository that fails to comply with a written order issued by the
 4063 commissioner under authority of this section within 15 days of receipt of the order is
 4064 ineligible to receive or renew any deposits or investments of public funds until it
 4065 receives written authorization to do so from the council.
- 4066 (8) In addition to the requirements set forth by rule, in order to be certified as a qualified
 4067 depository as defined in Section 51-7-3, a depository institution shall pay to the
 4068 commissioner an annual certification fee of \$250 due April 1 of each year.
- 4069 Section 188. Section **53-7-211** is amended to read:
- 4070 **53-7-211 . Fire investigations by fire marshal.**
- 4071 (1) If the division is of the opinion that further investigation of a fire is necessary, the state
 4072 fire marshal, ~~his~~ or the state marshal's deputy or representative, may:
- 4073 (a) join the investigation in cooperation with the fire officers who have been conducting
 4074 it;
 - 4075 (b) upon the request of the chief fire official of the political subdivision, assume control
 4076 of the investigation and direct it; or
 - 4077 (c) conduct an independent investigation if necessary.

4078 (2) A fire officer who has conducted or is conducting the investigation shall cooperate in
4079 every possible way with the state fire marshal, [his] the state fire marshal's deputy, and
4080 the state fire marshal's representative to further the purpose of the investigation.

4081 (3) The county attorney or district attorney of the county in which the fire occurred shall,
4082 upon the request of the state fire marshal, [his] or the state fire marshal's deputy[,] or
4083 representative, assist in the investigation.

4084 Section 189. Section **53-7-212** is amended to read:

4085 **53-7-212 . Powers of fire marshal in respect to investigation.**

4086 In investigating any fire the state fire marshal and [his] the state fire marshal's deputy
4087 may:

4088 (1) subpoena witnesses;

4089 (2) compel their attendance and testimony; and

4090 (3) require the production of books, papers, documents, records, and other tangible items
4091 that constitute or may contain evidence relevant to the investigation in the judgment of
4092 the state fire marshal or [his] the state fire marshal's deputy.

4093 Section 190. Section **53-7-213** is amended to read:

4094 **53-7-213 . Criminal charges resulting from investigation -- Procedure.**

4095 If the state fire marshal, [his] or the state fire marshal's deputy[,] or representative, or any
4096 other officer participating in the investigation of any fire[-] believes that there is evidence
4097 sufficient to charge a person with arson, burning with intent to defraud or prejudice the insurer,
4098 or a similar crime, [~~he~~] the officer participating in the investigation shall furnish the county
4099 attorney or district attorney of the county in which the crime occurred with [his-]evidence and
4100 request the county attorney or district attorney to commence the proper procedures to charge
4101 the person with the appropriate crime.

4102 Section 191. Section **53-7-214** is amended to read:

4103 **53-7-214 . Insurance company reports of fires.**

4104 (1) The state fire marshal, [his] the state fire marshal's deputy, and investigator may, in
4105 writing, require any insurance company transacting business in this state to release to the
4106 state fire marshal all relevant information or evidence found important by the state fire
4107 marshal, [his] the state fire marshal's deputy, and investigator that the company may have
4108 in its possession, relating to any fire loss in this state in which the company has an
4109 insuring interest. Relevant information includes:

4110 (a) insurance policy information related to a fire loss under investigation and any
4111 application for the policy;

- 4112 (b) available policy premium payment records;
- 4113 (c) history of previous claims made by the insured; and
- 4114 (d) material relating to the investigation of the loss, including statements of any person,
- 4115 proof of loss, and any other evidence related to the investigation.
- 4116 (2)(a) Every insurance company transacting business in the state must file with the
- 4117 division a report of any fire of suspicious origin.
- 4118 (b) The report shall show:
- 4119 (i) the name of the insured;
- 4120 (ii) the location of the property burned;
- 4121 (iii) the probable cause of the fire;
- 4122 (iv) the occupancy of the property burned;
- 4123 (v) the construction of the building or structure burned;
- 4124 (vi) the market value of the property involved;
- 4125 (vii) the actual loss;
- 4126 (viii) the insurance carried;
- 4127 (ix) the insurance paid;
- 4128 (x) the apportionment of loss where more than one company was on the risk; and
- 4129 (xi) if a motor vehicle or building is involved in any fire loss, a description of the
- 4130 motor vehicle or building.
- 4131 (c) In case of a fire of suspicious or incendiary origin, a preliminary report shall be made
- 4132 immediately through some officer or representative of the insurance company,
- 4133 showing:
- 4134 (i) the name of the insured;
- 4135 (ii) the date of the fire;
- 4136 (iii) the location;
- 4137 (iv) occupancy; and
- 4138 (v) other facts and circumstances tending to establish the cause or origin of the fire.
- 4139 (3) All persons making an adjustment occasioned by a loss due to a fire of suspicious or
- 4140 incendiary origin in this state shall, upon written request, send to the division a copy of
- 4141 the final adjustment immediately after the adjustment is made, signed by the person
- 4142 making the adjustment.
- 4143 (4) Any insurance company or person acting in its behalf or any person making adjustments
- 4144 occasioned by a loss due to fire who releases information, whether oral or written,
- 4145 pursuant to Subsection (1), (2), or (3) is immune from any liability for the release of this

4146 information arising out of a civil action or penalty resulting from a criminal prosecution.

4147 Section 192. Section **53-9-112** is amended to read:

4148 **53-9-112 . Issuance of license and identification card to applicant -- License**
4149 **period -- Expiration of application -- Transfer of license prohibited.**

4150 (1) The commissioner shall issue a license to an applicant who complies with the provisions
4151 of this chapter. Each license issued under this chapter shall:

4152 (a) contain the name and address of the licensee and the number of the license, its
4153 agency, registrant, or apprentice license designation; and

4154 (b) be issued for a period of two years.

4155 (2) On the issuance of a license, an identification card shall:

4156 (a) be issued without charge to the licensee; and

4157 (b) state on its face whether the bearer holds an agency, registrant, or apprentice license.

4158 (3)(a) A registrant identification card shall state that the licensee is under the direction of
4159 a licensed agency and may not do investigative work independently for the public.

4160 (b) An apprentice identification card shall state that the licensee is under the direct
4161 supervision of a licensed agency and may not do investigative work independently
4162 for the public.

4163 (4) Upon request by any person, the licensee shall immediately identify the name, business
4164 address, and phone number of the licensed agency for which the licensee is an employee
4165 or independent contractor.

4166 (5)(a) On notification by the commissioner to an applicant that the license is not
4167 complete, or is not ready for issuance pending additional information, the applicant
4168 shall complete the application process and provide the additional information within
4169 90 days.

4170 (b) Failure to complete the process shall result in the application being cancelled and all
4171 fees forfeited.

4172 (c) Subsequent application by the same applicant requires the payment of all application
4173 and license fees prescribed in Section 53-9-111.

4174 (6) A licensee shall notify the commissioner of any change in the name or address of [his]
4175 the licensee's business within 60 days of the change and failure to so notify will result in
4176 the automatic suspension of the license. To relieve the suspension, the licensee must
4177 apply for reinstatement and pay the fee prescribed in Section 53-9-111.

4178 (7) A license issued under this chapter is not transferable or assignable.

4179 Section 193. Section **53-9-116** is amended to read:

4180 **53-9-116 . Divulging investigative information -- False reports prohibited.**

- 4181 (1) Except as otherwise provided by this chapter, a licensee may not divulge or release to
 4182 anyone other than [his] the licensee's client or employer the contents of an investigative
 4183 file acquired in the course of licensed investigative activity. However, the board shall
 4184 have access to investigative files if the client for whom the information was acquired, or [
 4185 his] the client's lawful representative, alleges a violation of this chapter by the licensee or
 4186 if the prior written consent of the client to divulge or release the information has been
 4187 obtained.
- 4188 (2) A licensee may not willfully make a false statement or report to a client, employer, the
 4189 board, or any authorized representative of the department, concerning information
 4190 acquired in the course of activities regulated by this chapter.
- 4191 (3) The licensee shall submit investigative reports to a client at times and in the manner
 4192 agreed upon between the licensee and the client.
- 4193 (4) Upon demand by the client, the licensee shall divulge to the client the results of an
 4194 investigation if payment in full has been tendered for the charges levied.
- 4195 (5) The licensee has full right to withdraw from any case and refund any portion of a
 4196 retainer for which investigative work has not been completed.

4197 Section 194. Section **53-10-206** is amended to read:

4198 **53-10-206 . Collection of information.**

4199 The commissioner and persons designated by [him] the commissioner may require all
 4200 peace officers, the warden of the state prison, the keeper of any jail or correctional institution,
 4201 or superintendent of the state hospital to obtain information that will aid in establishing the
 4202 records required to be kept.

4203 Section 195. Section **53-10-207** is amended to read:

4204 **53-10-207 . Peace officers, prosecutors, and magistrates to supply information to**
 4205 **state and F.B.I. -- Notification of arrest based on warrant.**

- 4206 (1) Every peace officer shall:
- 4207 (a) cause fingerprints of persons [he] the peace officer has arrested to be taken on forms
 4208 provided by the division and the Federal Bureau of Investigation;
- 4209 (b) supply information requested on the forms; and
- 4210 (c) forward without delay both copies to the division, which shall forward the F.B.I.
 4211 copy to the Identification Division of the Federal Bureau of Investigation.
- 4212 (2) If, after fingerprints have been taken in accordance with Subsection (1), the prosecutor
 4213 declines to prosecute, or investigative action as described in Section 77-2-3 is

4214 terminated, the prosecutor or law enforcement agency shall notify the division of this
4215 action within 14 working days.

4216 (3) At the preliminary hearing or arraignment of a felony case, the prosecutor shall ensure
4217 that each felony defendant has been fingerprinted and an arrest and fingerprint form is
4218 transmitted to the division. In felony cases where fingerprints have not been taken, the
4219 judge shall order the chief law enforcement officer of the jurisdiction or the sheriff of
4220 the county to:

4221 (a) cause fingerprints of each felony defendant to be taken on forms provided by the
4222 division;

4223 (b) supply information requested on the forms; and

4224 (c) forward without delay both copies to the division.

4225 (4) If an arrest is based upon information about the existence of a criminal warrant of arrest
4226 or commitment under Rule 6, Utah Rules of Criminal Procedure, every peace officer
4227 shall without delay notify the division of the service of each warrant of arrest or
4228 commitment, in a manner specified by the division.

4229 Section 196. Section **53-11-107** is amended to read:

4230 **53-11-107 . Licenses -- Classifications -- Prohibited acts.**

4231 (1) Licenses under this chapter are issued in the classifications of:

4232 (a) bail enforcement agent;

4233 (b) bail recovery agent; or

4234 (c) bail recovery apprentice.

4235 (2) A person may not:

4236 (a) act or assume to act as, or [~~represent himself~~] claim to be, a licensee unless [~~he~~] the
4237 person is licensed under this chapter; or

4238 (b) falsely represent that [~~he~~] the person is employed by a licensee.

4239 (3) The commissioner shall issue licenses to applicants who qualify for them under this
4240 chapter.

4241 (4) A license issued under this chapter is not transferable or assignable.

4242 Section 197. Section **53-11-108** is amended to read:

4243 **53-11-108 . Licensure -- Basic qualifications.**

4244 An applicant for licensure under this chapter shall meet the following qualifications:

4245 (1) An applicant shall be:

4246 (a) at least 21 years [~~of age~~] old;

4247 (b) a citizen or legal resident of the United States; and

- 4248 (c) of good moral character.
- 4249 (2) An applicant may not:
- 4250 (a) have been convicted of:
- 4251 (i) a felony;
- 4252 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;
- 4253 (iii) any act of personal violence or force on any person or convicted of threatening to
- 4254 commit any act of personal violence or force against another person;
- 4255 (iv) any act constituting dishonesty or fraud;
- 4256 (v) impersonating a peace officer; or
- 4257 (vi) any act involving moral turpitude;
- 4258 (b) be on probation, parole, community supervision, or named in an outstanding arrest
- 4259 warrant; or
- 4260 (c) be employed as a peace officer.
- 4261 (3) If previously or currently licensed in another state or jurisdiction, the applicant shall be
- 4262 in good standing within that state or jurisdiction.
- 4263 (4)(a) The applicant shall also have completed a training program of not less than 16
- 4264 hours that is approved by the board and includes:
- 4265 (i) instruction on the duties and responsibilities of a licensee under this chapter,
- 4266 including:
- 4267 (A) search, seizure, and arrest procedure;
- 4268 (B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and
- 4269 (C) specific duties and responsibilities regarding entering an occupied structure to
- 4270 carry out functions under this chapter;
- 4271 (ii) the laws and rules relating to the bail bond business;
- 4272 (iii) the rights of the accused; and
- 4273 (iv) ethics.
- 4274 (b) The program may be completed after the licensure application is submitted, but shall
- 4275 be completed before a license may be issued under this chapter.
- 4276 (5) If the applicant desires to carry a firearm as a licensee, the applicant shall:
- 4277 (a) successfully complete a course regarding the specified types of weapons [he] the
- 4278 applicant plans to carry. The course shall:
- 4279 (i) be not less than 16 hours;
- 4280 (ii) be conducted by any national, state, or local firearms training organization
- 4281 approved by the Criminal Investigations and Technical Services Division created

- 4282 in Section 53-10-103; and
- 4283 (iii) provide training regarding general familiarity with the types of firearms to be
- 4284 carried, including:
- 4285 (A) the safe loading, unloading, storage, and carrying of the types of firearms to
- 4286 be concealed; and
- 4287 (B) current laws defining lawful use of a firearm by a private citizen, including
- 4288 lawful self-defense, use of deadly force, transportation, and concealment; and
- 4289 (b) shall hold a valid license to carry a concealed weapon, issued under Section 53-5-704.
- 4290 Section 198. Section **53-11-111** is amended to read:
- 4291 **53-11-111 . Licensure -- Bail recovery agent -- Requirements and limitations.**
- 4292 (1)(a) In addition to the requirements in Sections 53-11-108 and 53-11-113, an applicant
- 4293 for licensure as a bail recovery agent shall meet all of the requirements under Section
- 4294 53-11-109, but instead of the experience requirement under Subsection
- 4295 53-11-109(1)(a), a bail recovery agent applicant shall have a minimum of 1,000
- 4296 hours of experience consisting of either actual bail recovery work, or work as a law
- 4297 enforcement officer for a federal, state, or local governmental agency.
- 4298 (b) The applicant shall substantiate the experience claimed under Subsection (1) as
- 4299 qualifying experience and shall provide:
- 4300 (i) the exact details as to the character and nature of the experience on a form
- 4301 prescribed by the department; and
- 4302 (ii) certification by the applicant's employers, which is subject to independent
- 4303 verification by the board.
- 4304 (c) If an applicant is unable to supply written certification of experience from an
- 4305 employer in whole or in part, an applicant may offer written certification from
- 4306 persons other than an employer covering the same subject matter for consideration by
- 4307 the board.
- 4308 (d) The burden of proving completion of the required experience is on the applicant.
- 4309 (2) An applicant for license renewal shall have completed not less than eight hours of
- 4310 continuing classroom instruction.
- 4311 (3) A bail recovery agent may work as a licensee under this chapter only as an employee of
- 4312 or as an independent contractor with a bail bond agency. A bail recovery agent may not:
- 4313 (a) advertise [~~his~~] the agent's services;
- 4314 (b) provide services as a licensee under this chapter directly for members of the public;
- 4315 or

4316 (c) employ or hire as independent contractors bail enforcement agents, bail recovery
4317 agents, or bail recovery apprentices.

4318 Section 199. Section **53-11-116** is amended to read:

4319 **53-11-116 . Issuance of license and card to applicant -- License period --**
4320 **Expiration of application -- Transfer of license prohibited.**

4321 (1)(a) The board shall issue a license to an applicant who complies with the provisions
4322 of this chapter.

4323 (b) Each license shall:

4324 (i) contain the name and address of the licensee, the classification of license, and the
4325 number of the license; and

4326 (ii) be issued for a period of two years.

4327 (2)(a) When the board issues the license, it shall also issue an identification card the
4328 design of which shall be approved by the commissioner in accordance with Section
4329 53-11-116.5.

4330 (b) The identification card shall be issued without charge to the licensee if an individual,
4331 or if the licensee is an agency, to each of its licensed employees and contract
4332 employees, and is evidence the licensee and [his] the licensee's employees and
4333 contract employees are licensed under this chapter.

4334 (3)(a) If an identification card issued to a person states on it any bail bond agencies for
4335 which the cardholder works, that person shall return the card to the employer upon
4336 termination of [his] the person's work relationship with the bail bond agency licensee.

4337 (b) Within five days the licensee shall mail or deliver the card to the commissioner for
4338 cancellation.

4339 (4)(a) When the commissioner notifies an applicant that licensure as a bail bond
4340 recovery agency is ready for issuance, the applicant shall complete the application
4341 process within 90 days.

4342 (b) Failure to complete the process results in cancellation of the application and
4343 forfeiture of all fees paid to that point.

4344 (c) Subsequent application by the same applicant requires the payment of all application
4345 and license fees prescribed in Section 53-11-115.

4346 (5) A bail bond agency licensee shall notify the commissioner of any change in the name or
4347 address of [his] the bail bond agency licensee's business and of any change of employees
4348 or contract employees within 30 days after the change.

4349 (6)(a) All new employees and contract employees of an agency who are licensed under

4350 this chapter shall submit applications on forms prescribed by the board.

4351 (b) Upon board approval, identification cards shall be issued without charge.

4352 Section 200. Section **53-11-122** is amended to read:

4353 **53-11-122 . Requirements during search and seizure -- Notification of law**
4354 **enforcement agency.**

4355 A bail enforcement agent, bail recovery agent, or bail recovery apprentice shall observe
4356 the following requirements before taking action authorized under this chapter:

4357 (1) identify himself or herself as a "bail enforcement agent," "bail recovery agent," or "bail
4358 recovery apprentice"; and

4359 (2) comply with the notification requirements of Section 53-11-123.

4360 Section 201. Section **53-11-123** is amended to read:

4361 **53-11-123 . Notification of local law enforcement.**

4362 (1)(a) A bail enforcement agent or bail recovery agent who is searching for or planning
4363 to apprehend a person shall notify the local law enforcement agency if the search or
4364 apprehension will be conducted in an occupied structure within that law enforcement
4365 agency's jurisdiction.

4366 (b) When possible, notification shall be provided before taking action, but always within
4367 24 hours of taking action.

4368 (c) When a bail enforcement agent or bail recovery agent is preparing to enter an
4369 occupied structure to carry out an arrest, [~~he~~] the agent shall verbally advise the local
4370 law enforcement agency of [~~his~~] the agent's location and intended action prior to
4371 acting.

4372 (2) A bail enforcement agent, bail recovery agent, and bail recovery apprentice shall each
4373 carry[~~with him~~] a written document providing proof and cause for the actions [~~he~~] the
4374 agent or apprentice is taking as a licensee, and shall make the document available to
4375 local law enforcement agencies upon request.

4376 Section 202. Section **53-13-113** is amended to read:

4377 **53-13-113 . Authority of peace officers to administer oaths.**

4378 A peace officer, as defined in Section 53-1-102, who is acting within the scope of [~~his or~~
-4379 ~~her~~] the peace officer's official duties may administer oaths.

4380 Section 203. Section **53B-13-102** is amended to read:

4381 **53B-13-102 . Definitions.**

4382 As used in this chapter:

4383 (1) "Bonds" means the bonds authorized to be issued by the board under this chapter, and

- 4384 may consist of bonds, notes, or debt obligations evidencing an obligation to repay
 4385 borrowed money and payable solely from revenues and other money of the board
 4386 pledged for repayment.
- 4387 (2) "Eligible borrower" means a person, or the parent of a person, who is eligible to borrow
 4388 under regulations applicable to the student loan program.
- 4389 (3) "Eligible institution" means an institution which is approved by the board and the
 4390 United States Secretary of Education for purposes of the guaranteed loan program.
- 4391 (4) "Obligations" means student loan notes and other debt obligations reflecting loans to
 4392 students which the board may take, acquire, buy, sell, or endorse under this chapter, and
 4393 may include a direct or indirect interest in the whole or any part of the notes or
 4394 obligations.
- 4395 (5) "Resolution," when used in relation to the issuance of bonds, means the resolution or
 4396 trust agreement securing the bonds.
- 4397 (6) "Student" means a person who, under rules promulgated by the board, is enrolled or
 4398 accepted for enrollment at an eligible institution and who is making suitable progress in [
 4399 his] the person's education toward obtaining a degree or other appropriate certification in
 4400 accordance with standards acceptable to the board.

4401 Section 204. Section **53B-13-110** is amended to read:

4402 **53B-13-110 . Default by board -- Appointment of a trustee -- Powers of the**
 4403 **trustee and bondholders.**

- 4404 (1) If the board defaults in the payment of principal of or interest on an issue of bonds after
 4405 the issue becomes due, whether at maturity or upon call for redemption, and the default
 4406 continues for 30 days, or if the board fails or refuses to comply with this chapter, or
 4407 defaults in an agreement made with the holders of an issue of bonds, the holders of 25%
 4408 of the aggregate principal amount of the bonds of the issue then outstanding, may
 4409 appoint a trustee to represent all holders of that issue of bonds for the purposes provided
 4410 in this section.
- 4411 (2) The trustee may, and upon written request of the holders of 25% of the aggregate
 4412 principal amount of the bonds of the issue then outstanding shall, in [his] the trustee's
 4413 own name by action or proceeding enforce all rights of the bondholders including the
 4414 following:
- 4415 (a) bringing an action to require the board to collect fees, charges, interest, and
 4416 amortization payments of loans made by it adequate to carry out the agreement as to,
 4417 or pledge of, the fees, charges, interest, and amortization payment on the loans and

- 4418 other properties;
- 4419 (b) bringing an action to require the board to carry out other agreements with the holders
- 4420 of the bonds and to perform its duties under this chapter;
- 4421 (c) bringing an action upon the bonds; or
- 4422 (d) bringing an action to require the board to account as if it were the trustee of an
- 4423 express trust for the holders of the bonds due and payable, and if all defaults are
- 4424 made good, then, with the consent of the holders of 25% of the principal amount of
- 4425 the issue of bonds then outstanding, to annul the declaration and its consequences.
- 4426 (3) The holders of bonds and the trustee authorized by this section shall have all of the
- 4427 rights to which they are entitled by virtue of provisions included in the bonds or
- 4428 otherwise available to them under law.

4429 Section 205. Section **53B-13-114** is amended to read:

4430 **53B-13-114 . Mandamus in Supreme Court -- Precedence.**

- 4431 (1) If an official required by the proceeding authorizing bonds under this chapter to sign the
- 4432 bonds refuses to affix [~~his~~] the official's signature to [~~them~~] the bonds, or if the attorney
- 4433 general refuses to certify the bonds as legal obligations, alleging illegality of the bonds,
- 4434 the board may bring an original action in mandamus in the Supreme Court of Utah.
- 4435 (2) The importance to the state and its inhabitants of the program of loans to eligible
- 4436 borrowers is such that this action brought in the Supreme Court should be given
- 4437 precedence over the other matters pending before the court, and the court is requested to
- 4438 give this action precedence and to render its decision concerning it at the earliest
- 4439 possible time.

4440 Section 206. Section **53C-1-301** is amended to read:

4441 **53C-1-301 . Director -- Term -- Compensation -- Removal from office.**

- 4442 (1)(a) The board, with the consent of the governor, shall select the director on the basis
- 4443 of outstanding professional qualifications pertinent to the purposes and activities of
- 4444 the trust.
- 4445 (b) If the governor withholds [~~his~~] consent from a candidate agreed upon by the board, [~~he~~]
- 4446 the governor shall give [~~his~~] reasons in writing to the board.
- 4447 (2) The director shall serve a term of four years, or until a successor is selected and
- 4448 qualified.
- 4449 (3) When a vacancy occurs in the office of the director, the vacancy shall be filled pursuant
- 4450 to Subsection (1) for the remainder of the term.
- 4451 (4)(a) The board:

- 4452 (i) shall establish the compensation of the director; and
 4453 (ii) annually report the director's compensation to the Legislature.
 4454 (b) The compensation and performance of the director shall be examined each year as
 4455 part of the board's budget review process.
 4456 (5)(a) The board may remove the director from office for cause by a majority vote of the
 4457 board.
 4458 (b)(i) The governor may petition the board for removal of the director for cause.
 4459 (ii) The board shall hold a hearing on the governor's petition within 60 days after its
 4460 receipt.
 4461 (iii) If after the hearing the board finds by a preponderance of the evidence cause for
 4462 removal, it shall remove the director from office by a majority vote.

4463 Section 207. Section **53C-2-412** is amended to read:

4464 **53C-2-412 . Land subject to federal mineral lease.**

- 4465 (1) With respect to any tract of land in which the trust acquires or has acquired any interest
 4466 subject to an outstanding federal mineral lease or prospecting permit, the lessee or
 4467 permittee may submit a petition seeking extension of the permit or lease or any other
 4468 action as may be necessary to give to the lessee or permittee any and all rights,
 4469 privileges, and benefits which [~~he~~] the lessee or permittee would have had under the
 4470 permit or lease had the trust not acquired its interest in the tract.
 4471 (2) In consideration of the voluntary termination by the federal lessee or permittee of [~~his~~]
 4472 the lease or permit as it relates to that tract, the director may issue to that lessee or
 4473 permittee a lease of the acquired tract or any portion of that tract for recovery of the
 4474 same mineral substances, granting the lessee or permittee all the rights, privileges, and
 4475 benefits with reference to that tract which [~~he~~] the lessee or permittee would have had by
 4476 reason of [~~his~~] the lessee's lease or permittee's permit from the United States had the state
 4477 not acquired its interest in the tract.

4478 Section 208. Section **53C-5-101** is amended to read:

4479 **53C-5-101 . Management of range resources.**

- 4480 (1) The director is responsible for the efficient management of all range resources on lands
 4481 under the director's administration, consistent with [~~his~~] the director's fiduciary duties of
 4482 financial support to the beneficiaries.
 4483 (2) This management shall be based on sound resource management principles.

4484 Section 209. Section **54-7-3** is amended to read:

4485 **54-7-3 . Subpoena -- Witness fees -- Depositions.**

- 4486 (1)(a) The commission and each commissioner may administer oaths, certify to all
4487 official acts, and issue subpoenas for the attendance of witnesses and the production
4488 of papers, waybills, books, accounts, documents, and other evidence in any inquiry,
4489 investigation, hearing, or proceeding in any part of the state.
- 4490 (b)(i) Each witness who appears by order of the commission or a commissioner shall
4491 receive the same fees and mileage for [~~his~~] the witness's attendance that are
4492 allowed by law to a witness in the district court.
- 4493 (ii) The party at whose request the witness is subpoenaed shall pay the witness and
4494 mileage fee.
- 4495 (iii) When any witness who has not been required to attend at the request of any party
4496 is subpoenaed by the commission, [~~his~~] the witness's fees and mileage shall be paid
4497 from the funds appropriated for the use of the commission in the same manner as
4498 other expenses of the commission are paid.
- 4499 (iv) Any witness subpoenaed, except one whose fees and mileage may be paid from
4500 the funds of the commission, may at the time of service, demand the fee to which [~~he~~]
4501 the witness is entitled for travel to and from the place at which [~~he~~] the witness
4502 is required to appear and one day's attendance.
- 4503 (v) If the witness demands the fees at the time of service and [~~they~~] the fees are not
4504 paid at that time, [~~he~~] the witness is not required to attend the hearing.
- 4505 (vi) All fees or mileage to which any witness is entitled under the provisions of this
4506 section may be collected by action instituted by the person to whom the fees are
4507 payable.
- 4508 (vii) No witness furnished with free transportation receives mileage for the distance [~~he~~]
4509 the witness may have traveled.
- 4510 (2) The commission or any commissioner or any party may in any investigation before the
4511 commission cause the depositions of witnesses residing within or without the state to be
4512 taken in the manner prescribed by law for depositions in civil actions in the district
4513 courts of this state, and may compel the attendance of witnesses and the production of
4514 books, waybills, documents, papers, and accounts.
- 4515 Section 210. Section **54-7-25** is amended to read:
- 4516 **54-7-25 . Violations by utilities -- Penalty.**
- 4517 (1) Any public utility that violates or fails to comply with this title or any rule or order
4518 issued under this title, in a case in which a penalty is not otherwise provided for that
4519 public utility, is subject to a penalty of not less than \$500 nor more than \$2,000 for each

4520 offense.

4521 (2) Any violation of this title or any rule or order of the commission by any corporation or
 4522 person is a separate and distinct offense. In the case of a continuing violation, each day's
 4523 continuance of the violation shall be a separate and distinct offense.

4524 (3) In construing and enforcing the provisions of this title relating to penalties, the act,
 4525 omission, or failure of any officer, agent, or employee of any public utility acting within
 4526 the scope of [his] the officer's, agent's, or employee's official duties or employment shall
 4527 in each case be deemed to be the act, omission, or failure of that public utility.

4528 Section 211. Section **56-1-21.5** is amended to read:

4529 **56-1-21.5 . Railroad special agents.**

4530 (1)(a) A railroad company may appoint one or more persons to be designated by the
 4531 railroad company as a railroad special agent for the protection of railroad property
 4532 and the protection of the persons and property of railroad passengers and employees.

4533 (b) While engaged in the conduct of employment, each appointed railroad special agent
 4534 may possess and exercise the powers of a special function officer.

4535 (c) The special function officer authority may be exercised only:

4536 (i) in the protection of passengers and employees on or about railroad premises and in
 4537 the protection of property belonging to passengers, or belonging to or under the
 4538 control of the railroad employing the special agents; and

4539 (ii) in preventing and making arrest for a violation of law upon the premises or in
 4540 connection with the property.

4541 (2)(a) A person appointed by a railroad company to act as a railroad special agent shall,
 4542 prior to appointment, meet the qualifications established for special function officers,
 4543 pursuant to Section 53-13-105, or as otherwise provided by law.

4544 (b)(i) Before the appointee performs any duties as a special agent, the railroad
 4545 company shall file the name of the appointee with the commissioner of the
 4546 Department of Public Safety.

4547 (ii) If the appointee meets qualifications for a special function officer, the
 4548 commissioner of the Department of Public Safety shall issue to the special agent a
 4549 certificate of authority to act as a peace officer, to continue in effect during [his]
 4550 the special agent's employment by the railroad unless revoked by the
 4551 commissioner for cause.

4552 (3)(a) A railroad company appointing a special agent is responsible for any liability
 4553 arising from the acts or omissions of the special agent within the scope of railroad

4554 employment, but is entitled to any defense to liability that may be available to other
 4555 peace officers.

4556 (b) Neither the state nor any of its political subdivisions is liable for any act or omission
 4557 of a railroad special agent.

4558 Section 212. Section **57-1-14** is amended to read:

4559 **57-1-14 . Form of mortgage -- Effect.**

4560 A mortgage of land may be substantially in ~~MORTGAGE~~ **MORTGAGE** form:

4561 ____ (here insert name), mortgagor, of ____ (insert place of residence), hereby
 4562 mortgages to ____ (insert name), mortgagee, of ____ (insert place of residence), for the sum of
 4563 ____ dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here
 4564 describe the premises).
 4565

4566 This mortgage is given to secure the following indebtedness (here state amount and form
 4567 of indebtedness, maturity, rate of interest, by and to whom payable, and where).

4568 The mortgagor agrees to pay all taxes and assessments on said premises, and the sum of
 4569 ____ dollars [attorneys'] attorney fee in case of foreclosure.

4570 Witness the hand of said mortgagor this _____(month\day\year).

4571 A mortgage when executed as required by law shall have the effect of a conveyance of
 4572 the land therein described, together with all the rights, privileges and appurtenances thereunto
 4573 belonging, to the mortgagee, [his] the mortgagee's heirs, assigns, and legal representatives, as
 4574 security for the payment of the indebtedness thereon set forth, with covenants from the
 4575 mortgagor of general warranty of title, and that all taxes and assessments levied and assessed
 4576 upon the land described, during the continuance of the mortgage, will be paid previous to the
 4577 day appointed for the sale of such lands for taxes; and may be foreclosed as provided by law
 4578 upon any default being made in any of the conditions thereof as to payment of either principal,
 4579 interest, taxes, or assessments.

4580 Section 213. Section **57-1-19** is amended to read:

4581 **57-1-19 . Trust deeds -- Definitions of terms.**

4582 As used in Sections 57-1-20 through 57-1-36:

- 4583 (1) "Beneficiary" means the person named or otherwise designated in a trust deed as the
 4584 person for whose benefit a trust deed is given, or [his] that person's successor in interest.
- 4585 (2) "Trustor" means the person conveying real property by a trust deed as security for the
 4586 performance of an obligation.
- 4587 (3) "Trust deed" means a deed executed in conformity with Sections 57-1-20 through
 4588 57-1-36 and conveying real property to a trustee in trust to secure the performance of an

4589 obligation of the trustor or other person named in the deed to a beneficiary.

4590 (4) "Trustee" means a person to whom title to real property is conveyed by trust deed, or [
4591 his] that person's successor in interest.

4592 (5) "Real property" has the same meaning as set forth in Section 57-1-1.

4593 (6) "Trust property" means the real property conveyed by the trust deed.

4594 Section 214. Section **57-1-37** is amended to read:

4595 **57-1-37 . Failure to disclose not a basis for liability.**

4596 (1) The failure of an owner of real property to disclose that the property being offered for
4597 sale is stigmatized is not a material fact that must be disclosed in the transaction of real
4598 property.

4599 (2) Neither an owner nor [his] the owner's agent is liable for failing to disclose that the
4600 property is stigmatized.

4601 Section 215. Section **57-2-13** is amended to read:

4602 **57-2-13 . Form for certificate of proof.**

4603 The certificate of proof shall be substantially in the following form, to wit:

4604 State of Utah, County of ____

4605 On this _____(month\day\year), before me personally appeared ____, personally
4606 known to me (or satisfactorily proved to me by the oath of ____, a competent and credible
4607 witness for that purpose, by me duly sworn) to be the same person whose name is subscribed
4608 to the above instrument as a witness thereto, who, being by me duly sworn, deposed and said [
-4609 ~~that he~~] _____ resides in ____, county of ____, and state of Utah; that [he] as a subscribing
_4610 witness was present and saw ____, personally known to [him] the subscribing witness to be the
4611 signer of the above instrument as a party thereto, sign and deliver the same, and heard [him] the
_4612 party acknowledge that [he] the party executed the same, and that [he, the deponent,] the
_4613 subscribing witness thereupon signed [his] his/her name as a subscribing witness thereto at the
4614 request of said ____.

4615 Section 216. Section **57-2a-2** is amended to read:

4616 **57-2a-2 . Definitions.**

4617 As used in this chapter:

4618 (1) "Acknowledged before me" means:

4619 (a) that the person acknowledging appeared before the person taking the
4620 acknowledgment;

4621 (b) [~~that he acknowledged he executed the document~~] that the person acknowledging
4622 executed the document;

- 4623 (c) that, in the case of:
- 4624 (i) a natural person, [~~he~~] the natural person executed the document for the purposes
- 4625 stated in it;
- 4626 (ii) a corporation, the officer or agent acknowledged [~~he~~] the officer or agent held the
- 4627 position or title set forth in the document or certificate, [~~he~~] the officer or agent
- 4628 signed the document on behalf of the corporation by proper authority, and the
- 4629 document was the act of the corporation for the purpose stated in it;
- 4630 (iii) a partnership, the partner or agent acknowledged [~~he~~] the partner or agent signed
- 4631 the document on behalf of the partnership by proper authority, and [~~he~~] the partner
- 4632 or agent executed the document as the act of the partnership for the purposes
- 4633 stated in it;
- 4634 (iv) a person acknowledging as principal by an attorney in fact, [~~he~~] that person
- 4635 executed the document by proper authority as the act of the principal for the
- 4636 purposes stated in it; or
- 4637 (v) a person acknowledging as a public officer, trustee, administrator, guardian, or
- 4638 other representative, [~~he~~] that person signed the document by proper authority, and [
- 4639 ~~he~~] that person executed the document in the capacity and for the purposes stated
- 4640 in it; and
- 4641 (d) that the person taking the acknowledgment:
- 4642 (i) either knew or had satisfactory evidence that the person acknowledging was the
- 4643 person named in the document or certificate; and
- 4644 (ii) in the case of a person executing a document in a representative capacity, either
- 4645 had satisfactory evidence or received the sworn statement or affirmation of the
- 4646 person acknowledging that the person had the proper authority to execute the
- 4647 document.
- 4648 (2) "Notarial act" means any act a notary public is authorized by state law to perform,
- 4649 including administering oaths and affirmations, taking acknowledgments of documents,
- 4650 and attesting documents.
- 4651 Section 217. Section **57-2a-3** is amended to read:
- 4652 **57-2a-3 . Persons authorized to perform notarial acts.**
- 4653 (1) Notarial acts performed in this state shall be performed by:
- 4654 (a) a judge or court clerk having a seal;
- 4655 (b) a notary public; or
- 4656 (c) a county clerk or county recorder.

- 4657 (2) The following persons authorized under the laws and regulations of other governments
 4658 may perform notarial acts outside this state for use in this state with the same effect as if
 4659 performed by a notary public of this state:
- 4660 (a) a notary public authorized to perform notarial acts in the place where the act is
 4661 performed;
- 4662 (b) a judge, clerk, or deputy clerk of any court of record in the place where the notarial
 4663 act is performed;
- 4664 (c) an officer of the foreign service of the United States, a consular agent, or any other
 4665 person authorized by regulation of the United States Department of State to perform
 4666 notarial acts in the place where the act is performed;
- 4667 (d) a commissioned officer in active service with the Armed Forces of the United States
 4668 and any other person authorized by regulation of the Armed Forces to perform
 4669 notarial acts if the notarial act is performed for any of [his] that person's dependents, a
 4670 merchant seaman of the United States, a member of the Armed Forces of the United
 4671 States, or any other person serving with or accompanying the Armed Forces of the
 4672 United States; or
- 4673 (e) any other person authorized to perform notarial acts in the place where the act is
 4674 performed.

4675 Section 218. Section **57-3-102** is amended to read:

4676 **57-3-102 . Record imparts notice -- Change in interest rate -- Validity of**
 4677 **document -- Notice of unnamed interests -- Conveyance by grantee.**

- 4678 (1) Each document executed, acknowledged, and certified, in the manner prescribed by this
 4679 title, each original document or certified copy of a document complying with Section
 4680 57-4a-3, whether or not acknowledged, each copy of a notice of location complying with
 4681 Section 40-1-4, and each financing statement complying with Section 70A-9a-502,
 4682 whether or not acknowledged shall, from the time of recording with the appropriate
 4683 county recorder, impart notice to all persons of their contents.
- 4684 (2) If a recorded document was given as security, a change in the interest rate in accordance
 4685 with the terms of an agreement pertaining to the underlying secured obligation does not
 4686 affect the notice or alter the priority of the document provided under Subsection (1).
- 4687 (3) This section does not affect the validity of a document with respect to the parties to the
 4688 document and all other persons who have notice of the document.
- 4689 (4) The fact that a recorded document recites only a nominal consideration, names the
 4690 grantee as trustee, or otherwise purports to be in trust without naming beneficiaries or

4691 stating the terms of the trust does not charge any third person with notice of any interest
4692 of the grantor or of the interest of any other person not named in the document.

4693 (5) The grantee in a recorded document may convey the interest granted to ~~[him]~~ the grantee
4694 free and clear of all claims not disclosed in the document in which ~~[he]~~ the grantee
4695 appears as grantee or in any other document recorded in accordance with this title that
4696 sets forth the names of the beneficiaries, specifies the interest claimed, and describes the
4697 real property subject to the interest.

4698 Section 219. Section **57-4a-4** is amended to read:

4699 **57-4a-4 . Presumptions.**

4700 (1) A recorded document creates the following presumptions regarding title to the real
4701 property affected:

4702 (a) the document is genuine and was executed voluntarily by the person purporting to
4703 execute it;

4704 (b) the person executing the document and the person on whose behalf it is executed are
4705 the persons they purport to be;

4706 (c) the person executing the document was neither incompetent nor a minor at any
4707 relevant time;

4708 (d) delivery occurred notwithstanding any lapse of time between dates on the document
4709 and the date of recording;

4710 (e) any necessary consideration was given;

4711 (f) the grantee, transferee, or beneficiary of an interest created or described by the
4712 document acted in good faith at all relevant times;

4713 (g) a person executing a document as an agent, attorney in fact, officer of an
4714 organization, or in a fiduciary or official capacity:

4715 (i) held the position ~~[he]~~ that the person executing the document purported to hold and
4716 acted within the scope of ~~[his]~~ that person's authority;

4717 (ii) in the case of an officer of an organization, was authorized under all applicable
4718 laws to act on behalf of the organization; and

4719 (iii) in the case of an agent, ~~[his]~~ the agent's agency was not revoked, and ~~[he]~~ the agent
4720 acted for a principal who was neither incompetent nor a minor at any relevant
4721 time;

4722 (h) a person executing the document as an individual:

4723 (i) was unmarried on the effective date of the document; or

4724 (ii) if it otherwise appears from the document that the person was married on the

4725 effective date of the document, the grantee was a bona fide purchaser and the
 4726 grantor received adequate and full consideration in money or money's worth so
 4727 that the joinder of the nonexecuting spouse was not required under Sections
 4728 75-2-201 through 75-2-207;

4729 (i) if the document purports to be executed pursuant to or to be a final determination in a
 4730 judicial or administrative proceeding, or to be executed pursuant to a power of
 4731 eminent domain, the court, official body, or condemnor acted within its jurisdiction
 4732 and all steps required for the execution of the document were taken; and

4733 (j) recitals and other statements of fact in a document, including without limitation
 4734 recitals concerning mergers or name changes of organizations, are true.

4735 (2) The presumptions stated in Subsection (1) arise even though the document purports only
 4736 to release a claim or to convey any right, title, or interest of the person executing it or the
 4737 person on whose behalf it is executed.

4738 Section 220. Section **57-8-6** is amended to read:

4739 **57-8-6 . Ownership and possession rights.**

4740 Each unit owner shall be entitled to the exclusive ownership and possession of [~~his~~] that
 4741 unit owner's unit. The owner of a time period condominium unit shall be entitled to the
 4742 exclusive ownership and possession of the physical unit to which [~~his~~] that owner's time period
 4743 relates and shall be entitled to the use and enjoyment of the common areas and facilities
 4744 during, but only during, such annually recurring part or parts of a year as describe and define
 4745 the time period unit concerned in the declaration.

4746 Section 221. Section **57-8-8** is amended to read:

4747 **57-8-8 . Compliance with covenants, bylaws and/or house rules and**
 4748 **administrative provisions.**

4749 Subject to reasonable compliance therewith by the manager and the management
 4750 committee, each unit owner shall reasonably comply with the covenants, conditions, and
 4751 restrictions as set forth in the declaration or in the deed to [~~his~~] that unit owner's unit, and with
 4752 the bylaws and/or house rules and with the administrative rules and regulations drafted
 4753 pursuant thereto, as either of the same may be lawfully amended from time to time, and failure
 4754 to comply shall be ground for an action to recover sums due for damages or injunctive relief or
 4755 both, maintainable by the manager or management committee on behalf of the unit owners, or
 4756 in a proper case, by an aggrieved unit owner.

4757 Section 222. Section **57-8-13.14** is amended to read:

4758 **57-8-13.14 . Easement rights -- Sales offices and model units -- Damage to**

4759 **property.**

- 4760 (1) Subject to any restrictions and limitations the declaration may specify, the declarant
4761 shall have a transferable easement over and on the common areas and facilities for the
4762 purpose of making improvements on the land within the project or on any additional
4763 land under the declaration and this act, and for the purpose of doing all things reasonably
4764 necessary and proper in connection with the same.
- 4765 (2) The declarant and [his] the declarant's duly authorized agents, representatives, and
4766 employees may maintain sales offices or model units on the land within the project if the
4767 declaration provides for the same and specifies the rights of the declarant about the
4768 number, size, location, and relocation of them. Any sales office or model unit which is
4769 not designated a unit by the declaration shall become a common area and facility as soon
4770 as the declarant ceases to be a unit owner, and the declarant shall cease to have any
4771 rights concerning it unless the sales office or model unit is removed immediately from
4772 the land included within the project in accordance with a right reserved in the
4773 declaration to make this removal.
- 4774 (3) To the extent that damage is inflicted on any part of the condominium project by any
4775 person or persons utilizing the easements reserved by the declaration or created by
4776 Subsections (1) and (2) of this section, the declarant, together with the person or persons
4777 causing the same, shall be jointly and severally liable for the prompt repair of the
4778 damage and for the restoration of the same to a condition compatible with the remainder
4779 of the condominium project.

4780 Section 223. Section **57-8-32.5** is amended to read:

4781 **57-8-32.5 . Property taken by eminent domain -- Allocation of award --**

4782 **Reallocation of interests.**

- 4783 (1) If any portion of the common areas and facilities is taken by eminent domain, the award
4784 for it shall be allocated to the unit owners in proportion to their respective undivided
4785 interests in the common areas and facilities.
- 4786 (2) If any units are taken by eminent domain, the undivided interest in the common areas
4787 and facilities appertaining to these units shall thenceforth appertain to the remaining
4788 units, being allocated to them in proportion to their respective undivided interests in the
4789 common areas and facilities. The court shall enter a decree reflecting the reallocation of
4790 undivided interests so produced, and the award shall include, without limitation, just
4791 compensation to the unit owner of any unit taken for [his] the unit owner's undivided
4792 interest in the common areas and facilities as well as for [his] the unit owner's unit.

- 4793 (3) If portions of any unit are taken by eminent domain, the court shall determine the fair
4794 market value of the portions of the unit not taken, and the undivided interest in the
4795 common areas and facilities appertaining to any such units shall be reduced, in the case
4796 of each unit, in proportion to the diminution in the fair market value of the unit resulting
4797 from the taking. The portions of undivided interest in the common areas and facilities
4798 thus divested from the unit owners of these units shall be reallocated among these units
4799 and the other units in the condominium project in proportion to their respective
4800 undivided interests in the common areas and facilities, with any units partially taken
4801 participating in the reallocation on the basis of their undivided interests as reduced in
4802 accordance with the preceding sentence. The court shall enter a decree reflecting the
4803 reallocation of undivided interests produced by this, and the award shall include, without
4804 limitation, just compensation to the unit owner of any unit partially taken for that portion
4805 of [his] the unit owner's undivided interest in the common areas and facilities divested
4806 from [him] the unit owner by operation of the first sentence of this Subsection (3), and
4807 not revested in [him] the unit owner by operation of the following sentence, as well as for
4808 that portion of [his] the unit owner's unit taken by eminent domain.
- 4809 (4) The court shall enter a decree reflecting the reallocation of undivided interests produced
4810 by this, and the award shall include, without limitation, just compensation to the unit
4811 owner of any unit partially taken for that portion of [his] the unit owner's undivided
4812 interest in the common areas and facilities divested from [him] the unit owner and also
4813 not revested in [him] the unit owner under this Subsection (4), as well as for that portion
4814 of [his] the unit owner's unit taken by eminent domain.
- 4815 (5) If, however, the taking of a portion of any unit makes it impractical to use the remaining
4816 portion of that unit for any lawful purpose permitted by the declaration, then the entire
4817 undivided interest in the common areas and facilities appertaining to that unit shall
4818 thenceforth appertain to the remaining units, being allocated to them in proportion to
4819 their respective undivided interest in the common areas and facilities, and the remaining
4820 portion of that unit shall thenceforth be a common area and facility. The court shall enter
4821 a decree reflecting the reallocation of undivided interests produced by this, and the
4822 award shall include, without limitation, just compensation to the unit owner of the unit
4823 for [his] the unit owner's entire undivided interest in the common areas and facilities and
4824 for [his] the unit owner's entire unit.

4825 Section 224. Section **57-12-6** is amended to read:

4826 **57-12-6 . Buildings, structures, or other improvements.**

- 4827 (1) Where any interest in real property is acquired, an equal interest in all buildings,
4828 structures, or other improvements located upon the real property so acquired and which
4829 is required to be removed from the real property or which is determined to be adversely
4830 affected by the use to which the real property will be put, shall be acquired.
- 4831 (2) For the purpose of determining the just compensation to be paid for any building,
4832 structure, or other improvement required to be acquired under Subsection (1), the
4833 building, structure, or other improvement shall be deemed to be a part of the real
4834 property to be acquired, notwithstanding the right or obligation of a tenant, as against the
4835 owner of any other interest in the real property, to remove the building, structure, or
4836 improvement at the expiration of ~~his~~ the tenant's term; and the fair market value which
4837 the building, structure, or improvement contributes to the fair market value of the
4838 property to be acquired, or the fair market value of the building, structure, or
4839 improvement for removal from the real property, whichever is the greater, shall be paid
4840 to the tenant therefor.
- 4841 (3) Payment for the buildings, structures, or improvements as set forth in Subsection (2)
4842 shall not result in duplication of any payments otherwise authorized by state law. No
4843 payment shall be made unless the owner of the land involved disclaims all interest in the
4844 improvements of the tenant. In consideration for any payment, the tenant shall assign,
4845 transfer, and release all ~~his~~ the tenant's right, title and interest in and to the
4846 improvements. Nothing with regard to this acquisition of buildings, structures, or other
4847 improvements shall be construed to deprive the tenants of any rights to reject payment
4848 and to obtain payment for these property interests in accordance with other laws of this
4849 state.

4850 Section 225. Section ~~57-12-7~~ is amended to read:

4851 **57-12-7 . Replacement property.**

- 4852 (1) No person shall be required to move or be relocated from land used for ~~his~~ the person's
4853 residence and acquired under any of the condemnation or eminent domain laws of this
4854 state until ~~he~~ the person has been offered a comparable replacement dwelling, including
4855 the curtilage, which is a decent, safe, clean, and sanitary dwelling, including the
4856 curtilage, adequate to accommodate the occupants, available on the private market, and
4857 reasonably accessible to public services and places of employment.
- 4858 (2) If a program or project cannot proceed to actual construction because comparable sale
4859 or rental housing is not available and cannot otherwise be made available, such action
4860 shall be taken as is necessary or appropriate to provide this housing by use of funds

4861 authorized for the project.

4862 (3) No person shall be required to move from [his] the person's dwelling, including the
4863 curtilage, after the effective date of this act because of any project of the agency, unless
4864 replacement housing is available to, and offered to the property owner.

4865 (4) The agency shall assist owners of small businesses and family farms in identifying
4866 replacement properties available on the private market, located within the jurisdiction of
4867 the agency.

4868 Section 226. Section **57-19-17** is amended to read:

4869 **57-19-17 . Administrative procedures.**

4870 (1) The director may summarily deny an application for registration under any of the
4871 provisions of Section 57-19-13 or 57-19-16. If a registration is denied, the applicant
4872 may, within 10 days after receipt of notice of the denial, request a hearing before an
4873 administrative law judge. The director shall schedule the hearing within 30 days after
4874 receipt of the applicant's request and give notice of the hearing in writing to the
4875 applicant, specifying the reasons for denial of the registration. If, as a result of the
4876 hearing, it is determined that the applicant is qualified to be registered, the registration
4877 shall be issued.

4878 (2) Before an existing registration is suspended or revoked, or a fine imposed, the director
4879 shall schedule a hearing before an administrative law judge and give notice in writing to
4880 the affected person as prescribed in Title 13, Chapter 1, Department of Commerce, and
4881 the rules of procedure for hearings before the Department of Commerce. If, as a result
4882 of the hearing, the administrative law judge finds that there has been a violation of this
4883 chapter, the registration shall be suspended or revoked, or a fine imposed, by written
4884 order of the director in concurrence with the executive director.

4885 (3) The developer or salesperson has the right to appear at the hearing, in person or by
4886 counsel, to be heard and to examine witnesses appearing in connection with the
4887 complaint. At the hearing, all witnesses shall be sworn by the administrative law judge,
4888 and stenographic notes or a tape recording of the proceeding shall be taken and filed as a
4889 part of the record in the case. Any party to the proceeding shall be furnished a copy of
4890 the stenographic notes or tape recording at a reasonable cost. The administrative law
4891 judge shall render a decision within 60 days after the completion of the hearing. The
4892 executive director and the director shall concurrently make the final decision and
4893 promptly notify the parties to the proceedings, in writing, of the ruling, order, or
4894 decision.

4895 (4) The developer or salesperson, or any person aggrieved, may appeal any adverse ruling,
4896 order, or decision of the executive director and the director to the district court for the
4897 county in which the hearing was held, within 30 days from the date of service of notice
4898 of the ruling, order, or decision upon ~~[him]~~ the developer, salesperson, or aggrieved
4899 person. At the time of filing the notice of appeal, the appellant shall file with the notice
4900 a bond for costs on appeal in the amount of \$200, conditioned to secure the payment of
4901 costs if the appeal is dismissed or the judgment affirmed.

4902 Section 227. Section **57-19-18** is amended to read:

4903 **57-19-18 . Investigation -- Publication.**

4904 (1) The director may make any investigations or requests for information, within or outside
4905 of this state, that ~~[he]~~ the director considers necessary:

4906 (a) to determine whether any registration under this chapter should be granted, denied,
4907 or revoked;

4908 (b) to determine whether any person has violated or is about to violate any of the
4909 provisions of this chapter or any rule or order under this chapter; or

4910 (c) to aid in the enforcement of this chapter.

4911 (2) The director may publish information concerning any violation of this chapter or any
4912 rule or order under this chapter.

4913 Section 228. Section **57-19-23** is amended to read:

4914 **57-19-23 . Prosecution.**

4915 The director may refer any available evidence concerning violations of this chapter or of
4916 any rule or order under this chapter to the attorney general or the proper prosecuting attorney,
4917 who may, in ~~[his]~~ the attorney's discretion, with or without such a referral, institute the
4918 appropriate civil or criminal proceedings under this chapter.

4919 Section 229. Section **57-22-3** is amended to read:

4920 **57-22-3 . Duties of owners and renters -- Generally.**

4921 (1) Each owner and ~~[his]~~ the owner's agent renting or leasing a residential rental unit shall
4922 maintain that unit in a condition fit for human habitation and in accordance with local
4923 ordinances and the rules of the board of health having jurisdiction in the area in which
4924 the residential rental unit is located. Each residential rental unit shall have electrical
4925 systems, heating, plumbing, and hot and cold water.

4926 (2) Each renter shall cooperate in maintaining ~~[his]~~ the renter's residential rental unit in
4927 accordance with this chapter.

4928 (3) This chapter does not apply to breakage, malfunctions, or other conditions which do not

4929 materially affect the physical health or safety of the ordinary renter.

4930 (4) Any duty in this act may be allocated to a different party by explicit written agreement
4931 signed by the parties.

4932 Section 230. Section **58-1-105** is amended to read:

4933 **58-1-105 . Employment of staff.**

4934 The director, with the approval of the executive director, may employ necessary staff,
4935 including specialists and professionals, to assist ~~[him]~~ the director in performing the duties,
4936 functions, and responsibilities of the division.

4937 Section 231. Section **58-3a-603** is amended to read:

4938 **58-3a-603 . Seal -- Authorized use.**

4939 ~~[(1)]~~ An architect may only affix the architect's seal to a plan and a specification when the
4940 plan and the specification:

4941 ~~[(a)]~~ (1) was personally prepared by the architect;

4942 ~~[(b)]~~ (2) was prepared by an employee, subordinate, associate, or drafter under the
4943 supervision of a licensee, provided the licensee or a principal affixing ~~[his]~~ the seal
4944 assumes responsibility;

4945 ~~[(c)]~~ (3) was prepared by a licensed architect, professional engineer, or professional
4946 structural engineer in this state or any other state provided:

4947 ~~[(i)]~~ (a) the licensee in this state affixing the seal performs a thorough review of all work
4948 for compliance with all applicable laws and rules and the standards of the profession;
4949 and

4950 ~~[(ii)]~~ (b) makes any necessary corrections before submitting the final plan and
4951 specification:

4952 ~~[(A)]~~ (i) to a building official for the purpose of obtaining a building permit; or

4953 ~~[(B)]~~ (ii) to a client who has contracted with an architect for the design of a building,
4954 when the architect represents, or could reasonably expect the client to consider,
4955 the plans and a specification to be complete and final;

4956 ~~[(d)]~~ (4) was prepared in part by a licensed architect, professional engineer, or professional
4957 structural engineer in this state or any other state provided:

4958 ~~[(i)]~~ (a) the licensee in this state clearly identifies that portion of the plans and
4959 specification for which the licensee is responsible;

4960 ~~[(ii)]~~ (b) the licensee in this state affixing the seal performs a thorough review of that
4961 portion of the plan and specification for which the licensee is responsible for
4962 compliance with the standards of the profession; and

4963 [(iii)] (c) makes any necessary corrections before submitting the final plan and
 4964 specification for which the licensee is responsible:
 4965 [(A)] (i) to a building official for the purpose of obtaining a building permit; or
 4966 [(B)] (ii) to a client who has contracted with an architect for the design of a building,
 4967 when the architect represents, or could reasonably expect the client to consider,
 4968 the plans and specifications to be complete and final;
 4969 [(e)] (5) was prepared by a person exempt from licensure as an architect, professional
 4970 engineer, or professional structural engineer provided that:
 4971 [(f)] (a) the licensee in this state affixing the seal performs a thorough review for
 4972 compliance with all applicable laws and rules and the standards of the profession; and
 4973 [(iii)] (b) makes any necessary corrections before submitting the final plan and
 4974 specification:
 4975 [(A)] (i) to a building official for the purpose of obtaining a building permit; or
 4976 [(B)] (ii) to a client who has contracted with an architect for the design of a building,
 4977 when the architect represents, or could reasonably expect the client to consider,
 4978 the plan and specification to be complete and final; or
 4979 [(f)] (6) meet any additional requirements established by rule by the division in
 4980 collaboration with the board.

4981 Section 232. Section **58-16a-201** is amended to read:

4982 **58-16a-201 . Creation of board -- Board duties and functions.**

- 4983 (1) There is created an Optometrist Licensing Board consisting of five optometrists and two
 4984 members from the general public who do not provide eye care services.
- 4985 (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- 4986 (3) The board's duties and responsibilities shall be in accordance with Sections 58-1-202
 4987 and 58-1-203, and as provided under this Subsection (3).
- 4988 (4) The board shall designate one of its members on a permanent or rotating basis to:
 4989 (a) assist the division in reviewing complaints concerning the unlawful or unprofessional
 4990 conduct of a licensee; and
 4991 (b) advise the division in its investigation of these complaints.
- 4992 (5) A board member who has, under Subsection (4), reviewed a complaint or advised in its
 4993 investigation may be disqualified from participating with the board when the board
 4994 serves as a presiding officer in an adjudicative proceeding concerning the complaint.
 4995 The board member may be disqualified:
 4996 (a) on [his] the board member's own motion, due to actual or perceived bias or lack of

- 4997 objectivity; or
- 4998 (b) upon challenge for cause raised on the record by any party to the adjudicative
- 4999 proceeding.
- 5000 Section 233. Section **58-16a-701** is amended to read:
- 5001 **58-16a-701 . Form of practice.**
- 5002 (1) An optometrist licensed under this chapter may engage in practice as an optometrist or
- 5003 in the practice of optometry only as an individual licensee. However, as an individual
- 5004 licensee[~~he~~] , the optometrist may be:
- 5005 (a) an individual operating as a business proprietor;
- 5006 (b) an employee of another person or corporation;
- 5007 (c) a partner in a lawfully organized partnership;
- 5008 (d) a lawfully formed professional corporation;
- 5009 (e) a lawfully organized limited liability company;
- 5010 (f) a lawfully organized business corporation; or
- 5011 (g) any other form of organization recognized by the state and which is not prohibited by
- 5012 division rule made in collaboration with the board.
- 5013 (2) Regardless of the form in which a licensee engages in the practice of optometry, the
- 5014 licensee may only permit the practice of optometry in that form of practice to be
- 5015 conducted by an individual:
- 5016 (a) licensed in Utah as an optometrist under Section 58-16a-301; and
- 5017 (b) who is able to lawfully and competently engage in the practice of optometry.
- 5018 Section 234. Section **58-22-603** is amended to read:
- 5019 **58-22-603 . Seal -- Authorized use.**
- 5020 (1) A professional engineer or professional structural engineer may only affix the licensee's
- 5021 seal to a plan, specification, and report when the plan, specification, and report:
- 5022 (a) was personally prepared by the licensee;
- 5023 (b) was prepared by an employee, subordinate, associate, or drafter under the
- 5024 supervision of a licensee, provided the licensee or a principal affixing [~~his~~] the seal
- 5025 assumes responsibility;
- 5026 (c) was prepared by a licensed professional engineer, professional structural engineer, or
- 5027 architect in this state or any other state provided:
- 5028 (i) the licensee in this state affixing the seal performs a thorough review of all work
- 5029 for compliance with all applicable laws and rules and the standards of the
- 5030 profession; and

- 5031 (ii) makes any necessary corrections before submitting the final plan, specification, or
5032 report:
- 5033 (A) to a building official for the purpose of obtaining a building permit; or
5034 (B) to a client who has contracted with a professional engineer or professional
5035 structural engineer for the design of a building or structure, when the licensee
5036 represents, or could reasonably expect the client to consider, the plan,
5037 specification, or report to be complete and final;
- 5038 (d) was prepared in part by a licensed professional engineer, professional structural
5039 engineer, or architect in this state or any other state provided:
- 5040 (i) the licensee in this state clearly identifies that portion of the plan, specification, or
5041 report for which the licensee is responsible;
- 5042 (ii) the licensee in this state affixing the seal performs a thorough review of that
5043 portion of the plan, specification, or report for which the licensee is responsible
5044 for compliance with the standards of the profession; and
- 5045 (iii) makes any necessary corrections before submitting the final plan, specification,
5046 or report for which the licensee is responsible:
- 5047 (A) to a building official for the purpose of obtaining a building permit; or
5048 (B) to a client who has contracted with a professional engineer or professional
5049 structural engineer for the design of a building or structure, when the licensee
5050 represents, or could reasonably expect the client to consider, the plans,
5051 specifications, or reports to be complete and final;
- 5052 (e) was prepared by a person exempt from licensure as a professional engineer,
5053 professional structural engineer, or architect provided that:
- 5054 (i) the licensee in this state affixing the seal performs a thorough review for
5055 compliance with all applicable laws and rules and the standards of the profession;
5056 and
- 5057 (ii) makes any necessary corrections before submitting the final plan, specification, or
5058 report:
- 5059 (A) to a building official for the purpose of obtaining a building permit; or
5060 (B) to a client who has contracted with a professional engineer, professional
5061 structural engineer, or architect for the design of a building or structure, when
5062 the licensee represents, or could reasonably expect the client to consider, the
5063 plan, specification, or report to be complete and final; or
- 5064 (f) meet any additional requirements established by rule by the division in collaboration

5065 with the board.

5066 (2) A professional land surveyor may only affix the licensee's seal to a plan, map, sketch,
5067 survey, drawing, document, plat, and report when the plan, map, sketch, survey,
5068 drawing, document, plat, and report:

5069 (a) was personally prepared by the licensee; or

5070 (b) was prepared by an employee, subordinate, associate, or drafter under the
5071 supervision of a professional land surveyor, provided the professional land surveyor
5072 or a principal affixing ~~his~~ the seal assumes responsibility.

5073 Section 235. Section **58-31b-801** is amended to read:

5074 **58-31b-801 . Practice within limits of competency.**

5075 (1) Each person licensed under this chapter is responsible for confining ~~his~~ the person's
5076 practice as a nurse to those acts and practices permitted by law.

5077 (2) A person licensed under this act may not engage in any act or practice for which ~~he~~ the
5078 person is not competent.

5079 Section 236. Section **58-37-15** is amended to read:

5080 **58-37-15 . Burden of proof in proceedings on violations -- Enforcement officers**
5081 **exempt from liability.**

5082 (1) It is not necessary for the state to negate any exemption or exception set forth in this act
5083 in any complaint, information, indictment or other pleading or trial, hearing, or other
5084 proceeding under this act, and the burden of proof of any exemption or exception is
5085 upon the person claiming its benefit.

5086 (2) In absence of proof that a person is the duly authorized holder of an appropriate license,
5087 registration, order form, or prescription issued under this act, ~~he~~ a person shall be
5088 presumed not to be the holder of a license, registration, order form, or prescription, and
5089 the burden of proof is upon ~~him~~ the person to rebut the presumption.

5090 (3) No liability shall be imposed upon any duly authorized state or federal officer engaged
5091 in the enforcement of this act who is engaged in the enforcement of any law, municipal
5092 ordinance, or regulation relating to controlled substances.

5093 Section 237. Section **58-41-16** is amended to read:

5094 **58-41-16 . Privileged communication.**

5095 A person licensed under this chapter may not be examined or required to reveal any
5096 findings, examinations, or representation made ~~by his client to him~~ to the licensed person by
5097 the licensed person's client, or any advice or treatment given to ~~his~~ the client in the course of
5098 professional practice, without the consent of ~~his~~ the client or the client's representative. A

5099 person employed by a person licensed under this chapter may not be examined without the
5100 consent of the employer concerning any fact of which the employee has acquired knowledge in [
-5101 his] the employee's professional capacity.

5102 Section 238. Section **58-49-7** is amended to read:

5103 **58-49-7 . Certificates -- Display -- Surrender.**

5104 (1) Any person who meets the certification qualifications of this chapter shall receive a
5105 certificate stating that [~~he~~] the person has met these qualifications.

5106 (2) Each certified dietitian shall:

5107 (a) display the certificate in an appropriate, conspicuous, and public manner; and

5108 (b) keep the division informed of [~~his~~] the certified dietitian's current address.

5109 (3) A certificate issued by the division is the property of the division and shall be
5110 surrendered on demand.

5111 Section 239. Section **58-50-5** is amended to read:

5112 **58-50-5 . Qualifications for licensure.**

5113 An applicant for licensure as a private probation provider shall:

5114 (1) have a baccalaureate degree in a program approved by the division in collaboration with
5115 the board or have a combination of equivalent education and training as determined by
5116 the division in collaboration with the board;

5117 (2) submit evidence that a business license to engage in private probation has been issued
5118 by the political subdivision of the state in which the applicant intends to establish [~~his~~] a
5119 business office or offices; and

5120 (3) apply for licensure and pay the required fees.

5121 Section 240. Section **58-55-601** is amended to read:

5122 **58-55-601 . Payment -- Account designated.**

5123 When making any payment to a materialman, supplier, contractor, or subcontractor with
5124 whom [~~he~~] a contractor has a running account, or with whom [~~he~~] the contractor has more than
5125 one contract, or to whom [~~he~~] the contractor is otherwise indebted, the contractor shall
5126 designate the contract under which the payment is made or the items of account to which it is
5127 to be applied. When a payment for materials or labor is made to a subcontractor or
5128 materialman, the subcontractor or materialman shall demand of the person making the
5129 payment a designation of the account and the items of account to which the payment is to
5130 apply. In cases where a lien is claimed for materials furnished or labor performed by a
5131 subcontractor or materialman, it is a defense to the claim that a payment was made by the
5132 owner to the contractor for the materials and was so designated and paid over to the

5133 subcontractor or materialman, if when the payment was received by the subcontractor or
 5134 materialman, [he] the subcontractor or materialman did not demand a designation of the
 5135 account and of the items of account to which the payment was to be applied.

5136 Section 241. Section **58-55-603** is amended to read:

5137 **58-55-603 . Payment to subcontractors and suppliers.**

- 5138 (1) When a contractor receives any construction funds from an owner or another contractor
 5139 for work performed and billed, [he] the contractor receiving funds shall pay each of [his]
 5140 that contractor's subcontractors and suppliers in proportion to the percentage of the work
 5141 they performed under that billing, unless otherwise agreed by contract.
- 5142 (2) If, under this section and without reasonable cause, or unless otherwise agreed by
 5143 contract, the contractor fails to pay for work performed by [his] subcontractors or
 5144 suppliers within 30 consecutive days after receiving construction funds from the owner
 5145 or another contractor for work performed and billed, or after the last day payment is due
 5146 under the terms of the billing, whichever is later, [he] the contractor receiving funds shall
 5147 pay to the subcontractor or supplier, in addition to the payment, interest in the amount of
 5148 1% per month of the amount due, beginning on the day after payment is due, and
 5149 reasonable costs of any collection and [attorney's] attorney fees.
- 5150 (3) When a subcontractor receives any construction payment under this section,
 5151 Subsections (1) and (2) apply to that subcontractor.

5152 Section 242. Section **58-67-802** is amended to read:

5153 **58-67-802 . Form of practice.**

- 5154 (1) A physician and surgeon licensed under this chapter may engage in practice as a
 5155 physician and surgeon, or in the practice of medicine only as an individual licensee; but
 5156 as an individual licensee, [he] a physician and surgeon may be:
- 5157 (a) an individual operating as a business proprietor;
 - 5158 (b) an employee of another person;
 - 5159 (c) a partner in a lawfully organized partnership;
 - 5160 (d) a lawfully formed professional corporation;
 - 5161 (e) a lawfully organized limited liability company;
 - 5162 (f) a lawfully organized business corporation; or
 - 5163 (g) any other form of organization recognized by the state which is not prohibited by
 5164 division rule made in collaboration with the board.
- 5165 (2) Regardless of the form in which a licensee engages in the practice of medicine, the
 5166 licensee may only permit the practice of medicine in that form of practice to be

5167 conducted by an individual:

- 5168 (a) licensed in Utah as a physician and surgeon under Section 58-67-301 or as an
5169 osteopathic physician and surgeon under Section 58-68-301; and
5170 (b) who is able to lawfully and competently engage in the practice of medicine.

5171 Section 243. Section **58-69-804** is amended to read:

5172 **58-69-804 . Form of practice.**

5173 (1) A dentist licensed under this chapter may engage in practice as a dentist, or in the
5174 practice of dentistry only as an individual licensee, but as an individual licensee, [~~he~~] the
5175 individual licensee may be:

- 5176 (a) an individual operating as a business proprietor;
5177 (b) an employee of another person;
5178 (c) a partner in a lawfully organized partnership;
5179 (d) a lawfully formed professional corporation;
5180 (e) a lawfully organized limited liability company;
5181 (f) a lawfully organized business corporation; or
5182 (g) any other form of organization recognized by the state which is not prohibited by
5183 rule adopted by division rules made in collaboration with the board.

5184 (2) Regardless of the form in which a licensee engages in the practice of dentistry, the
5185 licensee may not permit another person who is not licensed in Utah as a dentist and is
5186 not otherwise competent to engage in the practice of dentistry to direct, or in any other
5187 way participate in, or interfere in the licensee's practice of dentistry.

5188 Section 244. Section **59-1-701** is amended to read:

5189 **59-1-701 . Grounds for termination and jeopardy assessment -- Notice --**
5190 **Collection -- Reopening period -- Bond.**

5191 (1) If the commission finds that a taxpayer intends quickly to depart from this state or to
5192 remove [~~his~~] the taxpayer's property therefrom, or to conceal [~~himself or his~~] the taxpayer
5193 or the taxpayer's property therein, or to do any other act (including in the case of a
5194 taxpayer selling or otherwise distributing all or a part of its assets in liquidation or
5195 otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings
5196 to collect any tax or penalty in lieu of tax for the current or the preceding taxable period,
5197 unless such proceedings be brought without delay, the commission may declare the
5198 taxable period for such taxpayer immediately terminated whether or not the time
5199 otherwise allowed by law for filing returns and paying the liability has expired. The
5200 commission shall immediately make a determination of tax for the current taxable period

5201 or for the preceding period, or both, and notwithstanding any other provision of law, the
 5202 tax shall become immediately due and payable. The commission shall immediately
 5203 assess the amount of the tax so determined (together with all interest, penalties,
 5204 additional amounts, and additions to the tax provided by law) for the current taxable
 5205 period or such preceding taxable period, or both, and shall give the notice of
 5206 determination and assessment to the taxpayer, together with a demand for immediate
 5207 payment of the tax.

5208 (2) In the case of a current taxable period, the commission shall determine the tax for the
 5209 period beginning on the first day of the current taxable period and ending on the date of
 5210 the determination under Subsection (1) as though the period were a taxable period of the
 5211 taxpayer. The commission shall take into account any prior determination made under
 5212 this subsection with respect to such current taxable period. Any amounts collected as a
 5213 result of any assessments under this subsection shall be treated as a partial payment of
 5214 tax for the taxable period.

5215 (3) Notwithstanding the termination of the taxable period of the taxpayer as provided in
 5216 Subsection (1), the commission may reopen such taxable period each time the taxpayer
 5217 is found by the commission to have incurred additional liabilities, within the current
 5218 taxable period, since the termination of such period. A taxable period so terminated by
 5219 the commission may be reopened by the taxpayer if ~~[he]~~ the taxpayer files a true and
 5220 accurate return, as required under ~~[Title 59, Chapter 2, Property Tax Act,]~~ Chapter 2,
 5221 Property Tax Act, Chapter 7, Corporate Franchise and Income Taxes, Chapter 10,
 5222 Individual Income Tax Act, or Chapter 12, Sales and Use Tax Act, for the taxable
 5223 period, together with such other information as the commission may by rule prescribe.

5224 (4) Payment of taxes may not be enforced by any proceedings under Subsection (1) prior to
 5225 the expiration of the time otherwise allowed for paying such taxes if the taxpayer
 5226 furnishes, under rules prescribed by the commission, a bond to ensure the timely making
 5227 of returns with respect to, and payment of, the taxes, penalties, or interest for prior
 5228 periods.

5229 Section 245. Section **59-1-707** is amended to read:

5230 **59-1-707 . Writ of mandate requiring taxpayer to file return.**

5231 (1)(a) If a taxpayer fails to file any return required pursuant to ~~[Title 59, Revenue and~~
 5232 ~~Taxation,]~~ this title within 60 days of the time prescribed, the commission may
 5233 petition for a writ of mandate to compel the taxpayer to file the return. The petition
 5234 may be filed, in the discretion of the commission, in the Tax Division of the Third

5235 Judicial District or in the district court for the county in which the taxpayer resides or
5236 has [his] a principal place of business. In the case of a nonresident taxpayer the
5237 petition shall be filed in the Third District Court.

5238 (b) The court shall grant a hearing on the petition for a writ of mandate within 20 days
5239 after the filing of the petition or as soon thereafter as the court may determine, having
5240 regard for the rights of the parties and the necessity of a speedy determination of the
5241 petition.

5242 (c) Upon a finding of failure to file a return within 60 days of the time prescribed
5243 pursuant to [~~Title 59, Revenue and Taxation,~~] this title the court shall issue a writ of
5244 mandate requiring the taxpayer to file a return. The order of the court shall include
5245 an award of [~~attorneys' fees~~] attorney fees, court costs, witness fees, and all other
5246 costs in favor of the prevailing party.

5247 (2) Nothing in this section shall limit the remedies otherwise available to the commission
5248 under [~~Title 59, Revenue and Taxation,~~] this title or other laws of this state.

5249 Section 246. Section **59-1-1002** is amended to read:

5250 **59-1-1002 . Audit interviews.**

5251 (1) During any audit interview, the commission shall:

- 5252 (a) require reasonable scheduling of its audit interviews;
5253 (b) permit recording of audit interviews;
5254 (c) explain its audit and collection process before the first interview; and
5255 (d) allow a taxpayer to be represented at an interview by an attorney or other
5256 representative with power of attorney.

5257 (2) The commission may not require a taxpayer to bring [his] an attorney or other
5258 representative to interviews.

5259 Section 247. Section **59-1-1004** is amended to read:

5260 **59-1-1004 . Installment payments.**

5261 (1) The commission may enter into agreements with taxpayers on installment payments of
5262 taxes, penalties, and interest. The commission may revise, accelerate, or cancel the
5263 installment agreement if any of the following occurs:

- 5264 (a) the commission determines that the financial condition of the taxpayer has
5265 substantially changed;
5266 (b) the commission determines that the taxpayer provided inaccurate information
5267 concerning [his] the taxpayer's financial condition; or
5268 (c) the taxpayer fails to make timely payments pursuant to the terms of the installment

5269 agreement.

5270 (2) The commission shall give the taxpayer reasonable notice of its intent to revise or
5271 cancel an installment agreement entered into under this section.

5272 Section 248. Section **59-2-326** is amended to read:

5273 **59-2-326 . Assessment roll delivered to county treasurer.**

5274 Before November 1, the county auditor must deliver the corrected assessment roll to the
5275 county treasurer, together with a signed statement subscribed by [~~him~~] the county auditor in a
5276 form substantially as follows:

5277 I, ____ county auditor of the county of ____, do swear that I received the accompanying
5278 assessment roll of the taxable property of the county from the assessor, and that I have
5279 corrected it and made it conform to the requirements of the county board of equalization and
5280 commission, that I have reckoned the respective sums due as taxes and have added up the
5281 columns of valuations, taxes, and acreage as required by law.

5282 Section 249. Section **59-10-512** is amended to read:

5283 **59-10-512 . Signing of returns and other documents.**

5284 (1) Except as otherwise provided by Subsection (2), any return, statement, or other
5285 document required to be made under any provision of this chapter shall be signed in
5286 accordance with forms or rules prescribed by the commission.

5287 (2) The return of a partnership made under Section 59-10-507 shall be signed by any one of
5288 the partners. The fact that a partner's name is signed on the return shall be prima facie
5289 evidence that such partner is authorized to sign the return on behalf of the partnership.

5290 (3) The fact that an individual's name is signed on a return, statement, or other document
5291 shall be prima facie evidence for all purposes that the return, statement, or other
5292 document was actually signed by [~~him~~] the individual.

5293 Section 250. Section **59-12-112** is amended to read:

5294 **59-12-112 . Tax a lien when selling business -- Liability of purchaser.**

5295 The tax imposed by this chapter shall be a lien upon the property of any person who
5296 sells out [~~his~~] the person's business or stock of goods or quits business. Such person shall
5297 complete the return provided for under Section 59-12-107, within 30 days after the date [~~he~~]
5298 the person sold [~~his~~] the business or stock of goods, or quit business. Such person's successor
5299 in business shall withhold enough of the purchase money to cover the amount of taxes due
5300 and unpaid until the former owner produces a receipt from the commission showing that the
5301 taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or
5302 stock of goods fails to withhold such purchase money and the taxes are due and unpaid after

5303 the 30-day period allowed, [he] the purchaser is personally liable for the payment of the taxes
5304 collected and unpaid by the former owner.

5305 Section 251. Section **59-18-104** is amended to read:

5306 **59-18-104 . Duties and powers of trustee.**

5307 Except as provided in Section 59-18-106, the trustee of a private foundation trust or a
5308 split interest trust has the duties and powers conferred upon [him] the trustee by the provisions
5309 of this chapter.

5310 Section 252. Section **59-18-105** is amended to read:

5311 **59-18-105 . Trustee's fiduciary obligations and duty not to deprive trust of tax**
5312 **exemption, deduction, or credit.**

5313 (1) In the exercise of [his] a trustee's powers including the powers granted by this chapter, a
5314 trustee has a duty to act with due regard to [his] the trustee's obligation as a fiduciary,
5315 including a duty not to exercise any power in such a way as to deprive the trust of an
5316 otherwise available tax exemption, deduction, or credit for tax purposes or deprive a
5317 donor of a trust asset of a tax deduction or credit or operate to impose a tax upon a
5318 donor, trust, or other person. The word "tax" includes, but is not limited to any federal,
5319 state, or local excise, income, gift, estate, or inheritance tax.

5320 (2) A trustee of a private foundation trust, except as provided in Section 59-18-106, shall
5321 make distributions at such time and in such manner as not to subject the trust to tax
5322 under Section 4942.

5323 (3) A trustee of a private foundation trust or a split interest trust, to the extent that the split
5324 interest trust is subject to the provisions of Section 4947(a)(2), in the exercise of [his] the
5325 trustee's powers, except as provided in Subsection (4) of this section and Section
5326 59-18-106, shall not:

5327 (a) engage in any act of self dealing (as defined in Section 4941(d));

5328 (b) retain any excess business holdings (as defined in Section 4943(c));

5329 (c) make any investments in such manner as to subject the foundation to tax under
5330 Section 4944; and

5331 (d) make any taxable expenditures (as defined in Section 4945(d)).

5332 (4) Subsections (3)(b) and (c) do not apply to a split interest trust if:

5333 (a) all the income interest (and none of the remainder interest) of such trust is devoted
5334 solely to one or more of the purposes described in Section 170(c)(2)(B), and all
5335 amounts in such trust for which a deduction was allowed under Section 170,
5336 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have aggregate fair market

5337 value not more than 60% of the aggregate fair market value of all amounts in such
5338 trust; or

5339 (b) a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055,
5340 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every
5341 remainder beneficiary but not to any income beneficiary.

5342 Section 253. Section **59-18-108** is amended to read:

5343 **59-18-108 . Court's power to relieve trustee from restrictions on powers and**
5344 **duties.**

5345 This chapter does not affect the power of a court of competent jurisdiction for cause
5346 shown and upon petition of the trustee, attorney general, or affected beneficiary, and upon
5347 appropriate notice to the affected parties to relieve a trustee from any restrictions on [his] the
5348 trustee's powers and duties that are placed upon [him] the trustee by the governing instrument
5349 or applicable law.

5350 Section 254. Section **63B-2-117** is amended to read:

5351 **63B-2-117 . Report to Legislature.**

5352 The governor shall report the commission's proceedings to each annual general session
5353 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5354 remain outstanding.

5355 Section 255. Section **63B-2-217** is amended to read:

5356 **63B-2-217 . Report to Legislature.**

5357 The governor shall report the commission's proceedings to each annual general session
5358 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5359 remain outstanding.

5360 Section 256. Section **63B-3-117** is amended to read:

5361 **63B-3-117 . Report to Legislature.**

5362 The governor shall report the commission's proceedings to each annual general session
5363 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5364 remain outstanding.

5365 Section 257. Section **63B-3-217** is amended to read:

5366 **63B-3-217 . Report to Legislature.**

5367 The governor shall report the commission's proceedings to each annual general session
5368 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5369 remain outstanding.

5370 Section 258. Section **63B-4-117** is amended to read:

5371 **63B-4-117 . Report to Legislature.**

5372 The governor shall report the commission's proceedings to each annual general session
5373 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5374 remain outstanding.

5375 Section 259. Section **63B-5-117** is amended to read:

5376 **63B-5-117 . Report to Legislature.**

5377 The governor shall report the commission's proceedings to each annual general session
5378 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5379 remain outstanding.

5380 Section 260. Section **63B-6-117** is amended to read:

5381 **63B-6-117 . Report to Legislature.**

5382 The governor shall report the commission's proceedings to each annual general session
5383 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5384 remain outstanding.

5385 Section 261. Section **63B-6-217** is amended to read:

5386 **63B-6-217 . Report to Legislature.**

5387 The governor shall report the commission's proceedings to each annual general session
5388 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5389 remain outstanding.

5390 Section 262. Section **63B-6-302** is amended to read:

5391 **63B-6-302 . Authorization, terms, and procedures.**

5392 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of
5393 bond anticipation notes, including, but not limited to, flexible notes and short-term series
5394 notes, in the form and with the terms that [he] the state treasurer determines.

5395 (2) The state treasurer may:

5396 (a) enter into whatever agreements with other persons that [he] the state treasurer
5397 considers necessary or appropriate in connection with the issuance, sale, and resale of
5398 the notes; and

5399 (b) resell or retire any notes purchased by the state before the stated maturity of those
5400 notes.

5401 (3)(a) The notes and renewals of the notes shall:

5402 (i) bear the interest rate or rates as determined by the state treasurer; and

5403 (ii) mature within a period not to exceed three years.

5404 (b) The notes and renewals of notes may:

- 5405 (i) bear a variable interest rate; and
5406 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with
5407 the provisions of the notes relating to redemption prior to maturity.
- 5408 (4) The proceeds from the sale of the notes may be used only for:
5409 (a) the purposes established in Section 63B-6-202;
5410 (b) the payment of principal of and, if not otherwise provided, interest on, bond
5411 anticipation notes;
5412 (c) the payment of costs of issuance; or
5413 (d) any combination of Subsections (4)(a), (b), and (c).
- 5414 (5)(a) All of the notes and any renewals of the notes shall be payable from the proceeds
5415 of the sale of bonds.
5416 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of
5417 which the original note was issued.
- 5418 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in
5419 anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
5420 (a) issue renewal notes for that purpose;
5421 (b) pay the notes from state money legally available for paying those notes; or
5422 (c) any combination of Subsections (6)(a) and (b).
- 5423 (7) Each note and any renewal of any note, with the interest on the note or renewal,
5424 constitute general obligations of the state.
- 5425 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
5426 (a) secured by the full faith, credit, and resources of the state in the manner provided in
5427 Part 2, 1997 Highway General Obligation Bond Authorization;
5428 (b) payable from:
5429 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
5430 (ii) money of the state on hand and legally available for that purpose; or
5431 (iii) any combination of Subsections (8)(b)(i) and (ii); and
5432 (c) payable within five years from the date of original issue.
- 5433 (9) The total amount of notes or renewals of notes issued and outstanding at any one time
5434 may not exceed the lesser of:
5435 (a) the total amount of bonds authorized to be issued but not yet issued; or
5436 (b) \$260,000,000.
- 5437 (10) The state treasurer shall, in [his] the state treasurer's annual report to the governor,
5438 include a detailed statement of all notes and bonds issued during the year and of [his] the

5439 state treasurer's actions in relation to them.

5440 Section 263. Section **63B-6-417** is amended to read:

5441 **63B-6-417 . Report to Legislature.**

5442 The governor shall report the commission's proceedings to each annual general session
5443 of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter
5444 remain outstanding.

5445 Section 264. Section **63B-7-117** is amended to read:

5446 **63B-7-117 . Report to Legislature.**

5447 The governor shall report the commission's proceedings to each annual general session
5448 of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter
5449 remain outstanding.

5450 Section 265. Section **63B-7-217** is amended to read:

5451 **63B-7-217 . Report to Legislature.**

5452 The governor shall report the commission's proceedings to each annual general session
5453 of the Legislature in [~~his~~] the governor's budget for as long as bonds issued under this chapter
5454 remain outstanding.

5455 Section 266. Section **63B-7-302** is amended to read:

5456 **63B-7-302 . Authorization, terms, and procedures.**

5457 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of
5458 bond anticipation notes, including, but not limited to, flexible notes and short-term series
5459 notes, in the form and with the terms that [~~he~~] the state treasurer determines.

5460 (2) The state treasurer may:

5461 (a) enter into whatever agreements with other persons that [~~he~~] the state treasurer
5462 considers necessary or appropriate in connection with the issuance, sale, and resale of
5463 the notes; and

5464 (b) resell or retire any notes purchased by the state before the stated maturity of those
5465 notes.

5466 (3)(a) The notes and renewals of the notes shall:

5467 (i) bear the interest rate or rates as determined by the state treasurer; and

5468 (ii) mature within a period not to exceed three years.

5469 (b) The notes and renewals of notes may:

5470 (i) bear a variable interest rate; and

5471 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with
5472 the provisions of the notes relating to redemption prior to maturity.

- 5473 (4) The proceeds from the sale of the notes may be used only for:
5474 (a) the purposes established in Section 63B-7-202;
5475 (b) the payment of principal of and, if not otherwise provided, interest on, bond
5476 anticipation notes;
5477 (c) the payment of costs of issuance; or
5478 (d) any combination of Subsections (4)(a), (b), and (c).
- 5479 (5)(a) All of the notes and any renewals of the notes shall be payable from the proceeds
5480 of the sale of bonds.
5481 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of
5482 which the original note was issued.
- 5483 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in
5484 anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
5485 (a) issue renewal notes for that purpose;
5486 (b) pay the notes from state money legally available for paying those notes; or
5487 (c) any combination of Subsections (6)(a) and (b).
- 5488 (7) Each note and any renewal of any note, with the interest on the note or renewal,
5489 constitute general obligations of the state.
- 5490 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
5491 (a) secured by the full faith, credit, and resources of the state in the manner provided in
5492 Part 2, 1998 Highway General Obligation Bond Authorization;
5493 (b) payable from:
5494 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
5495 (ii) money of the state on hand and legally available for that purpose; or
5496 (iii) any combination of Subsections (8)(b)(i) and (ii); and
5497 (c) payable within five years from the date of original issue.
- 5498 (9)(a) As used in this Subsection (9), "total amount of bonds authorized to be issued but
5499 not yet issued" includes bonds authorized to be issued only if one or more conditions
5500 are met.
5501 (b) The total amount of notes or renewals of notes issued and outstanding at any one
5502 time may not exceed the total amount of bonds authorized to be issued but not yet
5503 issued.
- 5504 (10) The state treasurer shall, in [his] the state treasurer's annual report to the governor,
5505 include a detailed statement of all notes and bonds issued during the year and of [his] the
5506 state treasurer's actions in relation to them.

5507 Section 267. Section **63B-7-417** is amended to read:

5508 **63B-7-417 . Report to Legislature.**

5509 The governor shall report the commission's proceedings to each annual general session
5510 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5511 remain outstanding.

5512 Section 268. Section **63B-8-117** is amended to read:

5513 **63B-8-117 . Report to Legislature.**

5514 The governor shall report the commission's proceedings to each annual general session
5515 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5516 remain outstanding.

5517 Section 269. Section **63B-8-217** is amended to read:

5518 **63B-8-217 . Report to Legislature.**

5519 The governor shall report the commission's proceedings to each annual general session
5520 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter
5521 remain outstanding.

5522 Section 270. Section **63B-8-302** is amended to read:

5523 **63B-8-302 . Authorization, terms, and procedures.**

5524 (1) The state treasurer may, by written order, issue bond anticipation notes and renewals of
5525 bond anticipation notes, including flexible notes and short-term series notes, in the form
5526 and with the terms that [he] the state treasurer determines.

5527 (2) The state treasurer may:

5528 (a) enter into whatever agreements with other persons that [he] the state treasurer
5529 considers necessary or appropriate in connection with the issuance, sale, and resale of
5530 the notes; and

5531 (b) resell or retire any notes purchased by the state before the stated maturity of those
5532 notes.

5533 (3)(a) The notes and renewals of the notes shall:

5534 (i) bear the interest rate or rates as determined by the state treasurer; and

5535 (ii) mature within a period not to exceed three years.

5536 (b) The notes and renewals of notes may:

5537 (i) bear a variable interest rate; and

5538 (ii) be redeemed prior to maturity by the state treasurer, but only in accordance with
5539 the provisions of the notes relating to redemption prior to maturity.

5540 (4) The proceeds from the sale of the notes may be used only for:

- 5541 (a) the purposes established in Section 63B-8-202;
- 5542 (b) the payment of principal of and, if not otherwise provided, interest on, bond
- 5543 anticipation notes;
- 5544 (c) the payment of costs of issuance, credit enhancement, and liquidity support; or
- 5545 (d) any combination of Subsections (4)(a), (b), and (c).
- 5546 (5)(a) All of the notes and any renewals of the notes shall be payable from the proceeds
- 5547 of the sale of bonds.
- 5548 (b) A renewal of any note may not be issued after the sale of bonds in anticipation of
- 5549 which the original note was issued.
- 5550 (6) If a sale of the bonds has not occurred before the maturity of the notes issued in
- 5551 anticipation of the sale, the state treasurer shall, in order to meet the notes then maturing:
- 5552 (a) issue renewal notes for that purpose;
- 5553 (b) pay the notes from state money legally available for paying those notes; or
- 5554 (c) any combination of Subsections (6)(a) and (b).
- 5555 (7) Each note and any renewal of any note, with the interest on the note or renewal,
- 5556 constitute general obligations of the state.
- 5557 (8) Each note and any renewal of any note, with the interest on the note or renewal, shall be:
- 5558 (a) secured by the full faith, credit, and resources of the state in the manner provided in
- 5559 Part 2, 1999 Highway General Obligation Bond Authorization;
- 5560 (b) payable from:
- 5561 (i) the proceeds of the sale of the bonds and not from any other borrowing; and
- 5562 (ii) money of the state on hand and legally available for that purpose; or
- 5563 (iii) any combination of Subsections (8)(b)(i) and (ii); and
- 5564 (c) payable within five years from the date of original issue.
- 5565 (9) The total amount of notes or renewals of notes issued and outstanding at any one time
- 5566 may not exceed the total amount of bonds authorized to be issued but not yet issued.
- 5567 (10) The state treasurer shall, in [his] the state treasurer's annual report to the governor,
- 5568 include a detailed statement of all notes and bonds issued during the year and of [his] the
- 5569 state treasurer's actions in relation to them.

5570 Section 271. Section **63B-8-417** is amended to read:

5571 **63B-8-417 . Report to Legislature.**

5572 The governor shall report the commission's proceedings to each annual general session

5573 of the Legislature in [his] the governor's budget for as long as bonds issued under this chapter

5574 remain outstanding.

5575 Section 272. Section **64-13-15** is amended to read:

5576 **64-13-15 . Property of offender -- Storage and disposal.**

5577 (1)(a) Offenders may retain personal property at correctional facilities only as authorized
5578 by the department. An offender's property which is retained by the department shall
5579 be inventoried and placed in storage by the department and a receipt for the property
5580 shall be issued to the offender. Offenders shall be required to arrange for disposal of
5581 property retained by the department within a reasonable time under department rules.
5582 Property retained by the department shall be returned to the offender at discharge, or
5583 in accordance with Title 75, Utah Uniform Probate Code, in the case of death prior to
5584 discharge.

5585 (b) If property is not claimed within one year of discharge, or it is not disposed of by the
5586 offender within a reasonable time after the department's order to arrange for disposal,
5587 it becomes property of the state and may be used for correctional purposes or donated
5588 to a charity within the state.

5589 (c) If an inmate's property is not claimed within one year of [~~his~~] the inmate's death, it
5590 becomes the property of the state in accordance with Section 75-2-105.

5591 (d) Funds which are contraband and in the physical custody of any prisoner, whether in
5592 the form of currency and coin which are legal tender in any jurisdiction or negotiable
5593 instruments drawn upon a personal or business account, shall be subject to forfeiture
5594 following a hearing which accords with prevailing standards of due process. All such
5595 forfeited funds shall be used by the department for purposes which promote the
5596 general welfare of prisoners in the custody of the department. Money and negotiable
5597 instruments taken from offenders' mail under department rule and which are not
5598 otherwise contraband shall be placed in an account administered by the department,
5599 to the credit of the offender who owns the money or negotiable instruments.

5600 (2) Upon discharge from a secure correctional facility, the department may give an inmate
5601 transition funds in an amount established by the department with the approval of the
5602 director of the Division of Finance. At its discretion, the department may spend the
5603 funds directly on the purchase of necessities or transportation for the discharged inmate.

5604 Section 273. Section **64-13-32** is amended to read:

5605 **64-13-32 . Discipline of offenders -- Use of force.**

5606 (1) If an offender offers violence to an officer or other employee of the Department of
5607 Corrections, or to another offender, or to any other person; attempts to damage or
5608 damages any corrections property; attempts to escape; or resists or refuses to obey any

5609 lawful and reasonable command; the officers and other employees of the department
 5610 may use all reasonable means, including the use of weapons, to defend themselves and
 5611 department property and to enforce the observance of discipline and prevent escapes.

5612 (2) An inmate who is housed in a secure correctional facility and is in the act of escaping
 5613 from that secure correctional facility or from the custody of a peace or correctional
 5614 officer is presumed to pose a threat of death or serious bodily injury to an officer or
 5615 others if apprehension is delayed. Notwithstanding Section 76-2-404, a peace or
 5616 correctional officer is justified in using deadly force if ~~[he]~~ the peace or correctional
 5617 officer reasonably believes deadly force is necessary to apprehend the inmate.

5618 Section 274. Section **64-13d-106** is amended to read:

5619 **64-13d-106 . Monitoring contracts.**

- 5620 (1) The executive director or ~~[his]~~ the executive director's designee shall monitor the
 5621 performance of all facilities incarcerating inmates under the jurisdiction of the
 5622 department.
- 5623 (2) The executive director or ~~[his]~~ the executive director's designee shall have unlimited
 5624 access to all facilities, records, and staff for monitoring purposes.
- 5625 (3) The executive director may appoint a monitor to inspect a facility. The monitor shall
 5626 have unlimited access to all facilities, records, and staff for monitoring purposes.
- 5627 (4) The department shall be reimbursed by the entity operating the facility for that portion
 5628 of the salary and expenses of the monitor attributable to monitoring the particular
 5629 facility.
- 5630 (5) Monitoring consists of ensuring that:
- 5631 (a) all state laws, department rules, and contractual obligations applicable to the facility
 5632 are being met; and
- 5633 (b) all operations are effective, efficient, and economical.

5634 Section 275. Section **65A-6-11** is amended to read:

5635 **65A-6-11 . Land subject to a federal mineral lease.**

- 5636 (1) With respect to any tract of land in which the state acquires or has acquired any interest
 5637 subject to an outstanding federal mineral lease or prospecting permit, the lessee or
 5638 permittee may submit a petition seeking extension of the permit or lease or any other
 5639 action as may be necessary to give to the lessee or permittee any and all rights,
 5640 privileges, and benefits which ~~[he]~~ the lessee or permittee would have had under the
 5641 permit or lease had the state not acquired its interest in the tract.
- 5642 (2) In consideration of the voluntary termination by the federal lessee or permittee of ~~[his]~~

5643 the lease or permit as it relates to that tract, the division may issue to that lessee or
 5644 permittee a lease of the acquired tract or any portion of that tract for recovery of the
 5645 same mineral substances upon terms that the lessee or permittee shall have all the rights,
 5646 privileges, and benefits with reference to that tract which [~~he~~] the lessee or permittee
 5647 would have had by reason of [~~his~~] the lease or permit from the United States had the state
 5648 not acquired its interest in the tract.

5649 Section 276. Section **67-1-1** is amended to read:

5650 **67-1-1 . General powers and duties.**

5651 In addition to those prescribed by the constitution, the governor~~[-has the following~~
 5652 ~~powers and must perform the following duties]~~:

- 5653 (1) [~~He~~]shall supervise the official conduct of all executive and ministerial officers~~[-]~~ ;
 5654 (2) [~~He~~]shall see that all offices are filled and the duties thereof performed, or in default
 5655 thereof, apply such remedy as the law allows, and, if the remedy is imperfect, acquaint
 5656 the Legislature therewith at its next session~~[-]~~ ;
 5657 (3) [~~He~~]shall make appointments and fill vacancies as required by law~~[-]~~ ;
 5658 (4) [~~He~~]is the sole official organ of communication between the government of this state
 5659 and the government of any other state and of the United States~~[-]~~ ;
 5660 (5) [~~Whenever~~] whenever any suit or legal proceeding is pending against this state, or which
 5661 may affect the title of this state to any property, or which may result in any claim against
 5662 the state, [~~he~~]may direct the attorney general to appear on behalf of the state, and may
 5663 employ such additional counsel as [~~he~~] the governor may judge expedient~~[-]~~ ;
 5664 (6) [~~He~~]may require the attorney general or the county attorney or district attorney of any
 5665 county to inquire into the affairs or management of any corporation doing business in
 5666 this state~~[-]~~ ;
 5667 (7) [~~He~~]may require the attorney general to aid any county attorney or district attorney in
 5668 the discharge of [~~his~~] the county attorney's or district attorney's duties~~[-]~~ ;
 5669 (8) [~~He~~]may offer rewards, not exceeding \$1,000 each, payable out of the general fund, for
 5670 the apprehension of any convict who has escaped from the state prison, or any person
 5671 who has committed, or is charged with the commission of, a felony~~[-]~~ ;
 5672 (9) [~~He must~~] shall perform such duties respecting fugitives from justice as are prescribed
 5673 by law~~[-]~~ ;
 5674 (10) [~~He must~~] shall issue and transmit election proclamations as prescribed by law~~[-]~~ ;
 5675 (11) [~~He must~~] shall issue land warrants and patents as prescribed by law~~[-]~~ ;
 5676 (12) [~~He must~~] shall, prior to each regular meeting of the Legislature, deliver to the Division

5677 of Archives for publication all biennial reports of officers, commissions, and boards for
5678 the two preceding years[-] ;

5679 (13) [~~He may~~] shall require any officer, commission, or board to make special reports to [
5680 ~~him~~] the governor in writing[-] ;

5681 (14) [~~He must~~] shall discharge the duties of a member of all boards of which [~~he~~] the
5682 governor is or may be made a member by the constitution or by law[-] ;

5683 (15) [~~He~~] shall each year issue a proclamation recommending the observance of Arbor day,
5684 by the planting of trees, shrubs, and vines, in the promotion of forest growth and culture,
5685 and in the adornment of public and private grounds, places and ways, and in such other
5686 efforts and undertakings as shall be in harmony with the general character of such
5687 holiday[-] ; and

5688 (16) [~~He~~] has such other powers and must perform such other duties as are devolved upon [
5689 ~~him~~] the governor by law.

5690 Section 277. Section **67-5-5** is amended to read:

5691 **67-5-5 . Hiring of legal counsel for agencies -- Costs.**

5692 Except where specifically authorized by the Utah Constitution, or statutes, no agency
5693 shall hire legal counsel, and the attorney general alone shall have the sole right to hire legal
5694 counsel for each such agency. Where the Legislature has provided by statute for separate
5695 agency counsel, no such counsel may act as an assistant attorney general nor as a special
5696 assistant attorney general unless the attorney general shall so authorize. Unless [~~he~~] the
5697 attorney general hires such legal counsel from outside [~~his~~] the attorney general's office, the
5698 attorney general shall remain the sole legal counsel for that agency. If outside counsel is hired
5699 for an agency, then the costs of any services to be rendered by this counsel shall be approved
5700 by the attorney general before these costs are incurred. The attorney general shall approve all
5701 billing statements from outside counsel and shall pay the full costs of this counsel unless the
5702 agency by legislative appropriation or in the form of costs, fees, fines, penalties, forfeitures or
5703 proceeds reserved or designated for the payment of legal fees receives from any other source
5704 the equivalent cost or a portion thereof, in which case the attorney general may bill the agency
5705 for the services; provided, the agency may deduct any unreimbursed costs and expenses
5706 incurred by the agency in connection with the legal service rendered.

5707 Section 278. Section **67-9-1** is amended to read:

5708 **67-9-1 . Appointment -- Powers.**

5709 The state auditor, the state treasurer, the attorney general, and the superintendent of
5710 public instruction may each appoint a deputy, who may, during the absence or disability of the

5711 principal, perform all the duties pertaining to the office, except those required of the principal
5712 as a member of any board. The principal shall be answerable for neglect or misconduct in
5713 office of [~~his~~] the deputy, and may require from [~~him~~] the deputy a bond for [~~his own~~] security.
5714 The appointment of a deputy shall be in writing, and shall be revocable at the pleasure of the
5715 principal; and all such appointments and revocations shall be filed with the lieutenant governor.

5716 Section 279. Section **67-16-2** is amended to read:

5717 **67-16-2 . Purpose of chapter.**

5718 The purpose of this chapter is to set forth standards of conduct for officers and
5719 employees of the state of Utah and its political subdivisions in areas where there are actual or
5720 potential conflicts of interest between their public duties and their private interests. In this
5721 manner the Legislature intends to promote the public interest and strengthen the faith and
5722 confidence of the people of Utah in the integrity of their government. It does not intend to
5723 deny any public officer or employee the opportunities available to all other citizens of the state
5724 to acquire private economic or other interests so long as this does not interfere with [~~his~~] the
5725 full and faithful discharge of [~~his~~] a public officer's or employee's public duties.

5726 Section 280. Section **70C-2-207** is amended to read:

5727 **70C-2-207 . Referral sales.**

5728 With respect to a consumer credit sale, the seller may not give or offer to give a rebate or
5729 discount or otherwise pay or offer to pay value to the buyer as an inducement for a sale in
5730 consideration of [~~his~~] the buyer giving to the seller the names of prospective purchasers or
5731 otherwise aiding the seller in making a sale to another person, if the earning of the rebate,
5732 discount, or other value is contingent upon the occurrence of an event subsequent to the time
5733 the buyer agrees to buy. If a buyer is induced by a violation of this section to enter into a
5734 consumer credit sale, the agreement is unenforceable by the seller and the buyer may rescind
5735 the agreement and retain any goods delivered until all payments made by the debtor have been
5736 fully refunded to [~~him~~] the buyer. The buyer may retain the benefit of any services performed
5737 without any obligation to pay for them. This section does not apply if any goods delivered to
5738 the buyer are damaged while in the buyer's possession or are not delivered to the seller at the
5739 buyer's residence, or at any other place agreed on by the parties, within a reasonable time after
5740 the seller tenders or delivers a full refund of all payments to the buyer.

5741 Section 281. Section **70C-5-101** is amended to read:

5742 **70C-5-101 . Definition -- Home solicitation sale.**

5743 As used in this chapter, "home solicitation sale" means a consumer credit sale of goods
5744 or services in which the seller or a person acting for [~~him~~] the seller engages in a face-to-face

5745 solicitation of the sale at a residence or place of employment of the buyer and the buyer's
 5746 agreement or offer to purchase is there given to the seller or a person acting for [him] the seller.
 5747 It does not include a sale made pursuant to preexisting open-end accounts, or a sale made
 5748 between the parties at a business establishment at a fixed location where goods or services are
 5749 offered or exhibited for sale.

5750 Section 282. Section **70C-5-103** is amended to read:

5751 **70C-5-103 . Form of agreement or offer -- Statement of buyer's rights.**

5752 (1) In a home solicitation sale, unless the buyer requests the seller to provide goods or
 5753 services without delay in an emergency, the seller shall present to the buyer and obtain [
 5754 his] the buyer's signature to a written agreement or offer to purchase which designates as
 5755 the date of the transaction the date on which the buyer actually signs and contains a
 5756 statement of the buyer's rights which complies with Subsection (2).

5757 (2) The statement shall:

5758 (a) appear under the conspicuous caption: "BUYER'S RIGHT TO CANCEL"; and

5759 (b) read as follows:

5760 "If this agreement was solicited at your residence or place of employment and you do
 5761 not want the goods or services, you may cancel this agreement by mailing a notice to the
 5762 seller. The notice must say that you do not want the goods or services and must be mailed
 5763 before midnight on the third business day after you sign this agreement. The notice must be
 5764 mailed to: _____ (insert name and mailing address of seller)."

5765 (3) Compliance with any notice of cancellation or similar requirement of any rule of the
 5766 Federal Trade Commission which by its terms applies to a home solicitation sale
 5767 covered by this title is deemed compliance with Subsection (2)(b) if compliance is
 5768 totally consistent with this title.

5769 (4) Until the seller has complied with this section the buyer may cancel the home
 5770 solicitation sale by notifying the seller in any manner and by any means of [his] the
 5771 buyer's intention to cancel.

5772 Section 283. Section **70C-5-104** is amended to read:

5773 **70C-5-104 . Restoration of down payment.**

5774 (1) Within 10 days after a home solicitation sale has been canceled or an offer to purchase
 5775 revoked the seller shall tender to the buyer any payments made by the buyer and any
 5776 note or other evidence of indebtedness.

5777 (2) If the down payment includes goods traded in, the goods shall be tendered in
 5778 substantially as good condition as when received by the seller. If the seller fails to tender

5779 the goods as provided by this section, the buyer may recover an amount equal to the
5780 trade-in allowance stated in the agreement.

- 5781 (3) A provision permitting the seller to keep all or any part of any payment, note, or
5782 evidence of indebtedness is in violation of this section and unenforceable.
- 5783 (4) Until the seller has complied with the obligations imposed by this section, the buyer
5784 may retain possession of goods delivered to [him] the buyer by the seller and has a lien
5785 on the goods in [his] the buyer's possession or control for any recovery to which [he] the
5786 buyer is entitled.

5787 Section 284. Section **70C-5-105** is amended to read:

5788 **70C-5-105 . Duty of buyer -- No compensation for services prior to cancellation.**

- 5789 (1) Except as provided by the provisions on retention of goods by the buyer under
5790 Subsection 70C-5-104(4), within a reasonable time after a home solicitation sale has
5791 been canceled or an offer to purchase revoked, the buyer upon demand shall tender to
5792 the seller any goods delivered by the seller pursuant to the sale, but [he] the buyer is not
5793 obligated to tender at any place other than [his] the buyer's residence or place of
5794 employment. If the seller fails to demand possession of goods within a reasonable
5795 period of time after cancellation or revocation, the goods become the property of the
5796 buyer without obligation to pay for them. For the purpose of this section, 40 days is a
5797 reasonable period of time.
- 5798 (2) The buyer has a duty to take reasonable care of the goods in [his] the buyer's possession
5799 before cancellation or revocation and for a reasonable time thereafter, during which time
5800 the goods are otherwise at the seller's risk.
- 5801 (3) If the seller has performed any services pursuant to a home solicitation sale prior to its
5802 cancellation, the seller is entitled to no compensation.

5803 Section 285. Section **70C-6-104** is amended to read:

5804 **70C-6-104 . Conditions applying to insurance to be provided by creditor.**

5805 If a creditor agrees with a debtor to provide insurance:

- 5806 (1) the insurance shall be evidenced by an individual policy or certificate of insurance
5807 delivered to the debtor, or sent to [him] the debtor at [his] the debtor's address as stated by [
5808 him] the debtor, within 30 days after the term of the insurance commences under the
5809 agreement between the creditor and debtor; or
- 5810 (2) the creditor shall promptly notify the debtor of any failure or delay in providing the
5811 insurance.

5812 Section 286. Section **70C-6-106** is amended to read:

5813 **70C-6-106 . Refund or credit required -- Amount.**

- 5814 (1) A debtor or [his] a debtor's estate is entitled to any rebate or refund due from an insurer
 5815 and to any unearned part of a separate charge for insurance previously paid by the
 5816 debtor, resulting from the prepayment of a consumer credit debt, except when all
 5817 refunds and credits due to the debtor under this title amount to less than \$5.
- 5818 (2) A creditor shall promptly make or cause to be made an appropriate refund or credit to
 5819 the debtor with respect to any separate charge made to [him] the debtor for insurance if:
 5820 (a) the insurance is not provided or is provided for a shorter term than that for which the
 5821 charge to a debtor for insurance was computed; or
 5822 (b) the insurance terminates prior to the end of the term for which it was written because
 5823 of prepayment in full or otherwise.
- 5824 (3) All refunds or credit required by this section shall be computed according to a method
 5825 prescribed or approved by the Insurance Department or formula filed by the insurer with
 5826 the Insurance Department at least 30 days before any debtor's right to a refund or credit
 5827 becomes determinable, unless the method or formula is employed after the Insurance
 5828 Department notifies the insurer that the method or formula has been disapproved.
- 5829 (4) Except as provided in Subsection (1), a creditor is not obligated to account to a debtor
 5830 for any portion of a separate charge for insurance when:
 5831 (a) the insurance is terminated by performance of the insurer's obligation;
 5832 (b) the creditor pays or accounts for premiums to the insurer in amounts and at times
 5833 determined by the agreement between them; or
 5834 (c) the creditor receives directly or indirectly under any policy of insurance a gain or
 5835 advantage not prohibited by law.

5836 Section 287. Section **70C-6-304** is amended to read:

5837 **70C-6-304 . Cancellation by creditor.**

5838 A creditor may not request cancellation of a policy of property or liability insurance
 5839 except after the debtor's default or in accordance with a written authorization by the debtor,
 5840 and in either case the cancellation does not take effect until written notice is delivered to the
 5841 debtor or mailed to [him] the debtor at [his] the debtor's address as stated by [him] the debtor.
 5842 The notice shall state that the policy may be cancelled on a date not less than 10 days after the
 5843 notice is delivered, or, if the notice is mailed, not less than 13 days after it is mailed.

5844 Section 288. Section **70C-7-104** is amended to read:

5845 **70C-7-104 . No discharge from employment for garnishment.**

5846 No employer may discharge any employee because [his] the employee's earnings have

5847 been subject to garnishment in connection with any one judgment.

5848 Section 289. Section **70C-7-201** is amended to read:

5849 **70C-7-201 . Effect of violations by creditors -- Penalties -- Debtor's rights.**

5850 (1) A debtor is not obligated to pay a charge in excess of that allowed by this title, and if [he]
5851 the debtor has paid an excess charge[~~he~~] , the debtor has a right to a refund. A refund
5852 may be made in whole or in part by reducing the debtor's obligation by the amount of
5853 the excess charge. If the debtor has paid an amount in excess of the lawful obligation
5854 under the agreement, the debtor may recover the excess amount from the party who
5855 made the excess charge or from an assignee of the creditor's rights who undertakes direct
5856 collection of payments from or enforcement of rights against the debtor with respect to
5857 the debt.

5858 (2) If a debtor is entitled to a refund and a party liable to the debtor in bad faith refuses to
5859 make a refund within a reasonable time after demand, the debtor may recover from that
5860 party a penalty in an amount to be determined by a court not exceeding the greater of
5861 either the amount of the finance charge or 10 times the amount of the excess charge. If
5862 the creditor has made an excess charge in deliberate violation of or in reckless disregard
5863 for this title, the penalty may be recovered even though the creditor has refunded the
5864 excess charge.

5865 Section 290. Section **72-2-104** is amended to read:

5866 **72-2-104 . Budget.**

5867 (1) The department shall prepare and submit to the governor, to be included in [~~his~~] the
5868 governor's budget to be submitted to the Legislature, a budget of the requirements for
5869 the operation of the department for the fiscal year following the convening of the
5870 Legislature.

5871 (2) This budget shall be so separated, in relation to the various functions of the department,
5872 so as to allow the separate determination of funds for deposit into the Transportation
5873 Fund and into any other special funds which are required by law to be utilized for
5874 specific purposes and which are separately maintained by the department for those
5875 purposes.

5876 Section 291. Section **72-5-107** is amended to read:

5877 **72-5-107 . United States patents -- Patentee and county to assert claims to roads**
5878 **crossing land.**

5879 (1)(a) If any person acquires title from the United States to any land in this state over
5880 which any public highway extends that has not been duly platted, and that has not

5881 been continuously used as a public highway for a period of 10 years, the person shall
 5882 within three months after receipt of the person's patent assert the person's claim for
 5883 damages in writing to the county executive of the county in which the land is situated.

5884 (b) The county legislative body shall have an additional period of three months in which
 5885 to begin proceedings to condemn the land according to law.

5886 (2)(a) The highway shall continue open as a public highway during the periods
 5887 described under Subsection (1).

5888 (b) If no action is begun by the county executive within the period described under
 5889 Subsection (1)(b), the highway shall be considered to be abandoned by the public.

5890 (3) In case of a failure by the person so acquiring title to public lands to assert [~~his~~] the
 5891 person's claim for damage during the three months from the time the person received a
 5892 patent to the lands, the person shall thereafter be barred from asserting or recovering any
 5893 damages by reason of the public highway, and the public highway shall remain open.

5894 Section 292. Section **72-9-303** is amended to read:

5895 **72-9-303 . Cease and desist orders -- Registration sanctions.**

5896 (1) The department may issue cease and desist orders to any person:

5897 (a) who engages in or represents himself or herself to be engaged in a motor carrier
 5898 operation that is in violation of this chapter;

5899 (b) to prevent the violation of any of the provisions of this title; and

5900 (c) who otherwise violates this chapter or any rules adopted under this chapter.

5901 (2)(a) The department shall notify the Motor Vehicle Division of the State Tax
 5902 Commission upon having reasonable grounds to believe that a motor carrier is in
 5903 violation of this chapter. Upon receiving notice by the department, the Motor
 5904 Vehicle Division shall refuse registration or shall suspend or revoke a registration as
 5905 provided in Sections 41-1a-109 and 41-1a-110.

5906 (b) The department shall notify the Motor Vehicle Division immediately upon being
 5907 satisfied that a motor carrier, reported as being in violation under Subsection (2)(a), is
 5908 in compliance with this chapter. Upon receiving notice by the department, the Motor
 5909 Vehicle Division shall remove any restriction made on a registration under this
 5910 chapter.

5911 Section 293. Section **72-9-703** is amended to read:

5912 **72-9-703 . Civil penalties for violations -- Compromise.**

5913 (1) In addition to any other penalties, a motor carrier that fails or neglects to comply with
 5914 any provision of the Constitution of this state, statute, or any rule or order of the

5915 department is subject to a civil penalty of not less than \$500 nor more than \$2,000 for
5916 each offense.

5917 (2) Every violation of any provision of the constitution of this state, statute, or any rule or
5918 order of the department, is a separate and distinct offense. Each day's continuance of the
5919 violation is a separate and distinct offense.

5920 (3)(a) The civil penalty may be compromised by the department and a determination of
5921 compromise is appealable by the person alleged to have committed the violation. In
5922 determining the amount of the penalty or the amount agreed upon in compromise, the
5923 department shall consider the:

5924 (i) gravity of the violation; and

5925 (ii) good faith of the person charged in attempting to achieve compliance after
5926 notification of the violation.

5927 (b) The amount of the penalty when finally determined or the amount agreed upon in
5928 compromise may be deducted from any sums owing by the state to the person
5929 charged or may be recovered in a civil action in the courts of this state.

5930 (4) In construing and enforcing the provisions of this chapter relating to penalties, the act,
5931 omission, or failure of any officer, agent, or employee of any motor carrier, acting
5932 within the scope of [his] the officer's, agent's, or employee's official duties or
5933 employment, is deemed to be the act, omission, or failure of the motor carrier.

5934 Section 294. Section **73-2-10** is amended to read:

5935 **73-2-10 . Knowledge of waterways and irrigation -- Suggestions as to amendment**
5936 **or enactment of laws.**

5937 The state engineer shall become conversant with the waterways of the state and its needs
5938 as to irrigation matters; and [he] the state engineer shall make such suggestions as to the
5939 amendment of existing laws or the enactment of new laws as [his] the state engineer's
5940 information and experience shall suggest.

5941 Section 295. Section **73-2-12** is amended to read:

5942 **73-2-12 . Seal.**

5943 The state engineer shall have a seal which [he] the state engineer shall affix to all
5944 certificates issued from [his] the state engineer's office, and [he] the state engineer shall file a
5945 description and an impression of the same with the Division of Archives.

5946 Section 296. Section **73-2-13** is amended to read:

5947 **73-2-13 . Attorney general and county attorneys to counsel.**

5948 In all matters requiring legal advice in the performance of [his] the state engineer's duties

5949 and the prosecution or defense of any action growing out of the performance of [his] the state
 5950 engineer's duties, the attorney general or county attorney of the county in which any legal
 5951 question arises, shall be the legal advisers of the state engineer, and [~~they~~] are hereby required
 5952 to perform any and all legal services required [~~of them~~] by [him] the state engineer without
 5953 other compensation than their salaries.

5954 Section 297. Section **73-2-23.1** is amended to read:

5955 **73-2-23.1 . Assistance of state engineer in management of flood waters.**

5956 In addition to [his] the state engineer's other flood management authority under Sections
 5957 73-2-22 and 73-2-23, the state engineer may assist in the management of flood waters pursuant
 5958 to court judgments and decrees.

5959 Section 298. Section **73-3-5.5** is amended to read:

5960 **73-3-5.5 . Temporary applications to appropriate water -- Approval by engineer**
 5961 **-- Expiration -- Proof of appropriation not required.**

5962 (1) The state engineer may issue temporary applications to appropriate water for beneficial
 5963 purposes.

5964 (2) The provisions of this chapter governing regular applications to appropriate water shall
 5965 apply to temporary applications with the following exceptions:

5966 (a)(i) The state engineer shall undertake a thorough investigation of the proposed
 5967 appropriation, and if the temporary application complies with the provisions of
 5968 Section 73-3-8, may make an order approving the application.

5969 (ii) If the state engineer finds that the appropriation sought might impair other rights,
 5970 before approving the application, the state engineer shall give notice of the
 5971 application to all persons whose rights may be affected by the temporary
 5972 appropriations.

5973 (b) The state engineer may issue a temporary application for a period of time not
 5974 exceeding one year.

5975 (c)(i) The state engineer, in the approval of a temporary application, may make
 5976 approval subject to whatever conditions and provisions [he] the state engineer
 5977 considers necessary to fully protect prior existing rights.

5978 (ii) If the state engineer determines that it is necessary to have a water commissioner
 5979 distribute the water under a temporary application for the protection of other
 5980 vested rights, the state engineer may assess the distribution costs against the
 5981 holder of the temporary application.

5982 (d)(i) A temporary application does not vest in its holder a permanent vested right to

- 5983 the use of water.
- 5984 (ii) A temporary application automatically expires and is cancelled according to its
5985 terms.
- 5986 (e) Proof of appropriation otherwise required under this chapter is not required for
5987 temporary applications.
- 5988 Section 299. Section **73-3a-108** is amended to read:
- 5989 **73-3a-108 . Approval of applications -- Criteria.**
- 5990 (1) The state engineer shall:
- 5991 (a) undertake an investigation of any application made under this chapter; and
- 5992 (b) approve the application, if [~~he~~] the state engineer finds that:
- 5993 (i) the proposed appropriation or change:
- 5994 (A) satisfies Section 73-3-3, 73-3-5.5, or 73-3-8, whichever is applicable;
- 5995 (B) is consistent with Utah's reasonable water conservation policies or objectives;
- 5996 (C) is not contrary to the public welfare; and
- 5997 (D) does not impair the ability of the state of Utah to comply with its obligation
5998 under any interstate compact or judicial decree which apportions water among
5999 Utah and other states; and
- 6000 (ii) the water can be transported, measured, delivered, and beneficially used in the
6001 recipient state.
- 6002 (2) In reviewing the criteria of Subsections (1)(b)(i)(B) and (1)(b)(i)(C), the state engineer
6003 shall consider the following factors:
- 6004 (a) the supply and quality of water available to the state of Utah;
- 6005 (b) the current and reasonably anticipated water demands of the state of Utah;
- 6006 (c) whether there are current or reasonably anticipated water shortages within Utah;
- 6007 (d) whether the water that is the subject of the application could feasibly be used to
6008 alleviate current or reasonably anticipated water shortages within Utah;
- 6009 (e) the alternative supply and sources of water available to the applicant in the state
6010 where the applicant intends to use the water; and
- 6011 (f) the demands placed on the applicant's alternate water supply in the state where the
6012 applicant intends to use the water.
- 6013 (3) If any application fails to meet any criteria of Subsection (1), it shall be rejected.
- 6014 (4) The state engineer may condition any approval to ensure that the use of the water in
6015 another state:
- 6016 (a) is subject to the same laws, rules, and controls that may be imposed upon water use

6017 within the state of Utah; or
 6018 (b) is consistent with the terms and conditions of any applicable interstate compact to
 6019 which the state of Utah is a party.

6020 Section 300. Section **73-3b-303** is amended to read:

6021 **73-3b-303 . Modification of recharge or recovery permits.**

6022 (1) The state engineer, on [his] the state engineer's own initiative or at the request of any
 6023 person holding a recharge or recovery permit, may modify the conditions of the
 6024 respective permit, if [he] the state engineer finds that modifications are necessary and
 6025 will not impair existing water rights or the water quality of the aquifer.

6026 (2) Before any permit condition is modified, the state engineer may require notice to
 6027 potentially impaired water users if [he] the state engineer finds that the modification
 6028 under consideration may impair existing water rights.

6029 Section 301. Section **73-5a-203** is amended to read:

6030 **73-5a-203 . Review of plans.**

6031 (1) The state engineer shall establish a formal written procedure for the review of plans
 6032 submitted pursuant to Section 73-5a-202. Plans shall be reviewed according to:

6033 (a) design criteria which the state engineer shall specify in rules; and
 6034 (b) data or criteria generally accepted by the general dam design community.

6035 (2) Upon review of the plans, the state engineer will:

6036 (a) approve them with appropriate conditions;
 6037 (b) reject them; or
 6038 (c) return them for correction.

6039 (3) The state engineer shall document each review indicating:

6040 (a) how the plans were reviewed; and
 6041 (b) [his] the state engineer's evaluation of the plans.

6042 Section 302. Section **73-5a-301** is amended to read:

6043 **73-5a-301 . Inspections to insure compliance with plans -- Duties and costs of**
 6044 **owners -- Weekly reports.**

6045 (1) During construction, enlargement, repair, alteration, or removal of any dam:

6046 (a) the state engineer, [his] the state engineer's staff, or an independent consultant shall
 6047 make periodic inspections of the work for the purpose of ascertaining compliance
 6048 with the approved plans and specifications; and

6049 (b) the owner of the dam shall:

6050 (i) conduct tests that the state engineer determines are necessary;

- 6051 (ii) provide adequate supervision of the work by an engineer licensed by the state
6052 who has experience in dam design and construction; and
6053 (iii) disclose information sufficient to enable the state engineer to determine that the
6054 work is being done in conformance with the approved plans and specifications.
- 6055 (2) Costs of any work or tests required by the state engineer shall be paid by the owner of
6056 the dam.
- 6057 (3) The engineer who is supervising the work pursuant to Subsection (1)(b)(ii) is required
6058 to submit a report weekly to the state engineer. Each report shall show the work
6059 accomplished during the previous week and summarize the results of any material
6060 testing.

6061 Section 303. Section **73-5a-302** is amended to read:

6062 **73-5a-302 . Failure to conform to plans.**

- 6063 (1) If at any time during construction, enlargement, repair, alteration, or removal of any
6064 dam the state engineer finds that the work is not being done in accordance with the
6065 approved plans and specifications, [~~he~~] the state engineer shall:
- 6066 (a) notify the owner of the failure to comply;
6067 (b) order the owner to effect compliance with the plans and specifications; or
6068 (c) approve the modification to the approved plans and specifications.
- 6069 (2) The state engineer may order that no further work be done until compliance has been
6070 effected and approved by [~~him~~] the state engineer.
- 6071 (3) A failure to comply with the approved plans and specifications shall render the approval
6072 subject to revocation by the state engineer. If compliance is not effected in a reasonable
6073 time, the state engineer may order the incomplete structure removed in order to
6074 eliminate any safety hazard to life or property.

6075 Section 304. Section **73-5a-303** is amended to read:

6076 **73-5a-303 . Circumstances under which the plan must be modified or the**
6077 **approval revoked.**

- 6078 (1) If at any time during construction, enlargement, repair, alteration, or removal of a dam
6079 the state engineer finds that the conditions encountered differ appreciably from those
6080 assumed in the plan, [~~he~~] the state engineer may require the plans to be modified.
- 6081 (2) If conditions are revealed which will not permit the construction of a safe dam, the state
6082 engineer shall revoke the approval.

6083 Section 305. Section **73-5a-402** is amended to read:

6084 **73-5a-402 . Standard operating plans required.**

6085 The owner of each dam shall prepare a standard operating plan for the dam. In the case
 6086 of a dam in operation prior to May 1, 1991, the standard operating plan shall be submitted to
 6087 the state engineer for [his] the state engineer's approval by May 1, 1994. In the case of any
 6088 dam beginning operations on or after May 1, 1991, the standard operating plan shall be
 6089 submitted to the state engineer for [his] the state engineer's approval prior to the final
 6090 inspection.

6091 Section 306. Section **73-5a-601** is amended to read:

6092 **73-5a-601 . Emergency action plans required.**

- 6093 (1) The owner of any dam which, in the state engineer's opinion, may pose a threat to life or
 6094 cause significant damage to property if it fails shall prepare a plan of action to be
 6095 implemented when an emergency involving the dam occurs.
- 6096 (2) In the case of a dam in operation prior to May 1, 1991, the emergency action plan shall
 6097 be submitted to the state engineer for [his] the state engineer's approval by May 1, 1994.
- 6098 (3) In the case of a dam beginning operations on or after May 1, 1991, the emergency
 6099 action plan shall be submitted to the state engineer prior to the date of the final
 6100 inspection.

6101 Section 307. Section **73-18-7.1** is amended to read:

6102 **73-18-7.1 . Fraudulent application for registration or certificate of title.**

6103 A person is guilty of a third degree felony if [he] the person:

- 6104 (1) fraudulently uses a false or fictitious name in any application for a registration or
 6105 certificate of title for a motorboat, sailboat, or outboard motor; or
- 6106 (2) in making an application specified in Subsection (1)[,he]:
- 6107 (a) knowingly makes a false statement;
- 6108 (b) knowingly conceals a material fact; or
- 6109 (c) otherwise commits a fraud.

6110 Section 308. Section **73-18-10** is amended to read:

6111 **73-18-10 . Owner of boat livery -- Duties.**

- 6112 (1) The owner of a boat livery shall keep a record of the following: the name and address of
 6113 the person hiring any vessel; the identification number of the vessel; the vessel's
 6114 departure date and time; and the vessel's expected time of return. The record shall be
 6115 preserved for at least one year.
- 6116 (2) Neither the owner of a boat livery nor [his] the owner's agent or employee may permit
 6117 any vessel to depart from the premises of the boat livery unless the owner has equipped
 6118 it as required under this chapter and unless [he] the owner has advised the lessee or renter

6119 of the vessel of all rules promulgated under this chapter which the lessee or renter must
6120 obey.

6121 Section 309. Section **73-18-20.3** is amended to read:

6122 **73-18-20.3 . Falsified hull identification, engine, or motor number.**

6123 (1) A person is guilty of a third degree felony if [~~he~~] the person:

- 6124 (a) with fraudulent intent defaces, destroys, or alters a vessel hull identification number
6125 or serial number for an engine or outboard motor;
- 6126 (b) places or stamps any vessel hull identification number upon a vessel or serial number
6127 upon an engine or outboard motor, except one assigned by the division or its
6128 authorized agent;
- 6129 (c) knowingly buys, receives, disposes of, sells, offers for sale, or [~~has in his possession~~]
6130 possesses any vessel, or engine or outboard motor removed from a vessel, from
6131 which the vessel hull identification number or engine or outboard motor serial
6132 number, has been removed, defaced, covered, altered, or destroyed for the purpose of
6133 concealing or misrepresenting the identity of the vessel, engine, or outboard motor;
- 6134 (d) with intent to procure or pass title to a vessel or outboard motor, receives or transfers
6135 possession of a vessel or outboard motor which he knows or has reason to believe has
6136 been stolen or unlawfully taken; or
- 6137 (e) [~~has in his possession~~] possesses a vessel or outboard motor which [~~he~~] the person
6138 knows or has reason to believe has been stolen or unlawfully taken, unless the person
6139 is a peace officer engaged at the time in the performance of [~~his duty~~] peace officer
6140 duties.

6141 (2)(a) This section does not prohibit the restoration by an owner of an original vessel
6142 hull identification number or manufacturer's serial number for an engine or outboard
6143 motor if the restoration is made by application to the division or its authorized agent.

6144 (b) This section does not prohibit any manufacturer from placing, in the ordinary course
6145 of business, numbers or marks upon vessels, motors, outboard motors, or parts.

6146 Section 310. Section **73-18-20.5** is amended to read:

6147 **73-18-20.5 . Reporting of theft and recovery of vessels.**

6148 (1)(a) Any peace officer upon receiving reliable information that any vessel or outboard
6149 motor has been stolen shall immediately report the theft to the Criminal
6150 Investigations and Technical Services Division of the Department of Public Safety,
6151 established in Section 53-10-103.

6152 (b) Any peace officer upon receiving information that any vessel or outboard motor

6153 which was previously reported as stolen has been recovered shall immediately report
 6154 the recovery to [~~his~~] the peace officer's law enforcement agency and to the Criminal
 6155 Investigations and Technical Services Division.

6156 (2) The reporting and recovery procedures for vessels and outboard motors shall be the
 6157 same as those specified in Section 41-1a-1401 for motor vehicles.

6158 Section 311. Section **73-18-20.7** is amended to read:

6159 **73-18-20.7 . Unlawful control over vessels -- Penalties -- Effect of prior consent --**
 6160 **Accessory or accomplice.**

6161 (1) Any person who exercises unauthorized control over a vessel[~~, not his own,~~] that the
 6162 person does not own without the consent of the owner or lawful custodian and with
 6163 intent to temporarily deprive the owner or lawful custodian of possession of the vessel,
 6164 is guilty of a class A misdemeanor.

6165 (2) An offense under this section is a third degree felony if the actor does not return the
 6166 vessel to the owner or lawful custodian within 24 hours after the exercise of
 6167 unauthorized control.

6168 (3) The consent of the owner or legal custodian of a vessel to its control by the actor is not
 6169 in any case presumed or implied because of the owner's or legal custodian's consent on a
 6170 previous occasion to the control of the vessel by the same or a different person.

6171 (4) Any person who assists in, or is a party or accessory to or an accomplice in, an
 6172 unauthorized taking or operating of a vessel is guilty of a class A misdemeanor.

6173 Section 312. Section **76-1-304** is amended to read:

6174 **76-1-304 . Defendant out of state -- Plea held invalid -- New prosecutions.**

6175 (1) The period of limitation does not run against any defendant during any period of time in
 6176 which the defendant is out of the state following the commission of an offense.

6177 (2) If the defendant has entered into a plea agreement with the prosecution and later
 6178 successfully moves to invalidate [~~his~~] the defendant's conviction, the period of limitation
 6179 is suspended from the time of the entry of the plea pursuant to the plea agreement until
 6180 the time at which the conviction is determined to be invalid, and that determination
 6181 becomes final.

6182 (3) For purposes of this section, "final" means:

6183 (a) all appeals have been exhausted;

6184 (b) no judicial review is pending; and

6185 (c) no application for judicial review is pending.

6186 (4) When the period of limitation is suspended pursuant to Subsection (2), the suspension

6187 includes any charges to which the defendant pleaded guilty pursuant to a plea
6188 agreement, charges which were dismissed as a result of a plea agreement, as well as any
6189 known charges which were not barred at the time of entry of the plea.

6190 (5) Notwithstanding any other limitation, a prosecution may be commenced for charges
6191 described in Subsection (4) within one year after a plea entered pursuant to a plea
6192 agreement has been determined to be invalid, and that determination becomes final.

6193 Section 313. Section **76-1-402** is amended to read:

6194 **76-1-402 . Separate offenses arising out of single criminal episode -- Included**
6195 **offenses.**

6196 (1) A defendant may be prosecuted in a single criminal action for all separate offenses
6197 arising out of a single criminal episode; however, when the same act of a defendant
6198 under a single criminal episode shall establish offenses which may be punished in
6199 different ways under different provisions of this code, the act shall be punishable under
6200 only one such provision; an acquittal or conviction and sentence under any such
6201 provision bars a prosecution under any other such provision.

6202 (2) Whenever conduct may establish separate offenses under a single criminal episode,
6203 unless the court otherwise orders to promote justice, a defendant shall not be subject to
6204 separate trials for multiple offenses when:

6205 (a) [~~The~~] the offenses are within the jurisdiction of a single court; and

6206 (b) [~~The~~] the offenses are known to the prosecuting attorney at the time the defendant is
6207 arraigned on the first information or indictment.

6208 (3) A defendant may be convicted of an offense included in the offense charged but may
6209 not be convicted of both the offense charged and the included offense. An offense is so
6210 included when:

6211 (a) [~~It~~] it is established by proof of the same or less than all the facts required to establish
6212 the commission of the offense charged; or

6213 (b) [~~It~~] it constitutes an attempt, solicitation, conspiracy, or form of preparation to
6214 commit the offense charged or an offense otherwise included therein; or

6215 (c) [~~It~~] it is specifically designated by a statute as a lesser included offense.

6216 (4) The court shall not be obligated to charge the jury with respect to an included offense
6217 unless there is a rational basis for a verdict acquitting the defendant of the offense
6218 charged and convicting [~~him~~] the defendant of the included offense.

6219 (5) If the district court on motion after verdict or judgment, or an appellate court on appeal
6220 or certiorari, shall determine that there is insufficient evidence to support a conviction

6221 for the offense charged but that there is sufficient evidence to support a conviction for an
 6222 included offense and the trier of fact necessarily found every fact required for conviction
 6223 of that included offense, the verdict or judgment of conviction may be set aside or
 6224 reversed and a judgment of conviction entered for the included offense, without
 6225 necessity of a new trial, if such relief is sought by the defendant.

6226 Section 314. Section **76-2-201** is amended to read:

6227 **76-2-201 . Definitions.**

6228 As used in this part:

- 6229 (1) "Agent" means any director, officer, employee, or other person authorized to act in
 6230 behalf of a corporation or association.
- 6231 (2) "High managerial agent" means:
- 6232 (a) [~~A~~] a partner in a partnership;
- 6233 (b) [~~An~~] an officer of a corporation or association;
- 6234 (c) [~~An~~] an agent of a corporation or association who has duties of such responsibility
 6235 that [~~his~~] the agent's conduct reasonably may be assumed to represent the policy of the
 6236 corporation or association.
- 6237 (3) "Corporation" means all organizations required by the laws of this state or any other
 6238 state to obtain a certificate of authority, a certificate of incorporation, or other form of
 6239 registration to transact business as a corporation within this state or any other state and
 6240 shall include domestic, foreign, profit and nonprofit corporations, but shall not include a
 6241 corporation sole, as such term is used in Title 16, Chapter 7, Corporations Sole. Lack of
 6242 an appropriate certificate of authority, incorporation, or other form of registration shall
 6243 be no defense when such organization conducted its business in a manner as to appear to
 6244 have lawful corporate existence.

6245 Section 315. Section **76-2-204** is amended to read:

6246 **76-2-204 . Criminal responsibility of corporation or association.**

6247 A corporation or association is guilty of an offense when:

- 6248 (1) The conduct constituting the offense consists of an omission to discharge a specific duty
 6249 of affirmative performance imposed on corporations or associations by law; or
- 6250 (2) The conduct constituting the offense is authorized, solicited, requested, commanded, or
 6251 undertaken, performed, or recklessly tolerated by the board of directors or by a high
 6252 managerial agent acting within the scope of [~~his~~]employment and in behalf of the
 6253 corporation or association.

6254 Section 316. Section **76-2-205** is amended to read:

6255 **76-2-205 . Criminal responsibility of person for conduct in name of corporation**
6256 **or association.**

6257 A person is criminally liable for conduct constituting an offense which [he] the person
6258 performs or causes to be performed in the name of or on behalf of a corporation or association
6259 to the same extent as if such conduct were performed in [his] the person's own name or behalf.

6260 Section 317. Section **76-2-301** is amended to read:

6261 **76-2-301 . Person under 14 years old not criminally responsible.**

6262 A person is not criminally responsible for conduct performed before [he] the person
6263 reaches [~~the age of~~]14 years old. This section shall in no way limit the jurisdiction of or
6264 proceedings before the juvenile courts of this state.

6265 Section 318. Section **76-2-302** is amended to read:

6266 **76-2-302 . Compulsion.**

- 6267 (1) A person is not guilty of an offense when [he] the person engaged in the proscribed
6268 conduct because [he] the person was coerced to do so by the use or threatened imminent
6269 use of unlawful physical force upon [him] the person or a third person, which force or
6270 threatened force a person of reasonable firmness in [his] that situation would not have
6271 resisted.
- 6272 (2) The defense of compulsion provided by this section shall be unavailable to a person
6273 who intentionally, knowingly, or recklessly places himself or herself in a situation in
6274 which it is probable that [he] the person will be subjected to duress.
- 6275 (3) A married woman is not entitled, by reason of the presence of her husband, to any
6276 presumption of compulsion or to any defense of compulsion except as in Subsection (1)
6277 provided.

6278 Section 319. Section **76-2-303** is amended to read:

6279 **76-2-303 . Entrapment.**

- 6280 (1) It is a defense that the actor was entrapped into committing the offense. Entrapment
6281 occurs when a peace officer or a person directed by or acting in cooperation with the
6282 officer induces the commission of an offense in order to obtain evidence of the
6283 commission for prosecution by methods creating a substantial risk that the offense
6284 would be committed by one not otherwise ready to commit it. Conduct merely affording
6285 a person an opportunity to commit an offense does not constitute entrapment.
- 6286 (2) The defense of entrapment shall be unavailable when causing or threatening bodily
6287 injury is an element of the offense charged and the prosecution is based on conduct
6288 causing or threatening the injury to a person other than the person perpetrating the

- 6289 entrapment.
- 6290 (3) The defense provided by this section is available even though the actor denies
6291 commission of the conduct charged to constitute the offense.
- 6292 (4) Upon written motion of the defendant, the court shall hear evidence on the issue and
6293 shall determine as a matter of fact and law whether the defendant was entrapped to
6294 commit the offense. Defendant's motion shall be made at least 10 days before trial
6295 except the court for good cause shown may permit a later filing.
- 6296 (5) Should the court determine that the defendant was entrapped, it shall dismiss the case
6297 with prejudice, but if the court determines the defendant was not entrapped, such issue
6298 may be presented by the defendant to the jury at trial. Any order by the court dismissing
6299 a case based on entrapment shall be appealable by the state.
- 6300 (6) In any hearing before a judge or jury where the defense of entrapment is an issue, past
6301 offenses of the defendant shall not be admitted, except that in a trial where the defendant
6302 testifies[~~he~~] , the defendant may be asked [~~of his~~] about past convictions for felonies and
6303 any testimony given by the defendant at a hearing on entrapment may be used to
6304 impeach [~~his~~] the defendant's testimony at trial.

6305 Section 320. Section **76-2-304** is amended to read:

6306 **76-2-304 . Ignorance or mistake of fact or law.**

- 6307 (1) Unless otherwise provided, ignorance or mistake of fact which disproves the culpable
6308 mental state is a defense to any prosecution for that crime.
- 6309 (2) Ignorance or mistake concerning the existence or meaning of a penal law is no defense
6310 to a crime unless:
- 6311 (a) [~~Due~~] due to [~~his~~] an actor's ignorance or mistake, the actor reasonably believed [~~his~~]
6312 the actor's conduct did not constitute an offense[~~,~~] ; and
- 6313 (b) [~~His~~] an actor's ignorance or mistake resulted from the actor's reasonable reliance
6314 upon:
- 6315 (i) [~~An~~] an official statement of the law contained in a written order or grant of
6316 permission by an administrative agency charged by law with responsibility for
6317 interpreting the law in question; or
- 6318 (ii) [~~A~~] a written interpretation of the law contained in an opinion of a court of record
6319 or made by a public servant charged by law with responsibility for interpreting the
6320 law in question.
- 6321 (3) Although an actor's ignorance or mistake of fact or law may constitute a defense to the
6322 offense charged, [~~he~~] the actor may nevertheless be convicted of a lesser included offense

6323 of which [he] the actor would be guilty if the fact or law were as [he] the actor believed.

6324 Section 321. Section **76-2-307** is amended to read:

6325 **76-2-307 . Voluntary termination of efforts prior to offense.**

6326 It is an affirmative defense to a prosecution in which an actor's criminal responsibility
6327 arises from [his] the actor's own conduct or from being a party to an offense under Section
6328 76-2-202 that prior to the commission of the offense, the actor voluntarily terminated [his] the
6329 actor's effort to promote or facilitate its commission and either:

6330 (1) [~~Gave~~] gave timely warning to the proper law enforcement authorities or the intended
6331 victim; or

6332 (2) [~~Wholly~~] wholly deprives [his] the actor's prior efforts of effectiveness in the
6333 commission.

6334 Section 322. Section **76-2-403** is amended to read:

6335 **76-2-403 . Force in arrest.**

6336 Any person is justified in using any force, except deadly force, which [he] the person
6337 reasonably believes to be necessary to effect an arrest or to defend himself or herself or
6338 another from bodily harm while making an arrest.

6339 Section 323. Section **76-3-303** is amended to read:

6340 **76-3-303 . Additional sanctions against corporation or association -- Advertising**
6341 **of conviction -- Disqualification of officer.**

6342 (1) When a corporation or association is convicted of an offense, the court may, in addition
6343 to or in lieu of imposing other authorized sanctions, require the corporation or
6344 association to give appropriate publicity of the conviction by notice to the class or
6345 classes of persons or section of the public interested in or affected by the conviction, by
6346 advertising in designated areas, or by designated media or otherwise.

6347 (2) When an executive or high managerial officer of a corporation or association is
6348 convicted of an offense committed in furtherance of the affairs of the corporation or
6349 association, the court may include in the sentence an order disqualifying [him] the
6350 executive or high managerial officer from exercising similar functions in the same or
6351 other corporations or associations for a period of not exceeding five years if [it] the court
6352 finds the scope or willfulness of [his] the illegal actions make it dangerous or inadvisable
6353 for such functions to be entrusted to [him] the executive or high managerial officer.

6354 Section 324. Section **76-3-405** is amended to read:

6355 **76-3-405 . Limitation on sentence where conviction or prior sentence set aside.**

6356 (1) Where a conviction or sentence has been set aside on direct review or on collateral

6357 attack, the court shall not impose a new sentence for the same offense or for a different
 6358 offense based on the same conduct which is more severe than the prior sentence less the
 6359 portion of the prior sentence previously satisfied.

6360 (2) This section does not apply when:

- 6361 (a) the increased sentence is based on facts which were not known to the court at the
 6362 time of the original sentence, and the court affirmatively places on the record the
 6363 facts which provide the basis for the increased sentence; or
 6364 (b) a defendant enters into a plea agreement with the prosecution and later successfully
 6365 moves to invalidate [his] the defendant's conviction, in which case the defendant and
 6366 the prosecution stand in the same position as though the plea bargain, conviction, and
 6367 sentence had never occurred.

6368 Section 325. Section **76-3-409** is amended to read:

6369 **76-3-409 . Child abuse or sex offense against child -- Treatment of offender or**
 6370 **victim -- Payment of costs.**

6371 (1) Any person convicted in the district court of child abuse, or a sexual offense if the
 6372 victim is under 18 years [~~of age~~] old, may be ordered to participate in treatment or
 6373 therapy under the supervision of the adult probation and parole section of the
 6374 Department of Corrections, in cooperation with the division of children, youth, and
 6375 families until the court is satisfied that such treatment or therapy has been successful or
 6376 that no further benefit to the convicted offender would result if such treatment or therapy
 6377 were continued. The court may also order treatment of the victim if it believes the same
 6378 would be beneficial under the circumstances. Nothing in this section shall preclude the
 6379 court from imposing any additional sentence as provided by law.

6380 (2) The convicted offender shall be ordered to pay, to the extent that [~~he or she~~] the
 6381 convicted offender is able, the costs of [~~his or her~~] the convicted offender's treatment,
 6382 together with treatment costs incurred by the victim and any administrative costs
 6383 incurred by the appropriate state agency in the supervision of such treatment. If the
 6384 convicted offender is unable to pay all or part of the costs of treatment, the court may
 6385 order the appropriate state agency to pay such costs to the extent funding is provided by
 6386 the Legislature for such purpose and shall order the convicted offender to perform public
 6387 service work as compensation for the cost of treatment.

6388 Section 326. Section **76-7-202** is amended to read:

6389 **76-7-202 . Orders for support in criminal nonsupport proceedings.**

6390 (1) In any proceeding under Section 76-7-201, the court may, instead of imposing the

6391 punishments otherwise prescribed, issue an order directing the defendant to periodically
6392 pay a sum to the Office of Recovery Services, or otherwise as the court may direct, to be
6393 used for the support of the dependents who are the subject of the proceeding under
6394 Section 76-7-201.

- 6395 (2) The order to periodically pay a sum for the support of the dependents:
- 6396 (a) may be issued with the consent of the defendant prior to trial, or after conviction,
6397 having regard to the circumstances, financial ability, and earning capacity of the
6398 defendant;
- 6399 (b) shall be subject to change from time to time as circumstances may require;
- 6400 (c) may not require payments for a period exceeding the term of probation provided for
6401 the offense with which the defendant is charged, or of which [he] the defendant is
6402 found guilty; and
- 6403 (d) shall be conditioned upon the defendant either entering a recognizance in accordance
6404 with Subsection (3), or providing security in a sum as the court directs.

- 6405 (3) The condition of recognizance shall require the defendant to:
- 6406 (a) make personal appearance in court whenever ordered to do so within the period of
6407 probation; and
- 6408 (b) comply with the terms of the order and any subsequent modifications of the order.
- 6409 (4) If the court is satisfied by information and due proof under oath that at any time during
6410 the period of probation the defendant has violated the terms of the order, it may proceed
6411 with the trial of defendant under the original charge or sentence [him] the defendant
6412 under the original conviction or enforce the original sentence as the case may be. In the
6413 case of forfeiture of bail or bond in any proceeding under Section 76-7-201, the sum
6414 recovered may, in the discretion of the court, be paid in whole or in part to the Office of
6415 Recovery Services, or otherwise as the court may direct, to be used for the support of the
6416 dependents involved.

6417 Section 327. Section **76-7-303** is amended to read:

6418 **76-7-303 . Concurrence of attending physician based on medical judgment.**

6419 No abortion may be performed in this state without the concurrence of the attending
6420 physician, based on [his] the attending physician's best medical judgment.

6421 Section 328. Section **76-7-308** is amended to read:

6422 **76-7-308 . Medical skills required to preserve life of unborn child.**

6423 Consistent with the purpose of saving the life of the woman or preventing grave damage
6424 to the woman's medical health, the physician performing the abortion must use all of [his] the

6425 physician's medical skills to attempt to promote, preserve and maintain the life of any unborn
 6426 child sufficiently developed to have any reasonable possibility of survival outside of the
 6427 mother's womb.

6428 Section 329. Section **77-1-6** is amended to read:

6429 **77-1-6 . Rights of defendant.**

6430 (1) In criminal prosecutions the defendant is entitled to:

- 6431 (a) [~~Fø~~]appear in person and defend in person or by counsel;
- 6432 (b) [~~Fø~~]receive a copy of the accusation filed against [~~him~~] the defendant;
- 6433 (c) [~~Fø~~]testify in [~~his~~] the defendant's own behalf;
- 6434 (d) [~~Fø~~]be confronted by the witnesses against [~~him~~] the defendant;
- 6435 (e) [~~Fø~~]have compulsory process to insure the attendance of witnesses in [~~his~~] the
 6436 defendant's behalf;
- 6437 (f) [~~Fø~~]a speedy public trial by an impartial jury of the county or district where the
 6438 offense is alleged to have been committed;
- 6439 (g) [~~Fø~~]the right of appeal in all cases; and
- 6440 (h) [~~Fø~~]be admitted to bail in accordance with provisions of law, or be entitled to a trial
 6441 within 30 days after arraignment if unable to post bail and if the business of the court
 6442 permits.

6443 (2) In addition:

- 6444 (a) [~~No~~] no person shall be put twice in jeopardy for the same offense;
- 6445 (b) [~~No~~] no accused person shall, before final judgment, be compelled to advance money
 6446 or fees to secure rights guaranteed by the Constitution or the laws of Utah, or to pay
 6447 the costs of those rights when received;
- 6448 (c) [~~No~~] no person shall be compelled to give evidence against himself or herself;
- 6449 (d) [~~A wife shall not be compelled to testify against her husband nor a husband against~~
 6450 ~~his wife~~] an individual may not be compelled to testify against the individual's spouse;
 6451 and
- 6452 (e) [~~No~~] no person shall be convicted unless by verdict of a jury, or upon a plea of guilty
 6453 or no contest, or upon a judgment of a court when trial by jury has been waived or, in
 6454 case of an infraction, upon a judgment by a magistrate.

6455 Section 330. Section **77-2-4** is amended to read:

6456 **77-2-4 . Dismissal of prosecution.**

6457 After commencement of a prosecution the prosecutor may, upon reasonable grounds,
 6458 move the magistrate before whom the prosecution is pending to dismiss the prosecution. If, in

6459 the judgment of the magistrate, the prosecution should not continue, [he] the magistrate may
6460 dismiss the prosecution and enter an order of dismissal stating the reasons for the dismissal in
6461 the order.

6462 Section 331. Section **77-2-4.5** is amended to read:

6463 **77-2-4.5 . Dismissal by compromise -- Limitations.**

6464 (1) In misdemeanor cases the court may dismiss the case upon motion of the prosecutor if it
6465 is compromised by the defendant and the injured party, except under Subsection (2).

6466 The injured party shall first acknowledge the compromise before the court or in writing.

6467 The reasons for the order shall be set forth and entered in the minutes. The order is a bar
6468 to another prosecution for the same offense.

6469 (2) A dismissal by compromise may not be granted when the misdemeanor is committed by
6470 or upon a peace officer while in the performance of [his] the peace officer's duties, or
6471 riotously, or with intent to commit a felony.

6472 Section 332. Section **77-2-6** is amended to read:

6473 **77-2-6 . Dismissal after compliance with diversion agreement.**

6474 The court shall dismiss the information or indictment filed against the defendant who
6475 has complied with the requirements of [his] a diversion agreement and the defendant shall not
6476 thereafter be subject to further prosecution for the offense involved or for any lesser included
6477 offense.

6478 Section 333. Section **77-2-8** is amended to read:

6479 **77-2-8 . Violation of diversion agreement -- Hearing -- Prosecution resumed.**

6480 If, during the course of the diversion of a defendant, information is brought to the
6481 attention of a magistrate or the prosecuting attorney that the defendant has violated [his] the
6482 diversion agreement and it appears in the best interests of the community to reinstate and
6483 proceed with the prosecution, the prosecuting attorney, upon court approval, or the magistrate,
6484 on [his] the magistrate's own motion, shall cause to be served upon the defendant an order to
6485 show cause specifying the facts relied upon by the prosecuting attorney or magistrate to
6486 terminate diversion and shall set a time and place for a hearing to determine whether or not the
6487 defendant has violated [his] the diversion agreement. If, at the hearing, the magistrate finds the
6488 defendant has failed to comply with any terms or conditions of the diversion agreement, [he]
6489 the magistrate may authorize the prosecuting attorney to proceed with prosecution. The
6490 prosecution of a diverted offense shall not bar any independent prosecution arising from any
6491 offense that constituted a violation of any term or condition of the diversion agreement by
6492 which the original prosecution was diverted.

6493 Section 334. Section **77-3-2** is amended to read:

6494 **77-3-2 . Examination of complainant and witnesses.**

6495 The magistrate shall examine, on oath, the complainant and any witnesses [he] the
 6496 complainant may produce and may take [~~their~~] the complainant's or witnesses' testimony in
 6497 writing.

6498 Section 335. Section **77-3-4** is amended to read:

6499 **77-3-4 . Warrant of arrest -- Temporary restraining order.**

6500 If the magistrate believes there is reasonable ground to fear the commission of the
 6501 offense threatened, [he] the magistrate may issue:

6502 (1) [~~Issue~~]a warrant directed generally to any peace officer, reciting the substance of the
 6503 complaint and commanding the officer to immediately arrest the person complained of
 6504 and bring [~~him~~] that person before the magistrate or, in the case of [~~his~~] the magistrate's
 6505 absence or inability to act, before the nearest and most accessible magistrate of the
 6506 county; and

6507 (2) [~~Issue~~]a temporary restraining order against the commission of the offense and order
 6508 the person complained of to immediately appear before the magistrate for a hearing.

6509 Section 336. Section **77-3-5** is amended to read:

6510 **77-3-5 . Defendant taken before different magistrate -- Procedure.**

6511 When the person arrested is taken before a magistrate other than the one who issued the
 6512 warrant, the peace officer who executed the warrant shall deliver it to the issuing magistrate
 6513 with his or her endorsed return. The complaint and written testimony, if any, on which the
 6514 warrant was issued shall be sent to the magistrate before whom the person arrested is taken.

6515 Section 337. Section **77-3-8** is amended to read:

6516 **77-3-8 . Findings and orders -- Discharge -- Undertaking -- Commitment.**

6517 (1) If it appears there is no reasonable ground to fear the commission of the offense alleged
 6518 to have been threatened, the person complained of shall be discharged. The complainant
 6519 may be ordered to pay the costs of the proceedings if the magistrate believes the
 6520 complaint was unfounded and frivolous.

6521 (2) If there is reasonable ground to fear the commission of an offense, the court may, in
 6522 addition or as an alternative to other relief, enter an order permanently restraining the
 6523 person from engaging in illegal conduct or acting in any manner that could result in
 6524 illegal conduct or the person complained of may be required to enter into an undertaking
 6525 in a sum not to exceed \$3,000, with one or more sufficient sureties, to keep the peace
 6526 toward the people of this state and particularly toward the persons endangered. The

6527 conditions of the undertaking shall be in writing and shall be for a period of six months.
6528 It may be extended on good cause shown for a longer period or enlarged and a new
6529 undertaking may be required.

6530 (a) If the undertaking is given, the party complained of shall be discharged.

6531 (b) If the undertaking is not given, the magistrate shall commit the defendant to jail
6532 specifying in the warrant of commitment the requirement to give security, the amount
6533 thereof, and the effective period of time.

6534 (c) A person committed for not giving the required undertaking may be discharged by
6535 any magistrate when [he] the person provides the undertaking.

6536 Section 338. Section **77-3-10** is amended to read:

6537 **77-3-10 . Assault in presence of magistrate or court.**

6538 A person who, in the presence of the court or magistrate, assaults or threatens to assault
6539 another or to commit an offense against person or property, or who contends with another with
6540 threatening words, may be ordered by the court or magistrate to give security and if [he] the
6541 person refuses to do so, may be committed as provided in Subsection 77-3-8(2)(b).

6542 Section 339. Section **77-5-2** is amended to read:

6543 **77-5-2 . Chief justice to preside, when.**

6544 When the governor is on trial, the chief justice of the Supreme Court shall preside, and,
6545 in case [he] the chief justice is disqualified or unable to act, the Senate shall select some other
6546 justice of the Supreme Court to preside.

6547 Section 340. Section **77-5-8** is amended to read:

6548 **77-5-8 . Two-thirds vote necessary for conviction.**

6549 The officer shall not be convicted on impeachment without the concurrence of
6550 two-thirds of the senators elected, voting by ayes and nays, and if two-thirds of the senators
6551 elected do not concur in a conviction, [he] the officer shall be acquitted.

6552 Section 341. Section **77-6-5** is amended to read:

6553 **77-6-5 . Appearance -- Procedure on default.**

6554 The defendant shall appear at the time appointed and answer the accusation, unless for
6555 some sufficient cause the court assigns another time for that purpose. If [he] the defendant does
6556 not appear, the court may proceed to hear and determine the accusation in [his] the defendant's
6557 absence.

6558 Section 342. Section **77-6-6** is amended to read:

6559 **77-6-6 . Answer -- Objections for insufficiency.**

6560 The defendant may orally answer the accusation either by admitting or denying it in

6561 open court, or [he] the defendant may, in writing, object to the legal sufficiency of the
 6562 accusation. If the objection to the sufficiency of the accusation is sustained, the accusation
 6563 shall be dismissed. If the objection is overruled, the defendant shall immediately admit or deny
 6564 the accusation.

6565 Section 343. Section **77-6-8** is amended to read:

6566 **77-6-8 . Judgment of removal -- Service on defendant.**

6567 If the defendant admits the accusation or is convicted, the court shall enter judgment
 6568 against [him] the defendant directing the defendant be removed from office and setting forth
 6569 the causes of removal. The judgment of removal shall immediately be served upon the
 6570 defendant.

6571 Section 344. Section **77-6-9** is amended to read:

6572 **77-6-9 . Appeal -- Suspension from office.**

6573 From a judgment of removal an appeal may be taken to the Supreme Court in the same
 6574 manner as from a judgment in a civil action; but from entry of judgment and until the
 6575 judgment is reversed, the defendant shall be suspended from [his] the defendant's office.
 6576 Pending the appeal, the office shall be filled as in the case of a vacancy.

6577 Section 345. Section **77-7-1** is amended to read:

6578 **77-7-1 . "Arrest" defined -- Restraint allowed.**

6579 An arrest is an actual restraint of the person arrested or submission to custody. The
 6580 person shall not be subjected to any more restraint than is necessary for [his-]arrest and
 6581 detention.

6582 Section 346. Section **77-7-3** is amended to read:

6583 **77-7-3 . By private persons.**

6584 A private person may arrest another:

- 6585 (1) [Før] for a public offense committed or attempted in [his] the private person's presence; or
 6586 (2) [~~When~~] when a felony has been committed and [he] the private person has reasonable
 6587 cause to believe the person arrested has committed it.

6588 Section 347. Section **77-7-9** is amended to read:

6589 **77-7-9 . Weapons may be taken from prisoner.**

6590 Any person making an arrest may seize from the person arrested all weapons which [he]
 6591 the person arrested may have on or about his or her person.

6592 Section 348. Section **77-7-10** is amended to read:

6593 **77-7-10 . Telegraph or telephone authorization of execution of arrest warrant.**

6594 Any magistrate may, by an endorsement on a warrant of arrest, authorize by telegraph,

6595 telephone or other reasonable means, its execution. A copy of the warrant or notice of its
6596 issuance and terms may be sent to one or more peace officers. The copy or notice
6597 communicated authorizes the officer to proceed in the same manner under it as if [~~he~~] the peace
6598 officer had an original warrant.

6599 Section 349. Section **77-7-11** is amended to read:

6600 **77-7-11 . Possession of warrant by arresting officer not required.**

6601 Any peace officer who has knowledge of an outstanding warrant of arrest may arrest a
6602 person [~~he~~] the peace officer reasonably believes to be the person described in the warrant,
6603 without the peace officer having physical possession of the warrant.

6604 Section 350. Section **77-7-14** is amended to read:

6605 **77-7-14 . Person causing detention or arrest of person suspected of shoplifting or**
6606 **library theft -- Civil and criminal immunity.**

6607 (1) A peace officer, merchant, or merchant's employee, servant, or agent who causes the
6608 detention of a person as provided in Section 77-7-12, or who causes the arrest of a
6609 person for theft of goods held or displayed for sale, is not criminally or civilly liable
6610 where [~~he has~~] there is reasonable and probable cause to believe the person detained or
6611 arrested committed a theft of goods held or displayed for sale.

6612 (2) A peace officer or employee of a library who causes a detention or arrest of a person
6613 under Title 76, Chapter 6, Part 8, Library Theft, is not criminally or civilly liable where [~~he has~~]
6614 there is reasonable and probable cause to believe that the person committed a
6615 theft of library materials.

6616 Section 351. Section **77-7-16** is amended to read:

6617 **77-7-16 . Authority of peace officer to frisk suspect for dangerous weapon --**
6618 **Grounds.**

6619 A peace officer who has stopped a person temporarily for questioning may frisk the
6620 person for a dangerous weapon if [~~he~~] the peace officer reasonably believes [~~he~~] the peace
6621 officer or any other person is in danger.

6622 Section 352. Section **77-7-17** is amended to read:

6623 **77-7-17 . Authority of peace officer to take possession of weapons.**

6624 A peace officer who finds a dangerous weapon pursuant to a frisk may take and keep it
6625 until the completion of the questioning, at which time [~~he~~] the peace officer shall either return it
6626 if lawfully possessed, or arrest such person.

6627 Section 353. Section **77-8-2** is amended to read:

6628 **77-8-2 . Suspect's right to have attorney present.**

6629 A suspect has the right to have [his] an attorney present at any lineup. The magistrate or
6630 party in charge of the lineup shall notify the suspect of this right. Every suspect unable to
6631 employ counsel shall be entitled to representation by an attorney appointed by a magistrate for
6632 a lineup either before or after an arrest.

6633 Section 354. Section **77-8-4** is amended to read:

6634 **77-8-4 . Record of proceedings -- Access by suspect.**

6635 The entire lineup procedure shall be recorded, including all conversations between the
6636 witnesses and the conducting peace officers. The suspect shall have access to and may make
6637 copies of the record and any photographs taken of [him] the suspect or any other persons in
6638 connection with the lineup.

6639 Section 355. Section **77-8a-1** is amended to read:

6640 **77-8a-1 . Joinder of offenses and of defendants.**

- 6641 (1) Two or more felonies, misdemeanors, or both, may be charged in the same indictment
6642 or information if each offense is a separate count and if the offenses charged are:
6643 (a) based on the same conduct or are otherwise connected together in their commission;
6644 or
6645 (b) alleged to have been part of a common scheme or plan.
- 6646 (2)(a) When a felony and misdemeanor are charged together the defendant is afforded a
6647 preliminary hearing with respect to both the misdemeanor and felony offenses.
6648 (b) Two or more defendants may be charged in the same indictment or information if
6649 they are alleged to have participated in the same act or conduct or in the same
6650 criminal episode.
6651 (c) The defendants may be charged in one or more counts together or separately and all
6652 of the defendants need not be charged in each count.
6653 (d) When two or more defendants are jointly charged with any offense, they shall be
6654 tried jointly unless the court in its discretion on motion or otherwise orders separate
6655 trials consistent with the interests of justice.
- 6656 (3)(a) The court may order two or more indictments or informations or both to be tried
6657 together if the offenses, and the defendants, if there is more than one, could have
6658 been joined in a single indictment or information.
6659 (b) The procedure shall be the same as if the prosecution were under a single indictment
6660 or information.
- 6661 (4)(a) If the court finds a defendant or the prosecution is prejudiced by a joinder of
6662 offenses or defendants in an indictment or information or by a joinder for trial

6663 together, the court shall order an election of separate trials of separate counts, grant a
6664 severance of defendants, or provide other relief as justice requires.

6665 (b) A defendant's right to severance of offenses or defendants is waived if the motion is
6666 not made at least five days before trial. In ruling on a motion by defendant for
6667 severance, the court may order the prosecutor to disclose any statements made by the
6668 defendants which ~~[he]~~ the prosecutor intends to introduce in evidence at the trial.

6669 Section 356. Section **77-9-1** is amended to read:

6670 **77-9-1 . Authority of peace officer of another state.**

6671 A peace officer of another state or the District of Columbia who enters this state in fresh
6672 pursuit and continues in fresh pursuit of a person in order to make an arrest ~~[him]~~ on the
6673 ground that ~~[he]~~ the person is reasonably believed to have committed a felony in another state,
6674 has the same authority to arrest and hold a person in custody as a peace officer of this state.
6675 Fresh pursuit does not require instant action, but pursuit without unreasonable delay.

6676 Section 357. Section **77-9-2** is amended to read:

6677 **77-9-2 . Procedure after arrest.**

6678 An officer who has made an arrest pursuant to Section 77-9-1 shall without unnecessary
6679 delay take the person arrested before a magistrate of the county in which the arrest was made.
6680 The magistrate shall conduct a hearing to determine the lawfulness of the arrest. If ~~[he]~~ the
6681 magistrate finds the arrest was lawful, the magistrate may commit the person arrested for a
6682 reasonable time or may admit the person to bail pending extradition proceedings.

6683 Section 358. Section **77-9-3** is amended to read:

6684 **77-9-3 . Authority of peace officer of this state beyond normal jurisdiction.**

6685 (1) Any peace officer authorized by any governmental entity of this state may exercise a
6686 peace officer's authority beyond the limits of such officer's normal jurisdiction as
6687 follows:

- 6688 (a) when in fresh pursuit of an offender for the purpose of arresting and holding that
6689 person in custody or returning the suspect to the jurisdiction where the offense was
6690 committed;
- 6691 (b) when a public offense is committed in such officer's presence;
- 6692 (c) when participating in an investigation of criminal activity which originated in the
6693 officer's normal jurisdiction in cooperation with the local authority; or
- 6694 (d) when called to assist peace officers of another jurisdiction.

6695 (2)(a) Any peace officer, prior to taking any action authorized by Subsection (1), shall
6696 notify and receive approval of the local law enforcement authority, or if the prior

6697 contact is not reasonably possible, notify the local law enforcement authority as soon
6698 as reasonably possible.

6699 (b) Unless specifically requested to aid a peace officer of another jurisdiction or
6700 otherwise as provided for by law, no legal responsibility for a peace officer's action
6701 outside [his] the peace officer's normal jurisdiction, except as provided in this section,
6702 shall attach to the local law enforcement authority.

6703 Section 359. Section **77-10a-1** is amended to read:

6704 **77-10a-1 . Definitions.**

6705 As used in this chapter:

- 6706 (1) "Clerk of the court" means the state court administrator or [his] the state court
6707 administrator's designee.
- 6708 (2) "Managing judge" means the supervising judge when [he] the supervising judge retains
6709 authority to manage a grand jury, or the district court judge to whom the supervising
6710 judge delegates management of a grand jury.
- 6711 (3) "Presiding officer" means the presiding officer of the Judicial Council.
- 6712 (4) "Subject" means a person whose conduct is within the scope of the grand jury's
6713 investigation, and that conduct exposes the person to possible criminal prosecution.
- 6714 (5) "Supervising judge" means the district court judge appointed by the presiding officer to
6715 supervise the five-judge grand jury panel.
- 6716 (6) "Target" means a person regarding whom the attorney for the state, the special
6717 prosecutor, or the grand jury has substantial evidence that links that person to the
6718 commission of a crime and who could be indicted or charged with that crime.
- 6719 (7) "Witness" means a person who appears before the grand jury either voluntarily or
6720 pursuant to subpoena for the purpose of providing testimony or evidence for the grand
6721 jury's use in discharging its responsibilities.

6722 Section 360. Section **77-10a-7** is amended to read:

6723 **77-10a-7 . Selection of grand jurors -- Notice -- Examination -- Qualification --**
6724 **Alternates.**

- 6725 (1) When the supervising judge orders that a grand jury be summoned, the managing judge
6726 shall direct the clerk to select at random from the master list the number of names
6727 determined by the managing judge to ensure that the required number of grand jurors
6728 under this chapter may be qualified to constitute the grand jury.
- 6729 (2)(a) The managing judge may direct the clerk to draw additional names from the
6730 master list so alternate grand jurors may be designated at the time the grand jury is

- 6731 selected.
- 6732 (b) Alternate grand jurors shall be drawn in the same manner and have the same
6733 qualifications as the regular grand jurors. If impanelled, they are subject to the same
6734 challenges, shall take the same oath, and have the same functions, powers, facilities,
6735 and privileges as the regular jurors.
- 6736 (3) The clerk shall cause each person drawn for service on the grand jury or as an alternate
6737 to be notified of when and where to report for service. Notice may be given by
6738 telephone or by service of a summons, either personally or by first class mail addressed
6739 to the prospective juror's current residence, place of business, or post office box.
- 6740 (4) The names of those drawn for service on the grand jury or as alternates and the contents
6741 of all grand juror questionnaires may not be made available to the public.
- 6742 (5)(a) At the time and place specified for the appearance of the persons summoned to
6743 serve as grand jurors and alternates, the managing judge shall examine the
6744 prospective grand jurors and alternates. Before accepting any person as a grand juror
6745 or alternate, the managing judge shall be satisfied that the person has no bias or
6746 prejudice that would prevent ~~him~~ the person from fairly and dispassionately
6747 considering the matters presented to the grand jury.
- 6748 (b) When drawn and qualified, the person shall be accepted for service unless~~the~~
6749 ~~managing judge in his~~ , in the managing judge's discretion and on the application of
6750 the juror, the managing judge excuses ~~him~~ the person from service before ~~he~~ the
6751 person is sworn.
- 6752 (6) The managing judge may dismiss the grand jury panel if ~~he~~ the managing judge finds
6753 there has been a material departure from the methods prescribed for the selecting,
6754 drawing, and return of the grand jury, or if there has been an intentional omission by the
6755 proper officer to summon one or more of the grand jurors drawn.
- 6756 (7) When 15 of the persons summoned as grand jurors who are qualified and not excused
6757 remain, they are the grand jury. If more than 15 qualified persons remain, their names
6758 shall be written by the clerk on separate slips, folded to conceal the names, and placed in
6759 a box. The clerk shall then draw 15 slips, and the persons whose names are drawn are
6760 the grand jury.
- 6761 (8)(a) When the number of persons to be designated as alternate grand jurors who are
6762 qualified and not excused remain, they are the alternate grand jurors.
- 6763 (b) If more than the number of alternate grand jurors designated by the managing judge
6764 remain, their names shall be written by the clerk on separate slips, folded to conceal

6765 the names, and placed in a box. The clerk shall then draw slips until the designated
6766 number of alternate grand jurors are selected.

6767 Section 361. Section **77-10a-8** is amended to read:

6768 **77-10a-8 . Challenge of prospective grand jurors -- Failure to comply in selection**
6769 **of jurors -- Remedies.**

- 6770 (1) The attorney general, county attorney, district attorney, or special prosecutor may
6771 challenge:
- 6772 (a) the array of grand jurors on the ground the grand jury was not selected, drawn, or
6773 summoned in accordance with law; and
6774 (b) an individual juror on the ground the juror is not legally qualified.
- 6775 (2) Challenges shall be made before the administration of the oath to the jurors and shall be
6776 tried to the court managing the grand jury.
- 6777 (3) A motion to dismiss the indictment may be based on objections to the array or on the
6778 lack of legal qualification of an individual juror, if not previously determined upon
6779 challenge.
- 6780 (4) In criminal cases the defendant or attorney for the state may move to dismiss the
6781 indictment or stay the proceedings on the ground of substantial failure to comply with
6782 this chapter in selecting the grand jury. However, [~~he~~] the defendant or attorney for the
6783 state must do so before the voir dire examination begins or within seven days after the
6784 defendant or attorney for the state discovered or could have discovered the grounds by
6785 the exercise of diligence, whichever is earlier, or the motion is considered waived.
- 6786 (5)(a) Any motion filed under Subsection (1), (3), or (4) must contain a sworn statement
6787 of facts which, if true, would constitute a substantial failure to comply with the
6788 provisions of this chapter. The moving party may present in support of the motion
6789 the testimony of the clerk if [~~he~~] the clerk is available, any relevant records and papers
6790 used by the clerk that were not made public or otherwise available, and any other
6791 relevant evidence.
- 6792 (b) If the managing judge determines there has been a substantial failure to comply with
6793 the provisions of this chapter in selecting the grand jury, [~~he~~] the managing judge
6794 shall stay the proceedings pending the selection of a grand jury in conformity with
6795 this chapter or dismiss the indictment, whichever is appropriate.
- 6796 (6)(a) The procedures prescribed by this section are the exclusive means by which a
6797 party accused of a crime or an attorney for the state may challenge any grand jury on
6798 the ground it was not selected in conformity with this chapter.

6799 (b) An indictment may not be dismissed in any case on the ground that one or more
6800 members of the grand jury that returned the indictment were not legally qualified if it
6801 appears from the record kept by the grand jury that eight or more jurors, after
6802 deducting the number not qualified, concurred in finding the indictment.

6803 Section 362. Section **77-10a-11** is amended to read:

6804 **77-10a-11 . Jury foreman -- Compensation of grand jurors.**

6805 (1) The managing judge shall appoint one of the jurors to be foreman and another to be
6806 deputy foreman. The foreman may administer oaths and affirmations and shall sign all
6807 indictments. The foreman or another juror designated by [~~him~~] the foreman shall keep
6808 record of the number of jurors concurring in the finding of every indictment and shall
6809 file the record with the clerk of the court. The record may not be made public except on
6810 order of the managing judge.

6811 (2) During the absence of the foreman the deputy foreman shall act as foreman.

6812 (3) A grand juror shall be compensated at the same rate as a juror in a state district court for
6813 each day of service.

6814 Section 363. Section **77-10a-17** is amended to read:

6815 **77-10a-17 . Grand jury report on noncriminal misconduct -- Action on the report.**

6816 (1) A grand jury may upon completion of its original term or each extension, with the
6817 concurrence of a majority of its members, submit to the managing judge a report
6818 concerning noncriminal misconduct, malfeasance, or misfeasance in office as a basis for
6819 a recommendation of removal or disciplinary action against a public officer or employee.

6820 (2) The judge to whom the report is submitted shall examine it and the minutes of the grand
6821 jury. The judge shall make an order accepting and filing the report as a public record,
6822 but only if the judge is satisfied that it complies with Subsection (1) and:

6823 (a) the report is based on facts revealed during the grand jury's investigation and is
6824 supported by a preponderance of evidence; and

6825 (b) each person named and any reasonable number of witnesses on [~~his~~] the named
6826 person's behalf as designated by [~~him~~] the named person to the foreman of the grand
6827 jury were afforded an opportunity to testify before the grand jury prior to the filing of
6828 the report.

6829 (3) An order accepting a report made under this section and the report itself shall be sealed
6830 by the managing judge and may not be filed as a public record or be subject to subpoena
6831 or otherwise made public until:

6832 (a) at least 31 days after a copy of the order and report are served on each public officer

- 6833 or employee named and an answer has been filed;
- 6834 (b) the time for filing an answer has expired; or
- 6835 (c) an appeal is taken or until all rights of review of the public officer or employee
- 6836 named have expired or terminated in an order accepting the report.
- 6837 (4)(a) An order accepting the report may not be entered until 30 days after the delivery
- 6838 of the report to the public officer or body having jurisdiction, responsibility, or
- 6839 authority over each public officer or employee named in the report.
- 6840 (b) The managing judge may issue orders it finds necessary and appropriate to prevent
- 6841 unauthorized publication of a report. Unauthorized publication of a report may be
- 6842 punished as contempt of court.
- 6843 (5)(a) A public officer or employee named in a report may file with the clerk a verified
- 6844 answer to the report not later than 20 days after service of the order and report upon [
- 6845 ~~him~~] the public officer or employee. Upon a showing of good cause, the managing
- 6846 judge may grant the public officer or employee an extension of time to file an answer
- 6847 and may authorize limited publication of the report as necessary to prepare an answer.
- 6848 (b) The answer shall plainly and concisely state the facts and law constituting the
- 6849 defense of the public officer or employee to the charges in the report. Except for
- 6850 those parts the managing judge determines have been inserted scandalously,
- 6851 prejudiciously, or unnecessarily, the answer becomes an appendix to the report.
- 6852 (6) Upon the submission of a report made under this section the managing judge shall order
- 6853 the report sealed if [~~he~~] the managing judge finds the filing of the report as a public
- 6854 record may prejudice fair consideration of a pending criminal matter. The report may
- 6855 not be subject to subpoena or public inspection during the pendency of the criminal
- 6856 matter except upon order of the managing judge.
- 6857 (7)(a) When the managing judge to whom a report is submitted is not satisfied that the
- 6858 report complies with the provisions of this section, [~~he~~] the managing judge may
- 6859 direct that additional testimony be taken before the same grand jury or [~~he~~] the
- 6860 managing judge shall make an order sealing the report.
- 6861 (b) If the report is sealed, it may not be filed as a public record or be subject to subpoena
- 6862 or otherwise made public until the provisions of this section are met.
- 6863 (8) A grand jury's term may be extended by the managing judge so additional testimony
- 6864 may be taken or the provisions of this section met.
- 6865 Section 364. Section **77-10a-18** is amended to read:
- 6866 **77-10a-18 . Grand jury term of service -- Excusing a juror.**

6867 (1) A grand jury shall serve until discharged by the managing judge. However, a grand
6868 jury may not serve more than 18 months unless the managing judge extends the service
6869 of the grand jury, upon determining an extension is in the public interest. The extension
6870 may be no longer than a period of six months.

6871 (2) The managing judge may at any time excuse a juror either temporarily or permanently
6872 for cause shown. If a juror is excused permanently, the managing judge may impanel
6873 another juror in [his] that juror's place.

6874 Section 365. Section **77-13-5** is amended to read:

6875 **77-13-5 . Failure to plead -- Not guilty entered.**

6876 When a defendant does not enter a plea, the court shall enter a plea of not guilty for [him]
6877 the defendant.

6878 Section 366. Section **77-14-1** is amended to read:

6879 **77-14-1 . Time and place of alleged offense -- Specification.**

6880 The prosecuting attorney, on timely written demand of the defendant, shall within 10
6881 days, or such other time as the court may allow, specify in writing as particularly as is known
6882 to [him] the prosecuting attorney the place, date and time of the commission of the offense
6883 charged.

6884 Section 367. Section **77-14-2** is amended to read:

6885 **77-14-2 . Alibi -- Notice requirements -- Witness lists.**

6886 (1) A defendant, whether or not written demand has been made, who intends to offer
6887 evidence of an alibi shall, not less than 10 days before trial or at such other time as the
6888 court may allow, file and serve on the prosecuting attorney a notice, in writing, of [his]
6889 the defendant's intention to claim alibi. The notice shall contain specific information as
6890 to the place where the defendant claims to have been at the time of the alleged offense
6891 and, as particularly as is known to the defendant or [his] the defendant's attorney, the
6892 names and addresses of the witnesses by whom [he] the defendant proposes to establish
6893 alibi. The prosecuting attorney, not more than five days after receipt of the list provided
6894 herein or at such other time as the court may direct, shall file and serve the defendant
6895 with the addresses, as particularly as are known to [him] the prosecuting attorney, of the
6896 witnesses the state proposes to offer to contradict or impeach the defendant's alibi
6897 evidence.

6898 (2) The defendant and prosecuting attorney shall be under a continuing duty to disclose the
6899 names and addresses of additional witnesses which come to the attention of either party
6900 after filing their alibi witness lists.

6901 (3) If a defendant or prosecuting attorney fails to comply with the requirements of this
 6902 section, the court may exclude evidence offered to establish or rebut alibi. However, the
 6903 defendant may always testify on [his] the defendant's own behalf concerning alibi.

6904 (4) The court may, for good cause shown, waive the requirements of this section.

6905 Section 368. Section **77-16a-303** is amended to read:

6906 **77-16a-303 . Court determinations.**

6907 After entry of judgment of not guilty by reason of insanity, the court shall:

6908 (1) determine on the record the offense of which the person otherwise would have been
 6909 convicted and the maximum sentence ~~[he]~~ the person could have received; and

6910 (2) make specific findings regarding whether there is a victim of the crime for which the
 6911 defendant has been found not guilty by reason of insanity and, if so, whether the victim
 6912 wishes to be notified of any conditional release, discharge, or escape of the defendant.

6913 Section 369. Section **77-17-1** is amended to read:

6914 **77-17-1 . Doubt as to degree -- Conviction only on lowest.**

6915 When it appears the defendant has committed a public offense and there is reasonable
 6916 doubt as to which of two or more degrees ~~[he]~~ the defendant is guilty, ~~[he]~~ the defendant shall
 6917 be convicted only of the lower degree.

6918 Section 370. Section **77-17-2** is amended to read:

6919 **77-17-2 . Discharging one of several defendants -- To testify for state.**

6920 When two or more persons are included in the same charge, the court may at any time,
 6921 on the application of the prosecuting attorney, direct any defendant to be discharged or ~~[his]~~ the
 6922 defendant's case severed so that ~~[he]~~ the defendant may be a witness for the prosecution.

6923 Section 371. Section **77-17-3** is amended to read:

6924 **77-17-3 . Discharge for insufficient evidence.**

6925 When it appears to the court that there is not sufficient evidence to put a defendant to ~~[his]~~
 6926 the defendant's defense, it shall forthwith order ~~[him]~~ the defendant discharged.

6927 Section 372. Section **77-17-9** is amended to read:

6928 **77-17-9 . Separation or sequestration of jurors -- Oath of officer having custody.**

6929 (1) The court, at any time before the submission of the case to the jury, may permit the jury
 6930 to separate or order that it be sequestered in charge of a proper officer.

6931 (2) If the jury is sequestered, the officer:

6932 (a) shall be sworn to keep the jurors together until the next meeting of the court, to
 6933 prevent any person from speaking or communicating with them~~[, and]~~ ;

6934 (b) ~~[not to do so himself]~~ may not communicate with the jurors on any subject connected

6935 with the trial[;] ; and

6936 (c) [tø] shall return the jury to the court pursuant to its order.

6937 Section 373. Section **77-17-11** is amended to read:

6938 **77-17-11 . Jury to retire for deliberation -- Oath of officer having custody.**

6939 (1) After hearing the court's instructions and arguments of counsel, the jury shall retire
6940 for deliberation.

6941 (2) An officer shall:

6942 (a) [-]be sworn to keep [them] the jury together in some private and convenient place[-and] ;

6943 (b) [-]not permit any person to speak to or communicate with [them-or-to-do-so-himself]
6944 the jury;

6945 (c) not communicate with the jury except:

6946 (i) [-]upon the order of the court[;] ; or

6947 (ii) [-]to ask [them] the jury whether [they-have] the jury has agreed on a verdict[-.He
6948 shall] ; and

6949 (d) [-]return [them] the jury to court when [they-have] the jury has agreed and the court
6950 has so ordered, or when otherwise ordered by the court.

6951 Section 374. Section **77-17-12** is amended to read:

6952 **77-17-12 . Defendant on bail appearing for trial may be committed.**

6953 When a defendant who has given bail appears for trial, the court may, at any time after [
-6954 his] the defendant's appearance for trial, order [him] the defendant to be committed to the
6955 custody of the proper officer to await the judgment or further order of the court.

6956 Section 375. Section **77-19-5** is amended to read:

6957 **77-19-5 . Special release from city or county jail -- Revocation.**

6958 The judge may, for good cause, revoke any release time previously awarded, and shall
6959 notify the prisoner that, if [he] the prisoner makes written request, a hearing shall be afforded to [
-6960 him] the prisoner to challenge the revocation.

6961 Section 376. Section **77-19-11** is amended to read:

6962 **77-19-11 . Who may be present -- Photographic and recording equipment.**

6963 (1) As used in this section:

6964 (a) "Close relative of the deceased victim" means:

6965 (i) the spouse of the victim;

6966 (ii) a parent or stepparent of the victim;

6967 (iii) a brother, sister, stepbrother, stepsister, child, or stepchild of the victim; and

6968 (iv) any person who had a close relationship with the deceased victim, or with a close

6969 relative of the victim, upon the recommendation of the victim assistance
6970 coordinator for the Department of Corrections or for the Office of the Attorney
6971 General.

6972 (b) "Director" means the executive director of the Department of Corrections, or the
6973 director's designee.

6974 (2) At the discretion of the director, the following persons may attend the execution:

- 6975 (a) the prosecuting attorney, or a designated deputy, of the county in which the
6976 defendant committed the offense for which [he] the defendant is being executed;
6977 (b) no more than two law enforcement officials from the county in which the defendant
6978 committed the offense for which [he] the defendant is being executed;
6979 (c) the attorney general or a designee;
6980 (d) religious representatives, friends, or relatives designated by the defendant, not
6981 exceeding a total of five persons; and
6982 (e) unless approved by the director, no more than five close relatives of the deceased
6983 victim, as selected by the director, but giving priority in the order listed in Subsection
6984 (1)(a).

6985 (3) The persons listed in Subsection (2) may not be required to attend, nor may any of them
6986 attend as a matter of right.

6987 (4) The director shall permit the attendance at the execution of members of the press and
6988 broadcast news media:

- 6989 (a) as named by the director in accordance with rules of the department; and
6990 (b) with the agreement of the selected news media members that they serve as a pool for
6991 other members of the news media.

6992 (5)(a) Except as provided in Subsection (5)(b), photographic or recording equipment is
6993 not permitted at the execution site until the execution is completed, the body is
6994 removed, and the site has been restored to an orderly condition. However, the
6995 physical arrangements for the execution may not be disturbed.

6996 (b) Audio recording equipment may be used by the department for the purpose of
6997 recording the defendant's last words.

6998 (c) The department shall permanently destroy the recording made under Subsection
6999 (5)(b) not later than 24 hours after the completion of the execution.

7000 (d) A violation of this subsection is a class B misdemeanor.

7001 (6) All persons in attendance are subject to reasonable search as a condition of attendance.

7002 (7)(a) The following persons may also attend the execution:

7003 (i) staff as determined by the director; and
7004 (ii) no more than three correctional officials from other states that are preparing for
7005 executions, but no more than two correctional officials may be from any one state,
7006 as designated by the director.

7007 (b) A person younger than 18 years [~~of age~~] old may not attend.

7008 (8) The department shall adopt rules governing the attendance of persons, including the
7009 number of media representatives, at the execution. These rules shall be in accordance
7010 with this section.

7011 Section 377. Section **77-19-12** is amended to read:

7012 **77-19-12 . Return upon death warrant.**

7013 After the execution, the executive director of the Department of Corrections or [~~his~~] the
7014 executive director's designee shall make a return upon the death warrant, showing the time,
7015 place, and manner in which it was executed.

7016 Section 378. Section **77-22-4.5** is amended to read:

7017 **77-22-4.5 . Prosecutorial authority to compromise an offense regarding a witness.**

7018 (1) As used in this section, "prosecutor" includes the state attorney general and any
7019 assistant, a district attorney and any deputy, a county attorney and any deputy, and a
7020 municipal prosecutor and any deputy.

7021 (2) This chapter does not prohibit or limit the authority of a prosecutor to divert, reduce, or
7022 compromise any criminal charge against a witness or other party when the witness
7023 voluntarily enters into an agreement to provide testimony or other evidence against
7024 himself or herself or another accused in consideration for the diversion, reduction, or
7025 compromise if:

7026 (a) the prosecutor holds authority to prosecute the offense against the witness or other
7027 party; and

7028 (b) the complete agreement with the witness is in writing and a copy of the agreement is
7029 given to the witness.

7030 (3) Any agreement under Subsection (2) is subject to discovery by counsel for the accused
7031 in any prosecution in which the witness with whom the agreement is made has agreed to
7032 testify.

7033 Section 379. Section **77-22a-2** is amended to read:

7034 **77-22a-2 . Service of administrative subpoena.**

7035 (1) A subpoena issued under this section may be served by any person designated in the
7036 subpoena for that purpose. Service upon a natural person may be made by personal

7037 delivery of the subpoena to [~~him~~] the natural person. Service may be made upon a
 7038 domestic or foreign corporation or upon a partnership or other unincorporated
 7039 association subject to suit under a common name by delivering the subpoena to an
 7040 officer, managing or general agent, or other agent authorized by appointment or law to
 7041 receive service of process.

7042 (2) The affidavit of the person serving the subpoena, when entered on a copy of the
 7043 subpoena by the person serving it, is proof of service.

7044 Section 380. Section **77-22a-3** is amended to read:

7045 **77-22a-3 . Compliance with administrative subpoena.**

7046 (1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the
 7047 attorney general or a deputy or assistant attorney general or the county attorney or
 7048 district attorney or [~~his~~] the district attorney's deputy may compel compliance with the
 7049 subpoena through the district court:

7050 (a) in the jurisdiction where the investigation is carried on;

7051 (b) where the subpoenaed person is an inhabitant;

7052 (c) where [~~he~~] the subpoenaed person carries on business; or

7053 (d) where [~~he~~] the subpoenaed person may be found.

7054 (2) The court may issue an order requiring the person subpoenaed to produce records or to
 7055 appear before the attorney general or deputy or assistant attorney general, or the county
 7056 attorney or district attorney or [~~his~~] the district attorney's deputy who issued the
 7057 subpoena testimony touching the matter under investigation.

7058 (3) Any failure to obey the court order may be punished by the court as contempt. All
 7059 process in the case may be served in any judicial district in which the person may be
 7060 found within the state.

7061 (4) A witness may not be held liable in any civil or criminal proceeding for producing
 7062 records or disclosing information to the person issuing the administrative subpoena as
 7063 commanded by the subpoena.

7064 Section 381. Section **77-23a-3** is amended to read:

7065 **77-23a-3 . Definitions.**

7066 As used in this chapter:

7067 (1) "Aggrieved person" means a person who was a party to any intercepted wire, electronic,
 7068 or oral communication, or a person against whom the interception was directed.

7069 (2) "Aural transfer" means any transfer containing the human voice at any point between
 7070 and including the point of origin and the point of reception.

- 7071 (3) "Communications common carrier" means any person engaged as a common carrier for
7072 hire in intrastate, interstate, or foreign communication by wire or radio, including a
7073 provider of electronic communication service. However, a person engaged in radio
7074 broadcasting is not, when that person is so engaged, a communications common carrier.
- 7075 (4) "Contents" when used with respect to any wire, electronic, or oral communication
7076 includes any information concerning the substance, purport, or meaning of that
7077 communication.
- 7078 (5) "Electronic communication" means any transfer of signs, signals, writings, images,
7079 sounds, data, or intelligence of any nature transmitted in whole or in part by a wire,
7080 radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:
- 7081 (a) the radio portion of a cordless telephone communication that is transmitted between
7082 the cordless telephone handset and the base unit;
- 7083 (b) any wire or oral communications;
- 7084 (c) any communication made through a tone-only paging device; or
- 7085 (d) any communication from an electronic or mechanical device that permits the
7086 tracking of the movement of a person or object.
- 7087 (6) "Electronic communications service" means any service that provides for users the
7088 ability to send or receive wire or electronic communications.
- 7089 (7) "Electronic communications system" means any wire, radio, electromagnetic,
7090 photoelectronic, or photo-optical facilities for the transmission of electronic
7091 communications, and any computer facilities or related electronic equipment for the
7092 electronic storage of the communication.
- 7093 (8) "Electronic, mechanical, or other device" means any device or apparatus that may be
7094 used to intercept a wire, electronic, or oral communication other than:
- 7095 (a) any telephone or telegraph instrument, equipment or facility, or a component of any
7096 of them:
- 7097 (i) furnished by the provider of wire or electronic communications service or by the
7098 subscriber or user, and being used by the subscriber or user in the ordinary course
7099 of its business; or
- 7100 (ii) being used by a provider of wire or electronic communications service in the
7101 ordinary course of its business, or by an investigative or law enforcement officer
7102 in the ordinary course of ~~his~~ the officer's duties; or
- 7103 (b) a hearing aid or similar device being used to correct subnormal hearing to not better
7104 than normal.

- 7105 (9) "Electronic storage" means:
- 7106 (a) any temporary intermediate storage of a wire or electronic communication incident to
- 7107 the electronic transmission of it; and
- 7108 (b) any storage of the communication by an electronic communications service for the
- 7109 purposes of backup protection of the communication.
- 7110 (10) "Intercept" means the acquisition of the contents of any wire, electronic, or oral
- 7111 communication through the use of any electronic, mechanical, or other device.
- 7112 (11) "Investigative or law enforcement officer" means any officer of the state or of a
- 7113 political subdivision, who by law may conduct investigations of or make arrests for
- 7114 offenses enumerated in this chapter, or any federal officer as defined in Section
- 7115 53-13-106, and any attorney authorized by law to prosecute or participate in the
- 7116 prosecution of these offenses.
- 7117 (12) "Judge of competent jurisdiction" means a judge of a district court of the state.
- 7118 (13) "Oral communication" means any oral communication uttered by a person exhibiting
- 7119 an expectation that the communication is not subject to interception, under
- 7120 circumstances justifying that expectation, but does not include any electronic
- 7121 communication.
- 7122 (14) "Pen register" means a device that records or decodes electronic or other impulses that
- 7123 identify the numbers dialed or otherwise transmitted on the telephone line to which the
- 7124 device is attached. "Pen register" does not include any device used by a provider or
- 7125 customer of a wire or electronic communication service for billing or recording as an
- 7126 incident to billing, for communications services provided by the provider, or any device
- 7127 used by a provider or customer of a wire communications service for cost accounting or
- 7128 other like purposes in the ordinary course of its business.
- 7129 (15) "Person" means any employee or agent of the state or a political subdivision, and any
- 7130 individual, partnership, association, joint stock company, trust, or corporation.
- 7131 (16) "Readily accessible to the general public" means, regarding a radio communication,
- 7132 that the communication is not:
- 7133 (a) scrambled or encrypted;
- 7134 (b) transmitted using modulation techniques with essential parameters that have been
- 7135 withheld from the public with the intention of preserving the privacy of the
- 7136 communication;
- 7137 (c) carried on a subcarrier or signal subsidiary to a radio transmission;
- 7138 (d) transmitted over a communications system provided by a common carrier, unless the

7139 communication is a tone-only paging system communication; or
7140 (e) transmitted on frequencies allocated under Part 25, Subpart D, E, or F of Part 74, or
7141 Part 94, Rules of the Federal Communications Commission unless, in the case of a
7142 communication transmitted on a frequency allocated under Part 74 that is not
7143 exclusively allocated to broadcast auxiliary services, the communication is a two-way
7144 voice communication by radio.

7145 (17) "Trap and trace device" means a device, process, or procedure that captures the
7146 incoming electronic or other impulses that identify the originating number of an
7147 instrument or device from which a wire or electronic communication is transmitted.

7148 (18) "User" means any person or entity who:

7149 (a) uses an electronic communications service; and

7150 (b) is authorized by the provider of the service to engage in the use.

7151 (19)(a) "Wire communication" means any aural transfer made in whole or in part
7152 through the use of facilities for the transmission of communications by the aid of
7153 wire, cable, or other like connection between the point of origin and the point of
7154 reception, including the use of the connection in a switching station, furnished or
7155 operated by any person engaged as a common carrier in providing or operating these
7156 facilities for the transmission of intrastate, interstate, or foreign communications.

7157 (b) "Wire communication" includes the electronic storage of the communication, but
7158 does not include the radio portion of a cordless telephone communication that is
7159 transmitted between the cordless telephone handset and the base unit.

7160 Section 382. Section **77-23a-9** is amended to read:

7161 **77-23a-9 . Disclosure or use of intercepted information.**

7162 (1) Any investigative or law enforcement officer who, by any means authorized by this
7163 chapter, has obtained knowledge of the contents of any wire, electronic, or oral
7164 communication, or evidence derived from any of these, may disclose those contents to
7165 another investigative or law enforcement officer to the extent that the disclosure is
7166 appropriate to the proper performance of the official duties of the officer making or
7167 receiving the disclosure.

7168 (2) Any investigative or law enforcement officer who, by any means authorized by this
7169 chapter, has obtained knowledge of the contents of any wire, electronic, or oral
7170 communication or evidence derived from any of them may use those contents to the
7171 extent the use is appropriate to the proper performance of [his] the officer's official duties.

7172 (3) Any person who has received, by any means authorized by this chapter, any information

7173 concerning a wire, electronic, or oral communication or evidence derived from any of
 7174 them intercepted in accordance with this chapter may disclose the contents of that
 7175 communication or the derivative evidence while giving testimony under oath or
 7176 affirmation in any proceeding held under the authority of the United States or of any
 7177 state or political subdivision.

7178 (4) An otherwise privileged wire, electronic, or oral communication intercepted in
 7179 accordance with, or in violation of, the provisions of this chapter does not lose its
 7180 privileged character.

7181 (5) When an investigative or law enforcement officer, while engaged in intercepting wire,
 7182 electronic, or oral communications in the manner authorized, intercepts wire, electronic,
 7183 or oral communications relating to offenses other than those specified in the order of
 7184 authorization or approval, the contents, and evidence derived from the contents, may be
 7185 disclosed or used as provided in Subsections (1) and (2). The contents and any evidence
 7186 derived from them may be used under Subsection (3) when authorized or approved by a
 7187 judge of competent jurisdiction, if the judge finds on subsequent application that the
 7188 contents were otherwise intercepted in accordance with this chapter. The application
 7189 shall be made as soon as practicable.

7190 Section 383. Section **77-23a-16** is amended to read:

7191 **77-23a-16 . Communications provider -- Cooperation and support services --**
 7192 **Compensation -- Liability defense.**

7193 (1) Upon the request of an attorney for the government or an officer of a law enforcement
 7194 agency authorized to install and use pen registers under this chapter, a provider of wire
 7195 or electronic communications service, landlord, custodian, or other person shall furnish
 7196 investigative or law enforcement officers forthwith all information, facilities, and
 7197 technical assistance necessary to accomplish the installation of the pen register
 7198 unobtrusively and with a minimum of interference with the services the person ordered
 7199 by the court accords the party regarding whom the installation and use is to take place, if
 7200 such assistance is directed by a court order as provided in Subsection 77-23a-15(2)(b) of
 7201 this chapter.

7202 (2)(a) Upon request of an attorney for the government or an officer of a law enforcement
 7203 agency authorized to receive the results of a trap and trace device under this chapter,
 7204 a provider of wire or electronic communications service, landlord, custodian, or other
 7205 person shall:

7206 (i) [-]install the device forthwith on the appropriate line[-]; and

7207 (ii)~~(b)~~ He shall also]furnish the investigative or law enforcement officer all additional
7208 information, facilities, and technical assistance, including installation and operation
7209 of the device unobtrusively and with a minimum of interference with the services that
7210 the person so ordered by the court accords the party with respect to whom the
7211 installation and use is to take place, if the installation and assistance is directed by a
7212 court order under [~~Section~~] Subsection 77-23a-15(2)(b).

7213 [(e)] (b) Unless otherwise ordered by the court, the results of the trap and trace device
7214 shall be furnished to the officer of the law enforcement agency designated by the
7215 court, at reasonable intervals and during regular business hours, for the duration of
7216 the order.

7217 (3) A provider of wire or electronic communications service, landlord, custodian, or other
7218 person who furnishes facilities or technical assistance under this section shall be
7219 reasonably compensated for reasonable expenses incurred in providing the facilities and
7220 assistance.

7221 (4) A cause of action does not lie in any court against the provider of wire or electronic
7222 communications service, its officers, employees, agents, or other specified persons, for
7223 providing information, facilities, or assistance in accordance with the terms of a court
7224 order under this chapter.

7225 (5) A good faith reliance on a court order, a legislative authorization, or a statutory
7226 authorization, is a complete defense against any civil or criminal action brought under
7227 this chapter or any other law.

7228 Section 384. Section **77-23b-2** is amended to read:

7229 **77-23b-2 . Interference with access to stored communication -- Offenses --**
7230 **Penalties.**

7231 (1) Except under Subsection (3), a person who obtains, alters, or prevents authorized access
7232 to a wire or electronic communication while it is in electronic storage in the system shall
7233 be punished under Subsection (2) if [he] the person:

7234 (a) intentionally accesses without authorization a facility through which an electronic
7235 communications service is provided; or

7236 (b) intentionally exceeds an authorization to access that facility.

7237 (2) A person who commits a violation of Subsection (1) is:

7238 (a) if the offense is committed for purposes of commercial advantage, malicious
7239 destruction, or damage, or private commercial gain, guilty of a:

7240 (i) third degree felony for the first offense under this subsection; and

- 7241 (ii) second degree felony for any subsequent offense; and
 7242 (b) class B misdemeanor in any other case.
 7243 (3) Subsection (1) does not apply to conduct authorized:
 7244 (a) by the person or entity providing a wire or electronic communications service;
 7245 (b) by a user of that service with respect to a communication of or intended for that user;
 7246 or
 7247 (c) under Sections 77-23a-10, 77-23b-4, and 77-23b-5.

7248 Section 385. Section **77-23b-5** is amended to read:

7249 **77-23b-5 . Backup copy of communications -- When required of provider --**
 7250 **Court order -- Procedures.**

- 7251 (1)(a) A governmental entity acting under Subsection 77-23b-4(2)(b) may include in its
 7252 subpoena or court order a requirement that the service provider to whom the request
 7253 is directed create a backup copy of the contents of the electronic communications
 7254 sought in order to preserve those communications. Without notifying the subscriber
 7255 or customer of the subpoena or court order, the service provider shall create the
 7256 backup as soon as practicable, consistent with its regular business practices. The
 7257 provider shall also confirm to the governmental entity that the backup copy has been
 7258 made. The backup copy shall be created within two business days after receipt by the
 7259 service provider of the subpoena or court order.
 7260 (b) Notice to the subscriber or customer shall be made by the governmental entity within
 7261 three days after receipt of confirmation, unless the notice is delayed under Subsection
 7262 77-23b-6(1).
 7263 (c) The service provider may not destroy the backup copy until the later of:
 7264 (i) the delivery of the information; or
 7265 (ii) the resolution of any proceedings, including appeals of any proceeding,
 7266 concerning the government's subpoena or court order.
 7267 (d) The service provider shall release the backup copy to the requesting governmental
 7268 entity no sooner than 14 days after the governmental entity's notice to the subscriber
 7269 or customer, if the service provider:
 7270 (i) has not received notice from the subscriber or customer that the subscriber or
 7271 customer has challenged the governmental entity's request; and
 7272 (ii) has not initiated proceedings to challenge the request of the governmental entity.
 7273 (e) A governmental entity may seek to require the creation of a backup copy under
 7274 Subsection (1)(a) if in its sole discretion the entity determines that there is reason to

7275 believe that notification under Section 77-23b-4 of the existence of the subpoena or
7276 court order may result in destruction of or tampering with evidence. This
7277 determination is not subject to challenge by the subscriber, customer, or service
7278 provider.

7279 (2)(a) Within 14 days after notice by the governmental entity to the subscriber or
7280 customer under Subsection (1)(b), the subscriber or customer may file a motion to
7281 quash the subpoena or vacate the court order, with copies served upon the
7282 governmental entity, and with written notice of the challenge to the service provider.
7283 A motion to vacate a court order shall be filed in the court that issues the order. A
7284 motion to quash a subpoena shall be filed in the appropriate district court. The
7285 motion or application shall contain an affidavit or sworn statement:

7286 (i) that the applicant is a customer or subscriber to the service from which the
7287 contents of electronic communications maintained for ~~him~~ the applicant have
7288 been sought; and

7289 (ii) that the applicant's reason for believing the records sought are not relevant to a
7290 legitimate law enforcement inquiry or that there has not been substantial
7291 compliance with the provisions of this chapter in some other respect.

7292 (b) Service shall be made under this section upon a governmental entity by delivering or
7293 mailing by registered or certified mail a copy of the papers to the person, office, or
7294 department specified in the notice the customer received under this chapter. For
7295 purposes of this subsection, "deliver" has the same meaning as under the Utah Rules
7296 of Criminal Procedure.

7297 (c) If the court finds that the customer has complied with Subsections (2)(a) and (b), the
7298 court shall order the governmental entity to file a sworn response, that may be filed in
7299 camera if the governmental entity includes in its response the reasons making in
7300 camera review appropriate. If the court is unable to determine the motion or
7301 application on the basis of the parties' initial allegations and response, the court may
7302 conduct additional proceedings as it considers appropriate. All proceedings shall be
7303 completed, and the motion or application decided, as soon as practicable after the
7304 filing of the governmental entity's response.

7305 (d) If the court finds that the applicant is not the subscriber or customer for whom the
7306 communications sought by the governmental entity are maintained, or that there is a
7307 reason to believe that the law enforcement inquiry is legitimate and that the
7308 communications sought are relevant to that inquiry, it shall deny the motion or

7309 application and order the process enforced. If the court finds that the applicant is the
 7310 subscriber or customer for whom the communications sought by the governmental
 7311 entity are maintained, and that there is no reason to believe that the communications
 7312 sought are relevant to a legitimate law enforcement inquiry, or that there has not been
 7313 substantial compliance with this chapter, it shall order the process quashed.

7314 (e) A court order denying a motion or application under this section is not considered a
 7315 final order, and no interlocutory appeal may be taken from it by the customer or
 7316 subscriber.

7317 Section 386. Section **77-27-5.5** is amended to read:

7318 **77-27-5.5 . Review procedure -- Commutation.**

- 7319 (1) The Board of Pardons and Parole may consider the commutation of a death sentence
 7320 only to life without parole.
- 7321 (2) Only the person who has been sentenced to death or [his] the sentenced person's counsel
 7322 may petition the Board of Pardons and Parole for commutation.
- 7323 (3) The petition shall be in writing, signed personally by the person sentenced to death, and
 7324 shall include a statement of the grounds upon which the petitioner seeks review.
- 7325 (4) The state shall be permitted to respond in writing to the petition as may be established
 7326 by board rules.
- 7327 (5) The board shall review the petition and determine whether the petition presents a
 7328 substantial issue which has not been reviewed in the judicial process.
- 7329 (6) The board shall not consider legal issues, including constitutional issues, which:
 7330 (a) have been reviewed previously by the courts;
 7331 (b) should have been raised during the judicial process; or
 7332 (c) if based on new information, are subject to judicial review.
- 7333 (7)(a) If the board does not find a substantial issue, the board shall deny the hearing to
 7334 the petitioner.
- 7335 (b) If the board finds a substantial issue, the board shall conduct a hearing in which the
 7336 petitioner and the state may present evidence and argument as may be provided by
 7337 board rules.

7338 Section 387. Section **77-27-12** is amended to read:

7339 **77-27-12 . Parole discharge--Sentence termination.**

7340 Any person released on parole shall be discharged from parole or have [his] the person's
 7341 sentence terminated subject to the conditions and limitations contained in Section 76-3-202.

7342 Section 388. Section **77-27-26** is amended to read:

7343 **77-27-26 . Deputization of agents to effect return of parole and probation**
7344 **violators.**

- 7345 (1)(a) The official administrator of the interstate compact for the supervision of parolees
7346 and probationers is authorized and empowered to deputize any person to act as an
7347 officer and agent of this state in carrying out the return of any person who has
7348 violated the terms and conditions of parole or probation as granted by this state.
- 7349 (b) In any matter relating to the return of a violator described in Subsection (1)(a), any
7350 deputized agent shall have all the powers of a peace officer of this state.
- 7351 (2) Any deputization of any person pursuant to this section shall be in writing and the
7352 deputized agent shall:
- 7353 (a) carry formal evidence of [~~his~~]deputization; and
7354 (b) produce the evidence of deputization upon demand.
- 7355 (3) The official administrator of the interstate compact is authorized, subject to the approval
7356 of the governor, to enter into contracts with similar officials of any other state or states
7357 for the purpose of sharing an equitable portion of the cost of effecting the return of any
7358 person who has violated the terms and conditions of parole or probation as granted by
7359 this state.

7360 Section 389. Section **77-28b-3** is amended to read:

7361 **77-28b-3 . Eligibility criteria for international transfer.**

7362 An offender must meet the following criteria before [~~he may be~~] being considered for an
7363 international transfer:

- 7364 (1) the offender is a citizen of the receiving country;
7365 (2) the offender consents to transfer to [~~his~~] the offender's country of citizenship;
7366 (3) the offense committed by the offender constitutes a criminal offense under the laws of
7367 the receiving state;
7368 (4) the offender does not have fewer than 12 months remaining on [~~his~~] the offender's
7369 sentence at the time of the application for transfer;
7370 (5) the offender is not under a sentence of death;
7371 (6) the offender does not have collateral attacks or appeals on either the sentence or
7372 conviction pending;
7373 (7) all other provisions of the imposed sentence such as fines, restitution, and penalties are
7374 paid in full;
7375 (8) there are no detainers, wanted notices based on criminal convictions, indictments,
7376 informations, complaints, or parole or probation violation allegations pending against

7377 the offender; and
7378 (9) the offender meets all of the eligibility requirements of the treaty with [his] the offender's
7379 country.

7380 Section 390. Section **77-28b-4** is amended to read:

7381 **77-28b-4 . Role of the classification officer.**

- 7382 (1) The classification officer of each correctional institution shall be provided with the
7383 eligibility requirements of each prisoner transfer treaty.
- 7384 (2) The classification officer shall forward Form I, Transfer Inquiry, to all offenders
7385 identified as having national or citizenship status in a party nation.
- 7386 (3) Upon receipt of Form I, Transfer Inquiry, the offender may indicate [he] that the offender
7387 is:
- 7388 (a) interested in pursuing a transfer by signing Form I and returning it to the
7389 classification officer along with proof of citizenship; or
- 7390 (b) not interested in pursuing a transfer by returning Form I to the classification officer
7391 without proof of citizenship.
- 7392 (4) If the offender indicates on Form I, Transfer Inquiry, that [he] the offender is interested
7393 in pursuing a transfer, the institution classification officer shall complete Form II,
7394 Inmate Information Provided to Treaty Nation, and Form III, Notice Regarding
7395 International Prisoner Transfer.
- 7396 (5) The following forms, provided by the federal government, shall be completed and
7397 forwarded in triplicate by the classification officer to the superintendent of the
7398 institution:
- 7399 (a) Form I, Transfer Inquiry;
- 7400 (b) Form II, Inmate Information Provided to Treaty Nation;
- 7401 (c) Form III, Notice Regarding International Prisoner Transfer;
- 7402 (d) proof of citizenship;
- 7403 (e) statement of offender's eligibility;
- 7404 (f) presentence report;
- 7405 (g) classification assessment;
- 7406 (h) current psychological and medical reports;
- 7407 (i) signed release of confidential information forms;
- 7408 (j) criminal history sheet; and
- 7409 (k) judgments of conviction or certification to be tried as an adult.

7410 Section 391. Section **77-28b-7** is amended to read:

7411 **77-28b-7 . Role of director.**

7412 (1) The director of the Department of Corrections shall review the application and
7413 materials. Upon [his] the director's approval the application and materials shall be
7414 forwarded to the governor for authorization to transfer.

7415 (2) Applications that are not approved by the director shall be returned to the sending
7416 institution and the inmate shall be notified.

7417 Section 392. Section **77-30-3** is amended to read:

7418 **77-30-3 . Form of demand -- What documents presented must show.**

7419 No demand for the extradition of a person charged with a crime in another state shall be
7420 recognized by the governor unless in writing alleging, except in cases arising under Section
7421 77-30-6, that the accused was present in the demanding state at the time of the commission of
7422 the alleged crime, and that thereafter [he] the accused fled from the state, and accompanied by a
7423 copy of an indictment found or by information supported by affidavit in the state having
7424 jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together
7425 with a copy of any warrant which was issued thereupon or by a copy of a judgment of
7426 conviction or of a sentence composed in execution, together with a statement by the executive
7427 authority of the demanding state that the person claimed has escaped from confinement or has
7428 broken the terms of [his] the person's bail, probation or parole. The indictment, information or
7429 affidavit made before the magistrate must substantially charge the person demanded with
7430 having committed a crime under the law of that state and the copy of the indictment,
7431 information, affidavit, judgment of conviction or sentence must be authenticated by the
7432 executive authority making the demand.

7433 Section 393. Section **77-30-4** is amended to read:

7434 **77-30-4 . Governor may investigate demand.**

7435 When a demand shall be made upon the governor of this state by the executive authority
7436 of another state for the surrender of a person so charged with a crime, the governor may call
7437 upon the attorney general or any prosecuting officer in this state to investigate or assist in
7438 investigating the demand, and to report to [him] the governor the situation and circumstances of
7439 the person so demanded, and whether [he] the person ought to be surrendered.

7440 Section 394. Section **77-30-5** is amended to read:

7441 **77-30-5 . Extradition for prosecution before conclusion of trial or term in other**
7442 **state -- Return of person involuntarily leaving demanding state.**

7443 (1) When it is desired to have returned to this state a person charged in this state with a
7444 crime, and such person is imprisoned or is held under criminal proceedings then pending

7445 against [him] the person in another state, the governor of this state may agree with the
 7446 executive authority of such other state for the extradition of such person before the
 7447 conclusion of such proceedings or [his] the person's term of sentence in such other state,
 7448 upon condition that such person be returned to such other state at the expense of this
 7449 state as soon as the prosecution in this state is terminated[-
 7450]

7451 (2) The governor of this state may also surrender on demand of the executive authority of
 7452 any other state any person in this state who is charged in the manner provided in Section
 7453 77-30-23 with having violated the laws of the state whose executive authority is making
 7454 the demand, even though such person left the demanding state involuntarily.

7455 Section 395. Section **77-30-7** is amended to read:

7456 **77-30-7 . Governor's warrant of arrest -- Recitals.**

7457 If the governor decides that the demand should be complied with[~~he~~] , the governor shall
 7458 sign a warrant of arrest, which shall be sealed with the state seal, directed to any peace officer
 7459 or other person whom [he] the governor may think fit to entrust with the execution thereof. The
 7460 warrant must substantially recite the facts necessary to the validity of its issuance.

7461 Section 396. Section **77-30-10** is amended to read:

7462 **77-30-10 . Time to apply for habeas corpus allowed.**

7463 No person arrested upon such warrant shall be delivered over to the agent whom the
 7464 executive authority demanding [him] the arrested person shall have appointed to receive [him]
 7465 the arrested person unless [he] the arrested person shall first be taken forthwith before a judge
 7466 of a court of record in this state who shall inform [him] the arrested person of the demand made
 7467 for [his] the arrested person's surrender and of the crime with which [he] the arrested person is
 7468 charged and that [he] the arrested person has the right to demand and procure legal counsel and
 7469 if the prisoner or [his] the prisoner's counsel shall state that [~~he or they desire~~] the prisoner or
 7470 the prisoner's counsel desires to test the legality of [his] the prisoner's arrest, the judge of such
 7471 court of record shall fix a reasonable time to be allowed [him] the prisoner within which to
 7472 apply for a writ of habeas corpus. When such writ is applied for, notice thereof and the time
 7473 and place of hearing thereon shall be given to the prosecuting officer of the county in which
 7474 the arrest is made and in which the accused is in custody, and to the said agent of the
 7475 demanding state.

7476 Section 397. Section **77-30-11** is amended to read:

7477 **77-30-11 . Penalty for disobedience of habeas corpus.**

7478 Any officer who shall deliver to the agent for extradition of the demanding state a

7479 person in [his] the officer's custody under the governor's warrant, in willful disobedience to
7480 Section 77-30-10, shall be guilty of a misdemeanor and on conviction shall be fined not more
7481 than \$1,000 or be imprisoned in the county jail not more than six months, or both.

7482 Section 398. Section **77-30-12** is amended to read:

7483 **77-30-12 . Officers entitled to use local jails.**

7484 (1) The officer or persons executing the governor's warrant of arrest or the agent of the
7485 demanding state to whom the prisoner may have been delivered may, when necessary,
7486 confine the prisoner in the jail of any county or city through which [he] the officer or
7487 person having charge of the prisoner may pass and the keeper of such jail must receive
7488 and safely keep the prisoner until the officer or person having charge of [him] the
7489 prisoner is ready to proceed[~~on his route~~], such officer or person being chargeable with
7490 the expense of keeping.[

7491]

7492 (2) The officer or agent of a demanding state to whom a prisoner may have been delivered
7493 following extradition proceedings in another state, or to whom a prisoner may have been
7494 delivered after waiving extradition in such other state, and who is passing through this
7495 state with such a prisoner for the purpose of immediately returning such prisoner to the
7496 demanding state may, when necessary, confine the prisoner in the jail of any county or
7497 city through which [he] the officer or person having charge of the prisoner may pass, and
7498 the keeper of such jail must receive and safely keep the prisoner until the officer or agent
7499 having charge of [him] the prisoner is ready to proceed[~~on his route~~], such officer or
7500 agent being chargeable with the expense of keeping; provided, such officer or agent
7501 shall produce and show to the keeper of such jail satisfactory written evidence of the fact
7502 that [he] the officer or agent is actually transporting such prisoner to the demanding state
7503 after a requisition by the executive authority of such demanding state. Such prisoner
7504 shall not be entitled to demand a new requisition while in this state.

7505 Section 399. Section **77-30-13** is amended to read:

7506 **77-30-13 . Fugitives from justice -- Warrant of arrest.**

7507 Whenever any person within this state shall be charged on the oath of any credible
7508 person before any judge or magistrate of this state with the commission of any crime in any
7509 other state, and, except in cases arising under Section 77-30-6, that [he] the person charged has
7510 fled from justice, or with having been convicted of a crime in that state and having escaped
7511 from confinement, or having broken the terms of [his] the person's bail, probation or parole, or
7512 whenever complaint shall have been made before any judge or magistrate in this state setting

7513 forth on the affidavit of any credible person in another state that a crime has been committed in
7514 such other state and that the [accused] person has been charged in such state with the
7515 commission of the crime, and except in cases arising under Section 77-30-6, has fled from
7516 justice, or with having been convicted of a crime in that state and having escaped from
7517 confinement, or having broken the terms of [his] the person's bail, probation or parole, and is
7518 believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace
7519 officer commanding [him] the officer to apprehend the person named therein, wherever [he] the
7520 named person may be found in this state, and to bring [him] the named person before the same
7521 or any judge, magistrate or court who or which may be available in or convenient of access to
7522 the place where the arrest may be made, to answer the charge or complaint and affidavit, and a
7523 certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued
7524 shall be attached to the warrant.

7525 Section 400. Section **77-30-14** is amended to read:

7526 **77-30-14 . Arrest without warrant.**

7527 The arrest of a person may be lawfully made also by any peace officer or a private
7528 person without a warrant upon reasonable information that the accused stands charged in the
7529 courts of a state with a crime punishable by death or imprisonment for a term exceeding one
7530 year, but when so arrested the accused person must be taken before a judge or magistrate with
7531 all practicable speed and complaint must be made against [him] the accused person under oath
7532 setting forth the ground for the arrest as in Section 77-30-13, and thereafter [his] the accused
7533 person's answer shall be heard as if [he] the accused person had been arrested on a warrant.

7534 Section 401. Section **77-30-15** is amended to read:

7535 **77-30-15 . Commitment pending arrest under warrant of governor.**

7536 If from the examination before the judge or magistrate it appears that the person held is
7537 the person charged with having committed the crime alleged, and, except in cases arising
7538 under Section 77-30-6, that [he] the accused person has fled from justice, the judge or
7539 magistrate must, by a warrant reciting the accusation, commit [him] the accused person to the
7540 county jail for such a time not exceeding 30 days and specified in the warrant as will enable
7541 the arrest of the accused person to be made under a warrant of the governor on a requisition of
7542 the executive authority of the state having jurisdiction of the offense, unless the accused person
7543 gives bail as provided in the next section or until [he] the accused person shall be legally
7544 discharged.

7545 Section 402. Section **77-30-16** is amended to read:

7546 **77-30-16 . Amount of bail.**

- 7547 (1) Except as provided in Subsection (2), a judge or magistrate in this state may admit the
7548 person arrested to bail by bond with sufficient sureties and in an amount [he] the judge or
7549 magistrate considers proper, conditioned for [his] the arrested person's appearance before [
7550 him] the judge or magistrate at a time specified in the bond and for [his] the arrested
7551 person's surrender, to be arrested upon the warrant of the governor of this state.
- 7552 (2) A person arrested under Section 77-30-13 shall be admitted to bail as a matter of right,
7553 except the court has discretion to deny bail as provided in Utah Constitution Article I,
7554 Section 8, and when a judge or magistrate in the demanding state has ordered that the
7555 person charged be held without bail or the person has waived extradition.
- 7556 (3) There is a rebuttable presumption that the bail set by the court or magistrate in the
7557 demanding state is the proper amount of bail in this state.

7558 Section 403. Section **77-30-17** is amended to read:

7559 **77-30-17 . Procedure when no arrest made under warrant of governor.**

7560 If the accused person is not arrested under warrant of the governor by the expiration of
7561 the time specified in the warrant or bond, a judge or magistrate may discharge [him] the
7562 accused person or may recommit [him] the accused person for a further period not to exceed 60
7563 days, or a judge or magistrate may again take bail for [his] the accused person's appearance and
7564 surrender, as provided in Section 77-30-16, but within a period not to exceed 60 days after the
7565 date of such new bond.

7566 Section 404. Section **77-30-20** is amended to read:

7567 **77-30-20 . Governor not to inquire into guilt or innocence.**

7568 The guilt or innocence of the accused person as to the crime of which [he] the accused
7569 person is charged in another state may not be inquired into by the governor or in any
7570 proceeding after the demand for extradition accompanied by a charge of crime in legal form as
7571 above provided shall have been presented to the governor, except as it may be involved in
7572 identifying the accused person held as the person charged with the crime.

7573 Section 405. Section **77-30-21** is amended to read:

7574 **77-30-21 . Governor's warrant of arrest recalled or another issued.**

7575 The governor may recall [his] the governor's warrant of arrest or may issue another
7576 warrant whenever [he] the governor deems proper.

7577 Section 406. Section **77-30-22** is amended to read:

7578 **77-30-22 . Fugitives from this state -- Issuance of governor's warrant.**

7579 Whenever the governor of this state shall demand a person charged with a crime or with
7580 escaping from confinement or breaking the terms of [his-]bail, probation, or parole in this state

7581 from the executive authority of any other state or from the chief justice or an associate justice
7582 of the superior court of the District of Columbia authorized to receive such demand under the
7583 laws of the United States, [~~he~~] the governor shall issue a warrant under the seal of this state to
7584 some agent, commanding [~~him~~] the agent to receive the person so charged if delivered to [~~him~~]
7585 the agent and convey [~~him~~] the charged person to the proper officer of the county in this state
7586 in which the offense was committed.

7587 Section 407. Section **77-30-26** is amended to read:

7588 **77-30-26 . Prosecution not limited to crime specified in requisition.**

7589 After a person has been brought back to this state by or after waiver of extradition
7590 proceedings[~~he~~] , the person may be tried in this state for other crimes which [~~he~~] the person
7591 may be charged with having committed here as well as that specified in the requisition for [~~his~~]
7592 the person's extradition.

7593 Section 408. Section **77-38-10** is amended to read:

7594 **77-38-10 . Victim's discretion.**

7595 (1)(a) The victim may exercise any rights under this chapter at [~~his~~] the victim's
7596 discretion to be present and to be heard at a court proceeding, including a juvenile
7597 delinquency proceeding.

7598 (b) The absence of the victim at the court proceeding does not preclude the court from
7599 conducting the proceeding.

7600 (2) A victim shall not refuse to comply with an otherwise lawful subpoena under this
7601 chapter.

7602 (3) A victim shall not prevent the prosecution from complying with requests for
7603 information within a prosecutor's possession and control under this chapter.

7604 Section 409. **Effective Date.**

7605 This bill takes effect on May 7, 2025.

7606 Section 410. **Coordinating S.B. 79 with other 2025 General Session legislation.**

7607 The Legislature intends that, on May 7, 2025, any 2025 General Session legislation
7608 amending the Utah Code that conflicts with amendments made in S.B. 79, and that passes and
7609 becomes law, supersedes the conflicting amendments in S.B. 79.