

Representative Brady Brammer proposes the following substitute bill:

COURT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to courts.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a district court;
- ▶ amends provisions related to court venue;
- ▶ addresses the effect of the consolidation of counties on actions, proceedings, and matters pending in the juvenile court;
- ▶ addresses actions pending in the juvenile court for a new county;
- ▶ clarifies the jurisdiction of the district court;
- ▶ amends the definition of a public official in Title 63G, Chapter 23, Property

Donated to State by Public Official, to address a judge of a juvenile court or the Business and Chancery Court;

- ▶ allows the presiding officer of the Judicial Council to establish a pool of two district court judges to preside over actions in the Business and Chancery Court when there are fewer than three judges for the Business and Chancery Court and a Business and Chancery Court judge is unable to preside over an action due to recusal or disqualification;



- 26 ▶ amends the jurisdiction of the district court to address a district court judge
- 27 presiding over an action in the Business and Chancery Court;
- 28 ▶ amends the definitions related to the Business and Chancery Court;
- 29 ▶ amends the jurisdiction of the Business and Chancery Court;
- 30 ▶ allows the Business and Chancery Court to resolve all claims for which the
- 31 Business and Chancery Court has jurisdiction and any request for a provisional
- 32 remedy related to a claim that is being transferred to another court due to a lack of
- 33 jurisdiction or a demand for a jury trial;
- 34 ▶ clarifies that the Business and Chancery Court is required to transfer an action or
- 35 claim to the district court if a party demands a trial by jury in accordance with the
- 36 Utah Rules of Business and Chancery Procedure and the Business and Chancery
- 37 Court finds that the party has a right to trial by jury on a claim in the action;
- 38 ▶ removes the requirement that the Business and Chancery Court is located in Salt
- 39 Lake City;
- 40 ▶ clarifies the jurisdiction of the juvenile court;
- 41 ▶ repeals statutes related to district court jurisdiction; and
- 42 ▶ makes technical and conforming changes.

43 Money Appropriated in this Bill:

44 None

45 Other Special Clauses:

46 This bill provides a special effective date.

47 This bill provides coordination clauses.

48 Utah Code Sections Affected:

49 AMENDS:

50 **4-32-112**, as renumbered and amended by Laws of Utah 2017, Chapter 345

51 **8-5-2**, as last amended by Laws of Utah 2002, Chapter 123

52 **10-2-710**, as enacted by Laws of Utah 1981, Chapter 55

53 **10-3-208**, as last amended by Laws of Utah 2023, Chapter 45

54 **10-7-32**, as last amended by Laws of Utah 2010, Chapter 378

55 **10-7-66**, as last amended by Laws of Utah 1996, Chapter 198

56 **10-11-3**, as last amended by Laws of Utah 2022, Chapter 432

57 [11-13-309](#), as last amended by Laws of Utah 2010, Chapter 378
58 [13-11-6](#), as last amended by Laws of Utah 2012, Chapter 152
59 [13-11a-4](#), as enacted by Laws of Utah 1989, Chapter 205
60 [13-11a-6](#), as enacted by Laws of Utah 2009, Chapter 133
61 [13-12-7](#), as last amended by Laws of Utah 2010, Chapter 378
62 [13-21-8](#), as last amended by Laws of Utah 2006, Chapter 47
63 [13-22-3](#), as last amended by Laws of Utah 2008, Chapter 382
64 [13-44-301](#), as last amended by Laws of Utah 2019, Chapter 348
65 [13-45-401](#), as last amended by Laws of Utah 2019, Chapter 348
66 [13-63-301](#), as enacted by Laws of Utah 2023, Chapter 498
67 [13-63-501](#), as enacted by Laws of Utah 2023, Chapter 477
68 [16-10a-809](#), as last amended by Laws of Utah 2008, Chapter 364
69 [17-2-106](#), as renumbered and amended by Laws of Utah 2009, Chapter 350
70 [17-3-7](#), as Utah Code Annotated 1953
71 [17-16-6.5](#), as last amended by Laws of Utah 2023, Chapter 45
72 [17-50-103](#), as last amended by Laws of Utah 2023, Chapter 15
73 [17B-1-313](#), as last amended by Laws of Utah 2023, Chapters 15, 435
74 [17C-1-102](#), as last amended by Laws of Utah 2023, Chapter 15
75 [17C-2-304](#), as last amended by Laws of Utah 2019, Chapter 376
76 [17C-5-406](#), as last amended by Laws of Utah 2019, Chapter 376
77 [17D-1-212](#), as enacted by Laws of Utah 2008, Chapter 360
78 [17D-2-602](#), as last amended by Laws of Utah 2012, Chapter 369
79 [17D-4-305](#), as renumbered and amended by Laws of Utah 2021, Chapter 314
80 [18-1-4](#), as enacted by Laws of Utah 2014, Chapter 32
81 [19-4-109](#), as last amended by Laws of Utah 2020, Chapter 256
82 [19-4-113](#), as last amended by Laws of Utah 2023, Chapter 255
83 [19-5-115](#), as last amended by Laws of Utah 2021, Chapter 139
84 [19-6-115](#), as renumbered and amended by Laws of Utah 1991, Chapter 112
85 [19-6-206](#), as renumbered and amended by Laws of Utah 1991, Chapter 112
86 [19-6-306](#), as last amended by Laws of Utah 1995, Chapter 324
87 [19-6-309](#), as last amended by Laws of Utah 1992, Chapter 30

- 88 [19-6-310](#), as last amended by Laws of Utah 2009, Chapter 356
- 89 [19-6-316](#), as last amended by Laws of Utah 2010, Chapter 324
- 90 [19-6-318](#), as last amended by Laws of Utah 2010, Chapter 324
- 91 [19-6-325](#), as last amended by Laws of Utah 2010, Chapter 324
- 92 [19-6-424.5](#), as last amended by Laws of Utah 2012, Chapter 360
- 93 [19-6-425](#), as last amended by Laws of Utah 2012, Chapter 360
- 94 [19-6-804](#), as last amended by Laws of Utah 2020, Chapter 27
- 95 [19-8-119](#), as last amended by Laws of Utah 2021, Chapter 202
- 96 [23A-13-201](#), as renumbered and amended by Laws of Utah 2023, Chapter 103
- 97 [26B-3-1110](#), as renumbered and amended by Laws of Utah 2023, Chapter 306
- 98 [26B-3-1114](#), as renumbered and amended by Laws of Utah 2023, Chapter 306
- 99 [26B-3-1115](#), as renumbered and amended by Laws of Utah 2023, Chapter 306
- 100 [31A-22-305](#), as last amended by Laws of Utah 2023, Chapters 69, 185 and 327
- 101 [31A-22-305.3](#), as last amended by Laws of Utah 2023, Chapters 69, 327
- 102 [31A-22-321](#), as last amended by Laws of Utah 2015, Chapter 345
- 103 [32B-4-205](#), as enacted by Laws of Utah 2010, Chapter 276
- 104 [34-20-10](#), as last amended by Laws of Utah 2008, Chapter 382
- 105 [34-20-11](#), as last amended by Laws of Utah 1997, Chapter 296
- 106 [34-28-9.5](#), as enacted by Laws of Utah 2017, Chapter 85
- 107 [34A-1-407](#), as last amended by Laws of Utah 2001, Chapter 291
- 108 [34A-5-102](#), as last amended by Laws of Utah 2016, Chapters 330, 370
- 109 [34A-6-202](#), as last amended by Laws of Utah 2013, Chapter 413
- 110 [38-1a-308](#), as last amended by Laws of Utah 2015, Chapter 303
- 111 [38-1a-804](#), as last amended by Laws of Utah 2020, Chapter 115
- 112 [38-1a-805](#), as enacted by Laws of Utah 2015, Chapter 303
- 113 [38-2-4](#), as last amended by Laws of Utah 1996, Chapter 198
- 114 [38-9-204](#), as renumbered and amended by Laws of Utah 2014, Chapter 114
- 115 [38-9-205](#), as renumbered and amended by Laws of Utah 2014, Chapter 114
- 116 [38-9-303](#), as enacted by Laws of Utah 2014, Chapter 114
- 117 [38-9a-201](#), as last amended by Laws of Utah 2008, Chapter 223
- 118 [38-9a-202](#), as enacted by Laws of Utah 2005, Chapter 93

- 119 **38-9a-205**, as enacted by Laws of Utah 2005, Chapter 93
- 120 **38-11-110**, as last amended by Laws of Utah 2010, Chapter 31
- 121 **40-8-9**, as last amended by Laws of Utah 2007, Chapter 322
- 122 **40-8-9.1**, as enacted by Laws of Utah 2002, Chapter 194
- 123 **40-10-14**, as last amended by Laws of Utah 2008, Chapter 382
- 124 **40-10-20**, as last amended by Laws of Utah 1997, Chapter 99
- 125 **40-10-21**, as last amended by Laws of Utah 2008, Chapter 382
- 126 **40-10-22**, as last amended by Laws of Utah 2008, Chapter 3
- 127 **41-6a-1622**, as renumbered and amended by Laws of Utah 2005, Chapter 2
- 128 **51-2a-401**, as last amended by Laws of Utah 2018, Chapter 256
- 129 **51-7-22.5**, as enacted by Laws of Utah 2004, Chapter 248
- 130 **53-2d-605 (Effective 07/01/24)**, as renumbered and amended by Laws of Utah 2023,
- 131 Chapters 307, 310
- 132 **53-7-406**, as last amended by Laws of Utah 2013, Chapter 394
- 133 **53B-28-506**, as last amended by Laws of Utah 2023, Chapter 381
- 134 **53E-9-310**, as last amended by Laws of Utah 2019, Chapter 186
- 135 **53G-5-501**, as last amended by Laws of Utah 2023, Chapter 54
- 136 **54-4-27**, as last amended by Laws of Utah 2009, Chapter 388
- 137 **54-5-3**, as last amended by Laws of Utah 1993, Chapter 214
- 138 **54-8a-12**, as enacted by Laws of Utah 2008, Chapter 344
- 139 **54-8b-13**, as last amended by Laws of Utah 2010, Chapter 324
- 140 **54-13-7**, as last amended by Laws of Utah 2011, Chapter 340
- 141 **54-13-8**, as last amended by Laws of Utah 2015, Chapter 102
- 142 **54-14-308**, as enacted by Laws of Utah 1997, Chapter 197
- 143 **54-22-205**, as enacted by Laws of Utah 2018, Chapter 230
- 144 **57-11-11**, as last amended by Laws of Utah 2023, Chapter 435
- 145 **57-11-13**, as last amended by Laws of Utah 2008, Chapter 382
- 146 **57-11-18**, as enacted by Laws of Utah 1973, Chapter 158
- 147 **58-37-11**, as enacted by Laws of Utah 1971, Chapter 145
- 148 **63A-3-507**, as last amended by Laws of Utah 2021, Chapters 145, 260
- 149 **63G-4-403**, as renumbered and amended by Laws of Utah 2008, Chapter 382

150 **63G-7-501**, as renumbered and amended by Laws of Utah 2008, Chapter 382
151 **63G-7-502**, as last amended by Laws of Utah 2016, Chapter 33
152 **63G-20-204**, as enacted by Laws of Utah 2015, Chapter 46
153 **63G-20-302**, as enacted by Laws of Utah 2015, Chapter 46
154 **63G-23-102**, as last amended by Laws of Utah 2022, Chapter 125
155 **63H-1-601**, as last amended by Laws of Utah 2022, Chapter 207
156 **63L-5-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382
157 **63L-8-304**, as last amended by Laws of Utah 2023, Chapter 34
158 **65A-8a-104**, as last amended by Laws of Utah 2010, Chapter 40
159 **67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480
160 **67-3-3**, as last amended by Laws of Utah 2018, Chapter 256
161 **70A-2-807**, as enacted by Laws of Utah 1997, Chapter 166
162 **70C-8-105**, as enacted by Laws of Utah 1985, Chapter 159
163 **70D-2-504**, as renumbered and amended by Laws of Utah 2009, Chapter 72
164 **72-10-106**, as last amended by Laws of Utah 2019, Chapter 431
165 **72-16-401**, as last amended by Laws of Utah 2020, Chapter 423
166 **75-2-105**, as last amended by Laws of Utah 2019, Chapter 264
167 **75-2-801**, as last amended by Laws of Utah 2011, Chapter 366
168 **75-2a-120**, as enacted by Laws of Utah 2007, Chapter 31
169 **75-5a-102**, as enacted by Laws of Utah 1990, Chapter 272
170 **75-7-105**, as last amended by Laws of Utah 2019, Chapter 153
171 **75-7-203**, as repealed and reenacted by Laws of Utah 2004, Chapter 89
172 **75-7-205**, as repealed and reenacted by Laws of Utah 2004, Chapter 89
173 **75-11-102**, as enacted by Laws of Utah 2017, Chapter 16
174 **76-10-1605**, as last amended by Laws of Utah 2008, Chapter 3
175 **78A-1-103.5 (Effective 07/01/24)**, as enacted by Laws of Utah 2023, Chapter 394
176 **78A-5-102**, as last amended by Laws of Utah 2022, Chapters 155, 318
177 **78A-5a-101 (Effective 07/01/24)**, as enacted by Laws of Utah 2023, Chapter 394
178 **78A-5a-103 (Effective 10/01/24)**, as enacted by Laws of Utah 2023, Chapter 394
179 **78A-5a-104 (Effective 07/01/24)**, as enacted by Laws of Utah 2023, Chapter 394
180 **78A-5a-204 (Effective 07/01/24)**, as enacted by Laws of Utah 2023, Chapter 394

- 181 [78A-6-103](#), as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330
- 182 [78A-7-106](#), as last amended by Laws of Utah 2023, Chapter 34
- 183 [78B-6-105](#), as last amended by Laws of Utah 2023, Chapter 115
- 184 [78B-6-112](#), as last amended by Laws of Utah 2021, Chapter 262
- 185 [78B-6-401](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 186 [78B-6-408](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 187 [78B-6-1238](#), as renumbered and amended by Laws of Utah 2008, Chapter 3

188 REPEALS:

- 189 [17D-3-104](#), as enacted by Laws of Utah 2008, Chapter 360
- 190 [78B-12-103](#), as renumbered and amended by Laws of Utah 2008, Chapter 3

191 **Utah Code Sections Affected By Coordination Clause:**

- 192 [13-63-301](#), as enacted by Laws of Utah 2023, Chapter 498
- 193 [78A-6-103](#), as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330



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

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

197 **4-32-112. Judicial review of orders enforcing chapter.**

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

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

203 ~~[(3)]~~ (2) All proceedings for the enforcement of this chapter, or to restrain violations of
204 this chapter, shall be by and in the name of this state.

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

206 **8-5-2. Action in court for title to lots.**

207 (1) If ~~either~~ the grantee, or person claiming through the grantee, fails to comply with
208 the demand or notice, the municipality or cemetery maintenance district may bring an action in
209 ~~[the district court of the county in which the cemetery is located]~~ a court with jurisdiction under
210 Title 78A, Judiciary and Judicial Administration, against all parties who have not responded to
211 the notice for the purpose of terminating the rights of the parties in the lots or parcels and

212 restoring the lots or parcels to the municipality or cemetery maintenance district free of any
213 right, title, or interest of the grantee, persons claiming through the grantee, their heirs, or
214 assigns.

215 (2) Any action to reclaim title to grave sites, parcels, or lots shall be brought and
216 determined in the same manner as actions concerning other real property.

217 (3) The portion of any grave site, lot, or parcel in which a body is buried may not be
218 included in any action to revest title to the lot, site, or parcel in the municipality or cemetery
219 maintenance district, and the grave site in which a body is interred shall remain undisturbed
220 together with any adjoining property so as to allow the proper approach to the grave site.

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

222 **10-2-710. Limitation on jurisdiction of court to consider disincorporation**
223 **petition.**

224 [~~No district court has jurisdiction to~~] A court may not consider a petition seeking
225 disincorporation of a municipality or to order an election based upon the submission of such a
226 petition if:

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

229 (2) the disincorporation petition is filed with the court less than two years after the date
230 of an election held to decide the question of dissolution of the municipality which the petition
231 seeks to dissolve.

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

233 **10-3-208. Campaign finance disclosure in municipal election.**

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

236 (a) "Agent of a candidate" means:

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

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

239 (iii) the personal campaign committee of a candidate;

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

242 (v) a political consultant of a candidate.

- 243 (b) "Anonymous contribution limit" means for each calendar year:
- 244 (i) \$50; or
- 245 (ii) an amount less than \$50 that is specified in an ordinance of the municipality.
- 246 (c) (i) "Candidate" means a person who:
- 247 (A) files a declaration of candidacy for municipal office; or
- 248 (B) receives contributions, makes expenditures, or gives consent for any other person
- 249 to receive contributions or make expenditures to bring about the person's nomination or
- 250 election to a municipal office.
- 251 (ii) "Candidate" does not mean a person who files for the office of judge.
- 252 (d) (i) "Contribution" means any of the following when done for political purposes:
- 253 (A) a gift, subscription, donation, loan, advance, or deposit of money or anything of
- 254 value given to a candidate;
- 255 (B) an express, legally enforceable contract, promise, or agreement to make a gift,
- 256 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or
- 257 anything of value to the candidate;
- 258 (C) any transfer of funds from another reporting entity to the candidate;
- 259 (D) compensation paid by any person or reporting entity other than the candidate for
- 260 personal services provided without charge to the candidate;
- 261 (E) a loan made by a candidate deposited to the candidate's own campaign; and
- 262 (F) an in-kind contribution.
- 263 (ii) "Contribution" does not include:
- 264 (A) services provided by an individual volunteering a portion or all of the individual's
- 265 time on behalf of the candidate if the services are provided without compensation by the
- 266 candidate or any other person;
- 267 (B) money lent to the candidate by a financial institution in the ordinary course of
- 268 business; or
- 269 (C) goods or services provided for the benefit of a candidate at less than fair market
- 270 value that are not authorized by or coordinated with the candidate.
- 271 (e) "Coordinated with" means that goods or services provided for the benefit of a
- 272 candidate are provided:
- 273 (i) with the candidate's prior knowledge, if the candidate does not object;

- 274 (ii) by agreement with the candidate;
- 275 (iii) in coordination with the candidate; or
- 276 (iv) using official logos, slogans, and similar elements belonging to a candidate.
- 277 (f) (i) "Expenditure" means any of the following made by a candidate or an agent of the
- 278 candidate on behalf of the candidate:
- 279 (A) any disbursement from contributions, receipts, or from an account described in
- 280 Subsection (3)(a);
- 281 (B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
- 282 or anything of value made for political purposes;
- 283 (C) an express, legally enforceable contract, promise, or agreement to make any
- 284 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
- 285 value for a political purpose;
- 286 (D) compensation paid by a candidate for personal services rendered by a person
- 287 without charge to a reporting entity;
- 288 (E) a transfer of funds between the candidate and a candidate's personal campaign
- 289 committee as defined in Section [20A-11-101](#); or
- 290 (F) goods or services provided by a reporting entity to or for the benefit of the
- 291 candidate for political purposes at less than fair market value.
- 292 (ii) "Expenditure" does not include:
- 293 (A) services provided without compensation by an individual volunteering a portion or
- 294 all of the individual's time on behalf of a candidate; or
- 295 (B) money lent to a candidate by a financial institution in the ordinary course of
- 296 business.
- 297 (g) "In-kind contribution" means anything of value other than money, that is accepted
- 298 by or coordinated with a candidate.
- 299 (h) (i) "Political consultant" means a person who is paid by a candidate, or paid by
- 300 another person on behalf of and with the knowledge of the candidate, to provide political
- 301 advice to the candidate.
- 302 (ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i),
- 303 where the person:
- 304 (A) has already been paid, with money or other consideration;

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

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

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

313 (j) "Reporting entity" means:

314 (i) a candidate;

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

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

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

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

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

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

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

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

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

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

330 (3) Each candidate:

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

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

335 (4) (a) In a year in which a municipal primary is held, each candidate who will

336 participate in the municipal primary shall file a campaign finance statement with the municipal
337 clerk or recorder no later than seven days before the day described in Subsection
338 20A-1-201.5(2).

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

- 341 (i) 28 days before the day on which the municipal general election is held;
- 342 (ii) seven days before the day on which the municipal general election is held; and
- 343 (iii) 30 days after the day on which the municipal general election is held.

344 (c) Each candidate for municipal office who is eliminated at a municipal primary
345 election shall file with the municipal clerk or recorder a campaign finance statement within 30
346 days after the day on which the municipal primary election is held.

347 (5) If a municipality does not conduct a primary election for a race, each candidate who
348 will participate in that race shall file a campaign finance statement with the municipal clerk or
349 recorder no later than:

- 350 (a) 28 days before the day on which the municipal general election is held;
- 351 (b) seven days before the day on which the municipal general election is held; and
- 352 (c) 30 days after the day on which the municipal general election is held.

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

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

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

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

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

361 (ii) identify:

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

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

366 (b) report the total amount of all contributions and expenditures if the candidate

367 receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.

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

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

373 (b) an organization that is exempt from federal income taxation under Section
374 501(c)(3), Internal Revenue Code.

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

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

377 (ii) require greater disclosure of contributions or expenditures than is required in this
378 section; and

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

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

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

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

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

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

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

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

397 (10) Notwithstanding any provision of Title 63G, Chapter 2, Government Records

398 Access and Management Act, the municipal clerk or recorder shall:

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

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

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

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

407 (ii) submitting a copy of the statement to the lieutenant governor for posting on the
408 website established by the lieutenant governor under Section 20A-11-103 no later than two
409 business days after the statement is filed.

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

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

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

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

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

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

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

422 (i) shall:

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

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

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

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

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

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

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

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

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

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

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

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

447 (15) A campaign finance statement required under this section is considered filed if it
448 is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

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

452 (b) In a civil action under Subsection (16)(a), the court may award costs and attorney
453 fees to the prevailing party.

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

455 **10-7-32. Actions to recover taxes.**

456 (1) It shall also be competent for any municipality to bring a civil action against any
457 party owning or operating any such railway liable to pay such taxes to recover the amount
458 thereof, or any part thereof, delinquent and unpaid, in any court having jurisdiction of the
459 amount, and obtain judgment and have execution therefor, and no property, real or personal,

460 shall be exempt from any such execution; provided, that real estate may not be levied upon by
461 execution except by execution out of the [district] court on judgment therein, or transcript of
462 judgment filed therein, as is now or hereafter may be provided by law.

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

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

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

469 **10-7-66. Fines and forfeitures to be paid to treasurer -- Exceptions.**

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

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

475 **10-11-3. Neglect of property owners -- Removal or abatement by municipality --**
476 **Costs of removal or abatement -- Notice -- File action or lien -- Property owner objection.**

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

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

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

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

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

488 (i) include:

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

490 (B) an itemized list of and demand for payment for all expenses, including

491 administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and
492 (C) the address of the municipal treasurer where payment may be made for the
493 expenses; and
494 (ii) notify the property owner:
495 (A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a
496 lien on the property in accordance with Section [10-11-4](#);
497 (B) that the owner may file a written objection to all or part of the statement within 20
498 days after the day of the statement post-mark; and
499 (C) where the owner may file the objection, including the municipal office and address.
500 (c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed
501 by certified mail addressed to the property owner's of record last-known address according to
502 the records of the county recorder.
503 (d) (i) A municipality may file a notice of a lien, including a copy of the statement
504 described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the
505 county recorder of the county in which the property is located.
506 (ii) If a municipality files a notice of a lien indicating that the municipality intends to
507 certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section
508 [10-11-4](#), the municipality shall file for record in the county recorder's office a release of the lien
509 after all amounts owing are paid.
510 (2) (a) If an owner fails to file a timely written objection as described in Subsection
511 (1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the
512 municipality may:
513 (i) file an action in [~~district court~~] a court with jurisdiction under [Title 78A, Judiciary](#)
514 and [Judicial Administration](#); or
515 (ii) certify the past due costs and expenses to the county treasurer of the county in
516 which the property is located in accordance with Section [10-11-4](#).
517 (b) If a municipality pursues collection of the costs in accordance with Subsection
518 (2)(a)(i) or (4)(a), the municipality may:
519 (i) sue for and receive judgment for all removal and destruction costs, including
520 administrative costs, and reasonable attorney fees, interest, and court costs; and
521 (ii) execute on the judgment in the manner provided by law.

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

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

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

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

529 (c) The property owner shall pay any actual cost due after a decision by the
530 municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within
531 30 days after the day on which the hearing is held.

532 (4) If the property owner fails to pay in accordance with Subsection (3)(c), the
533 municipality may:

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

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

538 (5) This section does not affect or limit:

539 (a) a municipal governing body's power to pass an ordinance as described in Section
540 10-3-702; or

541 (b) a criminal or civil penalty imposed by a municipality in accordance with Section
542 10-3-703.

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

544 **11-13-309. Venue for civil action -- No trial de novo.**

545 ~~[(1) Any]~~

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

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

553 in:

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

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

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

559 ~~[(2)]~~ (4) In any civil action seeking to challenge, enforce, or otherwise review, any
560 order of the board, a trial de novo may not be held.

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

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

565 **13-11-6. Service of process.**

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

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

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

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

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

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

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

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

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

- 584 (i) with the clerk of the court; and
- 585 (ii) on or before the return day of the process, if any, or within any future time the court
- 586 allows.

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

588 **13-11a-4. Injunctive relief -- Damages -- Attorney fees -- Corrective advertising**
589 **-- Notification required.**

590 ~~[(1) The district courts of this state have jurisdiction over any supplier as to any act or~~
591 ~~practice in this state governed by this chapter or as to any claim arising from a deceptive trade~~
592 ~~practice as defined in this chapter.]~~

593 ~~[(2)]~~ (1) (a) (i) Any person or the state may ~~[maintain an action]~~ bring an action in a
594 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin a
595 continuance of any act in violation of this chapter and, if injured by the act, for the recovery of
596 damages.

597 (ii) If, in such action, the court finds that the defendant is violating or has violated any
598 of the provisions of this chapter, it shall enjoin the defendant from continuance of the violation.

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

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

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

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

604 ~~[(3)]~~ (2) The court may order the defendant to promulgate corrective advertising by the
605 same media and with the same distribution and frequency as the advertising found to violate
606 this chapter.

607 ~~[(4)]~~ (3) The remedies of this section are in addition to remedies otherwise available
608 for the same conduct under state or local law.

609 ~~[(5)]~~ (4) (a) No action for injunctive relief may be brought for a violation of this
610 chapter unless the complaining person first gives notice of the alleged violation to the
611 prospective defendant and provides the prospective defendant an opportunity to promulgate a
612 correction notice by the same media as the allegedly violating advertisement.

613 (b) If the prospective defendant does not promulgate a correction notice within 10 days
614 of receipt of the notice, the complaining person may file a lawsuit under this chapter.

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

616 **13-11a-6. Truth in music advertising -- Exemptions -- Penalties.**

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

620 (2) This section does not apply to:

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

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

625 (c) a performing group at least one member of which was a member of the recording
626 group and has a legal right to use of the group name;

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

628 or

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

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

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

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

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

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

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

642 **13-12-7. Equitable relief -- Attorney fees and costs -- Action for failure to renew**
643 **-- Damages limited.**

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

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

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

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

656 (4) In any action for failure to renew an agreement, damages shall be limited to actual
657 damages, including the value of the dealer's equity in the dealership, together with reasonable
658 [attorney's] attorney fees and costs.

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

660 **13-21-8. Burden of proving exception -- Penalties -- Court's criminal and**
661 **equitable jurisdiction -- Prosecution.**

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

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

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

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

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

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

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

676 (6) (a) In addition to other penalties under this section, the division director may issue a

677 cease and desist order and impose an administrative fine of up to \$2,500 for each violation of
678 this chapter.

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

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

683 **13-22-3. Investigative and enforcement powers -- Education.**

684 (1) The division may make any investigation it considers necessary to determine
685 whether any person is violating, has violated, or is about to violate any provision of this chapter
686 or any rule made or order issued under this chapter. As part of the investigation, the division
687 may:

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

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

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

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

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

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

705 (3) Whenever it appears to the director by a preponderance of the evidence that a
706 person has engaged in or is engaging in any act or practice prohibited in this chapter or
707 constituting a violation of this chapter or any rule made or order issued under this chapter, the

708 director may assess an administrative fine of up to \$500 per violation up to \$10,000 for any
709 series of violations arising out of the same operative facts.

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

- 712 (a) issue an injunction;
- 713 (b) enter a declaratory judgment;
- 714 (c) appoint a receiver for the defendant or the defendant's assets;
- 715 (d) order disgorgement of any money received in violation of this chapter;
- 716 (e) order rescission of agreements violating this chapter;
- 717 (f) impose a fine of not more than \$2,000 for each violation of this chapter; and
- 718 (g) impose a civil penalty, or any other relief the court considers just.

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

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

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

- 729 (a) the requirements, prohibitions, and regulated practices under this chapter;
- 730 (b) suggestions for effective financial and organizational practices for charitable
731 organizations;
- 732 (c) charitable giving and solicitation;
- 733 (d) potential problems with solicitations and fraudulent or deceptive practices; and
- 734 (e) any other matter relevant to the subject of this chapter.

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

736 **13-44-301. Enforcement -- Confidentiality agreement -- Penalties.**

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

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

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

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

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

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

746 (i) the violations concern:

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

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

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

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

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

753 (ii) attorney fees and costs.

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

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

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

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

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

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

764 (a) investigate the actions of any person alleged to violate Section [13-44-201](#) or
765 [13-44-202](#);

766 (b) subpoena a witness;

767 (c) subpoena a document or other evidence;

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

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

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

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

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

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

780 (i) address a procedure;

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

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

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

787 (v) require that the attorney general:

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

789 (B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance
790 with Section 63G-2-604, destroy the document or material at a designated time.

791 (8) A subpoena issued under Subsection (6) may be served by certified mail.

792 (9) A person's failure to respond to a request or subpoena from the attorney general
793 under Subsection (6)(b), (c), or (d) is a violation of this chapter.

794 (10) (a) The attorney general may inspect and copy all records related to the business
795 conducted by the person alleged to have violated this chapter, including records located outside
796 the state.

797 (b) For records located outside of the state, the person who is found to have violated
798 this chapter shall pay the attorney general's expenses to inspect the records, including travel
799 costs.

800 (c) Upon notification from the attorney general of the attorney general's intent to

801 inspect records located outside of the state, the person who is found to have violated this
802 chapter shall pay the attorney general \$500, or a higher amount if \$500 is estimated to be
803 insufficient, to cover the attorney general's expenses to inspect the records.

804 (d) To the extent an amount paid to the attorney general by a person who is found to
805 have violated this chapter is not expended by the attorney general, the amount shall be refunded
806 to the person who is found to have violated this chapter.

807 (e) The Division of Corporations and Commercial Code or any other relevant entity
808 shall revoke any authorization to do business in this state of a person who fails to pay any
809 amount required under this Subsection (10).

810 (11) (a) Subject to Subsection (11)(c), the attorney general shall keep confidential a
811 procedure agreed to, testimony taken, a document produced, or material produced under this
812 section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the
813 individual who agreed to the procedure, provided testimony, produced the document, or
814 produced material waives confidentiality in writing.

815 (b) Subject to Subsections (11)(c) and (11)(d), the attorney general may use, in an
816 enforcement action taken under this section, testimony taken, a document produced, or material
817 produced under this section to the extent the use is not restricted or prohibited by a
818 confidentiality agreement or a confidentiality order.

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

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

828 (i) a grand jury; or

829 (ii) a federal or state law enforcement officer, if the person from whom the information
830 was obtained is notified 20 days or greater before the day on which the information is
831 disclosed, and the federal or state law enforcement officer certifies that the federal or state law

832 enforcement officer will:

- 833 (A) maintain the confidentiality of the testimony, document, or material; and
- 834 (B) use the testimony, document, or material solely for an official law enforcement
- 835 purpose.

836 (12) (a) An administrative action filed under this chapter shall be commenced no later

837 than 10 years after the day on which the alleged breach of system security last occurred.

838 (b) A civil action under this chapter shall be commenced no later than five years after

839 the day on which the alleged breach of system security last occurred.

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

841 **13-45-401. Enforcement -- Confidentiality agreement -- Penalties.**

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

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

844 (a) no greater than \$2,500 for a violation or series of violations concerning a specific

845 consumer; and

846 (b) no greater than \$100,000 in the aggregate for related violations concerning more

847 than one consumer, unless:

848 (i) the violations concern:

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

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

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

852 (3) (a) In addition to the penalties provided in Subsection (2), the attorney general may

853 seek, in an action brought under this chapter:

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

855 (ii) attorney fees and costs.

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

857 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney

858 general brings an action under this chapter in the district court, the attorney general shall bring

859 the action in:

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

861 (ii) [~~the district court for the district~~] the county in which resides a consumer who is the

862 subject of a credit report on which a violation occurs.

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

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

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

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

872 (i) address a procedure;

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

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

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

879 (v) require that the attorney general:

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

881 (B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance
882 with Section 63G-2-604, destroy the document or material at a designated time.

883 (6) (a) Subject to Subsection (6)(c), the attorney general shall keep confidential a
884 procedure agreed to, testimony taken, a document produced, or material produced under this
885 section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the
886 individual who agreed to the procedure, provided testimony, or produced the document or
887 material waives confidentiality in writing.

888 (b) Subject to Subsections (6)(c) and (6)(d), the attorney general may use, in an
889 enforcement action taken under this section, testimony taken, a document produced, or material
890 produced under this section to the extent the use is not restricted or prohibited by a
891 confidentiality agreement or a confidentiality order.

892 (c) The attorney general may use, in an enforcement action taken under this section,
893 testimony taken, a document produced, or material produced under this section that is restricted

894 or prohibited from use by a confidentiality agreement or a confidentiality order if the individual
895 who provided testimony, produced the document, or produced the material waives the
896 restriction or prohibition in writing.

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

901 (i) a grand jury; or

902 (ii) a federal or state law enforcement officer, if the person from whom the information
903 was obtained is notified 20 days or greater before the day on which the information is
904 disclosed, and the federal or state law enforcement officer certifies that the federal or state law
905 enforcement officer will:

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

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

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

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

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

913 **13-63-301. Private right of action.**

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

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

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

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

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

925 (b) an amount equal to the greater of:
926 (i) \$2,500 per each incident of violation; or
927 (ii) actual damages for financial, physical, and emotional harm incurred by the person
928 bringing the action, if the court determines that the harm is a direct consequence of the
929 violation or violations.

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

931 **13-63-501. Private right of action for harm to a minor -- Rebuttable presumption**
932 **of harm and causation.**

933 (1) Beginning March 1, 2024, a person may bring an action ~~[under this section]~~ in a
934 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a social
935 media company to recover damages incurred after March 1, 2024 by a Utah minor account
936 holder for any addiction, financial, physical, or emotional harm suffered as a consequence of
937 using or having an account on the social media company's social media platform.

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

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

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

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

947 (b) an amount equal to the greater of:

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

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

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

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

957 **16-10a-809. Removal of directors by judicial proceeding.**

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

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

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

966 (2) The court that removes a director may bar the director from reelection for a period
967 prescribed by the court.

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

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

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

973 **17-2-106. Effect of consolidation.**

974 (1) All territory included within the boundaries of the originating county becomes,
975 upon consolidation, the territory of the consolidating county.

976 (2) The precincts and school districts existing in the originating county continue and
977 become precincts and school districts in the consolidating county and remain as then organized
978 until changed in the manner provided by law, and the officers of those precincts and school
979 districts hold their respective offices until the expiration of the applicable terms.

980 (3) The ownership of all property, both real and personal, held and owned by the
981 originating county at the time of consolidation is vested in the consolidating county.

982 (4) The terms of all county officers in the originating county terminate and cease on the
983 day the consolidation takes effect, and those officers shall immediately deliver to the
984 corresponding officers of the consolidating county all books, records, and papers of the
985 originating county.

986 (5) Any person who is confined under lawful commitment in the county jail of the

987 originating county, or otherwise lawfully held to answer for alleged violation of any of the
988 criminal laws of this state, shall be immediately delivered to the sheriff of the consolidating
989 county, and such person shall be confined in its county jail for the unexpired term of the
990 sentence or held as specified in the commitment.

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

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

995 (7) All actions, proceedings, and matters pending in:

996 (a) the district court of the originating county may be proceeded with in the district
997 court of the consolidating county[-]; and

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

1000 (8) All indebtedness of the originating county are transferred to and become the
1001 indebtedness of the consolidating county with the same effect as if it had been incurred by the
1002 consolidating county.

1003 Section 21. Section 17-3-7 is amended to read:

1004 **17-3-7. Pending civil and criminal actions.**

1005 (1) All civil and criminal actions [~~which shall be~~] that are pending in the territory
1006 embraced in [such] a new county shall be prosecuted to judgment and execution [therein, and
1007 all] in the new county.

1008 (2) All actions pending in the district court or the juvenile court in any county shall be
1009 prosecuted to judgment and execution in the county in which the same are pending, subject to
1010 change of venue as provided by law.

1011 Section 22. Section 17-16-6.5 is amended to read:

1012 **17-16-6.5. Campaign financial disclosure in county elections.**

1013 (1) (a) A county shall adopt an ordinance establishing campaign finance disclosure
1014 requirements for:

1015 (i) candidates for county office; and

1016 (ii) candidates for local school board office who reside in that county.

1017 (b) The ordinance required by Subsection (1)(a) shall include:

1018 (i) a requirement that each candidate for county office or local school board office
1019 report the candidate's itemized and total campaign contributions and expenditures at least once
1020 within the two weeks before the election and at least once within two months after the election;

1021 (ii) a definition of "contribution" and "expenditure" that requires reporting of
1022 nonmonetary contributions such as in-kind contributions and contributions of tangible things;

1023 (iii) a requirement that the financial reports identify:

1024 (A) for each contribution, the name of the donor of the contribution, if known, and the
1025 amount of the contribution; and

1026 (B) for each expenditure, the name of the recipient and the amount of the expenditure;

1027 (iv) a requirement that a candidate for county office or local school board office
1028 deposit a contribution in a separate campaign account ~~in~~ into a financial institution;

1029 (v) a prohibition against a candidate for county office or local school board office
1030 depositing or mingling any contributions received into a personal or business account; and

1031 (vi) a requirement that a candidate for county office who receives a contribution that is
1032 cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown,
1033 shall, within 30 days after receiving the contribution, disburse the amount of the contribution
1034 to:

1035 (A) the treasurer of the state or a political subdivision for deposit into the state's or
1036 political subdivision's general fund; or

1037 (B) an organization that is exempt from federal income taxation under Section
1038 501(c)(3), Internal Revenue Code.

1039 (c) (i) As used in this Subsection (1)(c), "account" means an account in a financial
1040 institution:

1041 (A) that is not described in Subsection (1)(b)(iv); and

1042 (B) into which or from which a person who, as a candidate for an office, other than a
1043 county office for which the person files a declaration of candidacy or federal office, or as a
1044 holder of an office, other than a county office for which the person files a declaration of
1045 candidacy or federal office, deposits a contribution or makes an expenditure.

1046 (ii) The ordinance required by Subsection (1)(a) shall include a requirement that a
1047 candidate for county office or local school board office include on a financial report filed in
1048 accordance with the ordinance a contribution deposited in or an expenditure made from an

1049 account:

1050 (A) since the last financial report was filed; or

1051 (B) that has not been reported under a statute or ordinance that governs the account.

1052 (2) If any county fails to adopt a campaign finance disclosure ordinance described in

1053 Subsection (1), candidates for county office, other than community council office, and

1054 candidates for local school board office shall comply with the financial reporting requirements

1055 contained in Subsections (3) through (8).

1056 (3) A candidate for elective office in a county or local school board office:

1057 (a) shall deposit a contribution [in] into a separate campaign account in a financial
1058 institution; and

1059 (b) may not deposit or mingle any contributions received into a personal or business
1060 account.

1061 (4) Each candidate for elective office in any county who is not required to submit a
1062 campaign financial statement to the lieutenant governor, and each candidate for local school
1063 board office, shall file a signed campaign financial statement with the county clerk:

1064 (a) seven days before the date of the regular general election, reporting each
1065 contribution and each expenditure as of 10 days before the date of the regular general election;
1066 and

1067 (b) no later than 30 days after the date of the regular general election.

1068 (5) (a) The statement filed seven days before the regular general election shall include:

1069 (i) a list of each contribution received by the candidate, and the name of the donor, if
1070 known; and

1071 (ii) a list of each expenditure for political purposes made during the campaign period,
1072 and the recipient of each expenditure.

1073 (b) The statement filed 30 days after the regular general election shall include:

1074 (i) a list of each contribution received after the cutoff date for the statement filed seven
1075 days before the election, and the name of the donor; and

1076 (ii) a list of all expenditures for political purposes made by the candidate after the
1077 cutoff date for the statement filed seven days before the election, and the recipient of each
1078 expenditure.

1079 (6) (a) As used in this Subsection (6), "account" means an account in a financial

1080 institution:

1081 (i) that is not described in Subsection (3)(a); and

1082 (ii) into which or from which a person who, as a candidate for an office, other than a
1083 county office for which the person filed a declaration of candidacy or federal office, or as a
1084 holder of an office, other than a county office for which the person filed a declaration of
1085 candidacy or federal office, deposits a contribution or makes an expenditure.

1086 (b) A county office candidate and a local school board office candidate shall include on
1087 any campaign financial statement filed in accordance with Subsection (4) or (5):

1088 (i) a contribution deposited [in] into an account:

1089 (A) since the last campaign finance statement was filed; or

1090 (B) that has not been reported under a statute or ordinance that governs the account; or

1091 (ii) an expenditure made from an account:

1092 (A) since the last campaign finance statement was filed; or

1093 (B) that has not been reported under a statute or ordinance that governs the account.

1094 (7) Within 30 days after receiving a contribution that is cash or a negotiable
1095 instrument, exceeds \$50, and is from a donor whose name is unknown, a county office
1096 candidate shall disburse the amount of the contribution to:

1097 (a) the treasurer of the state or a political subdivision for deposit into the state's or
1098 political subdivision's general fund; or

1099 (b) an organization that is exempt from federal income taxation under Section
1100 501(c)(3), Internal Revenue Code.

1101 (8) Candidates for elective office in any county, and candidates for local school board
1102 office, who are eliminated at a primary election shall file a signed campaign financial statement
1103 containing the information required by this section not later than 30 days after the primary
1104 election.

1105 (9) Any person who fails to comply with this section is guilty of an infraction.

1106 (10) (a) Counties may, by ordinance, enact requirements that:

1107 (i) require greater disclosure of campaign contributions and expenditures; and

1108 (ii) impose additional penalties.

1109 (b) The requirements described in Subsection (10)(a) apply to a local school board
1110 office candidate who resides in that county.

1111 (11) If a candidate fails to file an interim report due before the election, the county
1112 clerk:

1113 (a) may send an electronic notice to the candidate and the political party of which the
1114 candidate is a member, if any, that states:

1115 (i) that the candidate failed to timely file the report; and

1116 (ii) that, if the candidate fails to file the report within 24 hours after the deadline for
1117 filing the report, the candidate will be disqualified and the political party will not be permitted
1118 to replace the candidate; and

1119 (b) impose a fine of \$100 on the candidate.

1120 (12) (a) The county clerk shall disqualify a candidate and inform the appropriate
1121 election officials that the candidate is disqualified if the candidate fails to file an interim report
1122 described in Subsection (11) within 24 hours after the deadline for filing the report.

1123 (b) The political party of a candidate who is disqualified under Subsection (12)(a) may
1124 not replace the candidate.

1125 (c) A candidate who is disqualified under Subsection (12)(a) shall file with the county
1126 clerk a complete and accurate campaign finance statement within 30 days after the day on
1127 which the candidate is disqualified.

1128 (13) If a candidate is disqualified under Subsection (12)(a), the election official:

1129 (a) shall:

1130 (i) notify every opposing candidate for the county office that the candidate is
1131 disqualified;

1132 (ii) send an email notification to each voter who is eligible to vote in the county
1133 election office race for whom the election official has an email address informing the voter that
1134 the candidate is disqualified and that votes cast for the candidate will not be counted;

1135 (iii) post notice of the disqualification on the county's website; and

1136 (iv) if practicable, remove the candidate's name from the ballot by blacking out the
1137 candidate's name before the ballots are delivered to voters; and

1138 (b) may not count any votes for that candidate.

1139 (14) An election official may fulfill the requirement described in Subsection (13)(a) in
1140 relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a
1141 written notice directing the voter to the county's website to inform the voter whether a

1142 candidate on the ballot is disqualified.

1143 (15) A candidate is not disqualified if:

1144 (a) the candidate files the interim reports described in Subsection (11) no later than 24
1145 hours after the applicable deadlines for filing the reports;

1146 (b) the reports are completed, detailing accurately and completely the information
1147 required by this section except for inadvertent omissions or insignificant errors or inaccuracies;
1148 and

1149 (c) the omissions, errors, or inaccuracies are corrected in an amended report or in the
1150 next scheduled report.

1151 (16) (a) A report is considered timely filed if:

1152 (i) the report is received in the county clerk's office no later than midnight, Mountain
1153 Time, at the end of the day on which the report is due;

1154 (ii) the report is received in the county clerk's office with a United States Postal Service
1155 postmark three days or more before the date that the report was due; or

1156 (iii) the candidate has proof that the report was mailed, with appropriate postage and
1157 addressing, three days before the report was due.

1158 (b) For a county clerk's office that is not open until midnight at the end of the day on
1159 which a report is due, the county clerk shall permit a candidate to file the report via email or
1160 another electronic means designated by the county clerk.

1161 (17) (a) Any private party in interest may bring [~~a civil action in district court~~] an
1162 action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to
1163 enforce the provisions of this section or any ordinance adopted under this section.

1164 (b) In a civil action filed under Subsection (17)(a), the court shall award costs and
1165 attorney fees to the prevailing party.

1166 (18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records
1167 Access and Management Act, the county clerk shall:

1168 (a) make each campaign finance statement filed by a candidate available for public
1169 inspection and copying no later than one business day after the statement is filed; and

1170 (b) make the campaign finance statement filed by a candidate available for public
1171 inspection by:

1172 (i) (A) posting an electronic copy or the contents of the statement on the county's

1173 website no later than seven business days after the statement is filed; and

1174 (B) verifying that the address of the county's website has been provided to the
1175 lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

1176 (ii) submitting a copy of the statement to the lieutenant governor for posting on the
1177 website established by the lieutenant governor under Section 20A-11-103 no later than two
1178 business days after the statement is filed.

1179 Section 23. Section 17-50-103 is amended to read:

1180 **17-50-103. Use of "county" prohibited -- Legal action to compel compliance.**

1181 (1) For purposes of this section:

1182 (a) (i) "Existing local entity" means a special district, special service district, or other
1183 political subdivision of the state created before May 1, 2000.

1184 (ii) "Existing local entity" does not include a county, city, town, or school district.

1185 (b) (i) "New local entity" means a city, town, school district, special district, special
1186 service district, or other political subdivision of the state created on or after May 1, 2000.

1187 (ii) "New local entity" does not include a county.

1188 (c) (i) "Special district" means a special district under Title 17B, Limited Purpose

1189 Local Government Entities - Special Districts, that:

1190 (A) by statute is a political and corporate entity separate from the county that created
1191 the special district; and

1192 (B) by statute is not subject to the direction and control of the county that created the
1193 special district.

1194 (ii) The county legislative body's statutory authority to appoint members to the
1195 governing body of a special district does not alone make the special district subject to the
1196 direction and control of that county.

1197 (2) (a) A new local entity may not use the word "county" in its name.

1198 (b) After January 1, 2005, an existing local entity may not use the word "county" in its
1199 name unless the county whose name is used by the existing local entity gives its written
1200 consent.

1201 (3) A county with a name similar to the name of a new local entity or existing local
1202 entity in violation of this section may bring legal action in [~~district court~~] a court with
1203 jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel compliance with

1204 this section.

1205 Section 24. Section **17B-1-313** is amended to read:

1206 **17B-1-313. Publication of notice of board resolution or action -- Contest period --**
1207 **No contest after contest period.**

1208 (1) After the board of trustees of a special district adopts a resolution or takes other
1209 action on behalf of the district, the board may provide for the publication of a notice of the
1210 resolution or other action.

1211 (2) Each notice under Subsection (1) shall:

1212 (a) include, as the case may be:

1213 (i) the language of the resolution or a summary of the resolution; or

1214 (ii) a description of the action taken by the board;

1215 (b) state that:

1216 (i) any person in interest may file an action in [~~district court~~] a court with jurisdiction
1217 under Title 78A, Judiciary and Judicial Administration, to contest the regularity, formality, or
1218 legality of the resolution or action within 30 days after the date of publication; and

1219 (ii) if the resolution or action is not contested by filing an action in [~~district court~~] a
1220 court within the 30-day period, no one may contest the regularity, formality, or legality of the
1221 resolution or action after the expiration of the 30-day period; and

1222 (c) be published for the special district, as a class A notice under Section **63G-30-102**,
1223 for at least 30 days.

1224 (3) For a period of 30 days after the date of the publication, any person in interest may
1225 contest the regularity, formality, or legality of the resolution or other action by filing an action
1226 in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial
1227 Administration.

1228 (4) After the expiration of the 30-day period under Subsection (3), no one may contest
1229 the regularity, formality, or legality of the resolution or action for any cause.

1230 Section 25. Section **17C-1-102** is amended to read:

1231 **17C-1-102. Definitions.**

1232 As used in this title:

1233 (1) "Active project area" means a project area that has not been dissolved in accordance
1234 with Section **17C-1-702**.

1235 (2) "Adjusted tax increment" means the percentage of tax increment, if less than
1236 100%, that an agency is authorized to receive:

1237 (a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax
1238 increment under Subsection 17C-1-403(3);

1239 (b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax
1240 increment under Section 17C-1-406;

1241 (c) under a project area budget approved by a taxing entity committee; or

1242 (d) under an interlocal agreement that authorizes the agency to receive a taxing entity's
1243 tax increment.

1244 (3) "Affordable housing" means housing owned or occupied by a low or moderate
1245 income family, as determined by resolution of the agency.

1246 (4) "Agency" or "community reinvestment agency" means a separate body corporate
1247 and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community
1248 development and renewal agency under previous law:

1249 (a) that is a political subdivision of the state;

1250 (b) that is created to undertake or promote project area development as provided in this
1251 title; and

1252 (c) whose geographic boundaries are coterminous with:

1253 (i) for an agency created by a county, the unincorporated area of the county; and

1254 (ii) for an agency created by a municipality, the boundaries of the municipality.

1255 (5) "Agency funds" means money that an agency collects or receives for agency
1256 operations, implementing a project area plan or an implementation plan as defined in Section
1257 17C-1-1001, or other agency purposes, including:

1258 (a) project area funds;

1259 (b) income, proceeds, revenue, or property derived from or held in connection with the
1260 agency's undertaking and implementation of project area development or agency-wide project
1261 development as defined in Section 17C-1-1001;

1262 (c) a contribution, loan, grant, or other financial assistance from any public or private
1263 source;

1264 (d) project area incremental revenue as defined in Section 17C-1-1001; or

1265 (e) property tax revenue as defined in Section 17C-1-1001.

1266 (6) "Annual income" means the same as that term is defined in regulations of the
1267 United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as
1268 amended or as superseded by replacement regulations.

1269 (7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

1270 (8) "Base taxable value" means, unless otherwise adjusted in accordance with
1271 provisions of this title, a property's taxable value as shown upon the assessment roll last
1272 equalized during the base year.

1273 (9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year
1274 during which the assessment roll is last equalized:

1275 (a) for a pre-July 1, 1993, urban renewal or economic development project area plan,
1276 before the project area plan's effective date;

1277 (b) for a post-June 30, 1993, urban renewal or economic development project area
1278 plan, or a community reinvestment project area plan that is subject to a taxing entity
1279 committee:

1280 (i) before the date on which the taxing entity committee approves the project area
1281 budget; or

1282 (ii) if taxing entity committee approval is not required for the project area budget,
1283 before the date on which the community legislative body adopts the project area plan;

1284 (c) for a project on an inactive airport site, after the later of:

1285 (i) the date on which the inactive airport site is sold for remediation and development;

1286 or

1287 (ii) the date on which the airport that operated on the inactive airport site ceased
1288 operations; or

1289 (d) for a community development project area plan or a community reinvestment
1290 project area plan that is subject to an interlocal agreement, as described in the interlocal
1291 agreement.

1292 (10) "Basic levy" means the portion of a school district's tax levy constituting the
1293 minimum basic levy under Section 59-2-902.

1294 (11) "Board" means the governing body of an agency, as described in Section
1295 17C-1-203.

1296 (12) "Budget hearing" means the public hearing on a proposed project area budget

1297 required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget,
1298 Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection
1299 17C-5-302(2)(e) for a community reinvestment project area budget.

1300 (13) "Closed military base" means land within a former military base that the Defense
1301 Base Closure and Realignment Commission has voted to close or realign when that action has
1302 been sustained by the president of the United States and Congress.

1303 (14) "Combined incremental value" means the combined total of all incremental values
1304 from all project areas, except project areas that contain some or all of a military installation or
1305 inactive industrial site, within the agency's boundaries under project area plans and project area
1306 budgets at the time that a project area budget for a new project area is being considered.

1307 (15) "Community" means a county or municipality.

1308 (16) "Community development project area plan" means a project area plan adopted
1309 under Chapter 4, Part 1, Community Development Project Area Plan.

1310 (17) "Community legislative body" means the legislative body of the community that
1311 created the agency.

1312 (18) "Community reinvestment project area plan" means a project area plan adopted
1313 under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

1314 (19) "Contest" means to file a written complaint in [~~the district court of the~~] a court
1315 with jurisdiction under Title 78A, Judiciary and Judicial Administration, and in a county in
1316 which the agency is located if the action is filed in the district court.

1317 (20) "Development impediment" means a condition of an area that meets the
1318 requirements described in Section 17C-2-303 for an urban renewal project area or Section
1319 17C-5-405 for a community reinvestment project area.

1320 (21) "Development impediment hearing" means a public hearing regarding whether a
1321 development impediment exists within a proposed:

1322 (a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section
1323 17C-2-302; or

1324 (b) community reinvestment project area under Section 17C-5-404.

1325 (22) "Development impediment study" means a study to determine whether a
1326 development impediment exists within a survey area as described in Section 17C-2-301 for an
1327 urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

1328 (23) "Economic development project area plan" means a project area plan adopted
1329 under Chapter 3, Part 1, Economic Development Project Area Plan.

1330 (24) "Fair share ratio" means the ratio derived by:

1331 (a) for a municipality, comparing the percentage of all housing units within the
1332 municipality that are publicly subsidized income targeted housing units to the percentage of all
1333 housing units within the county in which the municipality is located that are publicly
1334 subsidized income targeted housing units; or

1335 (b) for the unincorporated part of a county, comparing the percentage of all housing
1336 units within the unincorporated county that are publicly subsidized income targeted housing
1337 units to the percentage of all housing units within the whole county that are publicly subsidized
1338 income targeted housing units.

1339 (25) "Family" means the same as that term is defined in regulations of the United
1340 States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended
1341 or as superseded by replacement regulations.

1342 (26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

1343 (27) "Hazardous waste" means any substance defined, regulated, or listed as a
1344 hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant,
1345 or toxic substance, or identified as hazardous to human health or the environment, under state
1346 or federal law or regulation.

1347 (28) "Housing allocation" means project area funds allocated for housing under Section
1348 [17C-2-203](#), [17C-3-202](#), or [17C-5-307](#) for the purposes described in Section [17C-1-412](#).

1349 (29) "Housing fund" means a fund created by an agency for purposes described in
1350 Section [17C-1-411](#) or [17C-1-412](#) that is comprised of:

1351 (a) project area funds, project area incremental revenue as defined in Section
1352 [17C-1-1001](#), or property tax revenue as defined in Section [17C-1-1001](#) allocated for the
1353 purposes described in Section [17C-1-411](#); or

1354 (b) an agency's housing allocation.

1355 (30) (a) "Inactive airport site" means land that:

1356 (i) consists of at least 100 acres;

1357 (ii) is occupied by an airport:

1358 (A) (I) that is no longer in operation as an airport; or

- 1359 (II) (Aa) that is scheduled to be decommissioned; and
1360 (Bb) for which a replacement commercial service airport is under construction; and
1361 (B) that is owned or was formerly owned and operated by a public entity; and
1362 (iii) requires remediation because:
1363 (A) of the presence of hazardous waste or solid waste; or
1364 (B) the site lacks sufficient public infrastructure and facilities, including public roads,
1365 electric service, water system, and sewer system, needed to support development of the site.
1366 (b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land
1367 described in Subsection (30)(a).
1368 (31) (a) "Inactive industrial site" means land that:
1369 (i) consists of at least 1,000 acres;
1370 (ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial
1371 facility; and
1372 (iii) requires remediation because of the presence of hazardous waste or solid waste.
1373 (b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land
1374 described in Subsection (31)(a).
1375 (32) "Income targeted housing" means housing that is owned or occupied by a family
1376 whose annual income is at or below 80% of the median annual income for a family within the
1377 county in which the housing is located.
1378 (33) "Incremental value" means a figure derived by multiplying the marginal value of
1379 the property located within a project area on which tax increment is collected by a number that
1380 represents the adjusted tax increment from that project area that is paid to the agency.
1381 (34) "Loan fund board" means the Olene Walker Housing Loan Fund Board,
1382 established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.
1383 (35) (a) "Local government building" means a building owned and operated by a
1384 community for the primary purpose of providing one or more primary community functions,
1385 including:
1386 (i) a fire station;
1387 (ii) a police station;
1388 (iii) a city hall; or
1389 (iv) a court or other judicial building.

1390 (b) "Local government building" does not include a building the primary purpose of
1391 which is cultural or recreational in nature.

1392 (36) "Major transit investment corridor" means the same as that term is defined in
1393 Section 10-9a-103.

1394 (37) "Marginal value" means the difference between actual taxable value and base
1395 taxable value.

1396 (38) "Military installation project area" means a project area or a portion of a project
1397 area located within a federal military installation ordered closed by the federal Defense Base
1398 Realignment and Closure Commission.

1399 (39) "Municipality" means a city, town, or metro township as defined in Section
1400 10-2a-403.

1401 (40) "Participant" means one or more persons that enter into a participation agreement
1402 with an agency.

1403 (41) "Participation agreement" means a written agreement between a person and an
1404 agency that:

1405 (a) includes a description of:

1406 (i) the project area development that the person will undertake;

1407 (ii) the amount of project area funds the person may receive; and

1408 (iii) the terms and conditions under which the person may receive project area funds;

1409 and

1410 (b) is approved by resolution of the board.

1411 (42) "Plan hearing" means the public hearing on a proposed project area plan required
1412 under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection
1413 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d)
1414 for a community development project area plan, or Subsection 17C-5-104(3)(e) for a
1415 community reinvestment project area plan.

1416 (43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or
1417 after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project
1418 area plan's adoption.

1419 (44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July
1420 1, 1993, whether or not amended subsequent to the project area plan's adoption.

1421 (45) "Private," with respect to real property, means property not owned by a public
1422 entity or any other governmental entity.

1423 (46) "Project area" means the geographic area described in a project area plan within
1424 which the project area development described in the project area plan takes place or is
1425 proposed to take place.

1426 (47) "Project area budget" means a multiyear projection of annual or cumulative
1427 revenues and expenses and other fiscal matters pertaining to a project area prepared in
1428 accordance with:

1429 (a) for an urban renewal project area, Section 17C-2-201;

1430 (b) for an economic development project area, Section 17C-3-201;

1431 (c) for a community development project area, Section 17C-4-204; or

1432 (d) for a community reinvestment project area, Section 17C-5-302.

1433 (48) "Project area development" means activity within a project area that, as
1434 determined by the board, encourages, promotes, or provides development or redevelopment for
1435 the purpose of implementing a project area plan, including:

1436 (a) promoting, creating, or retaining public or private jobs within the state or a
1437 community;

1438 (b) providing office, manufacturing, warehousing, distribution, parking, or other
1439 facilities or improvements;

1440 (c) planning, designing, demolishing, clearing, constructing, rehabilitating, or
1441 remediating environmental issues;

1442 (d) providing residential, commercial, industrial, public, or other structures or spaces,
1443 including recreational and other facilities incidental or appurtenant to the structures or spaces;

1444 (e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating
1445 existing structures;

1446 (f) providing open space, including streets or other public grounds or space around
1447 buildings;

1448 (g) providing public or private buildings, infrastructure, structures, or improvements;

1449 (h) relocating a business;

1450 (i) improving public or private recreation areas or other public grounds;

1451 (j) eliminating a development impediment or the causes of a development impediment;

1452 (k) redevelopment as defined under the law in effect before May 1, 2006; or
1453 (l) any activity described in this Subsection (48) outside of a project area that the board
1454 determines to be a benefit to the project area.

1455 (49) "Project area funds" means tax increment or sales and use tax revenue that an
1456 agency receives under a project area budget adopted by a taxing entity committee or an
1457 interlocal agreement.

1458 (50) "Project area funds collection period" means the period of time that:

1459 (a) begins the day on which the first payment of project area funds is distributed to an
1460 agency under a project area budget approved by a taxing entity committee or an interlocal
1461 agreement; and

1462 (b) ends the day on which the last payment of project area funds is distributed to an
1463 agency under a project area budget approved by a taxing entity committee or an interlocal
1464 agreement.

1465 (51) "Project area plan" means an urban renewal project area plan, an economic
1466 development project area plan, a community development project area plan, or a community
1467 reinvestment project area plan that, after the project area plan's effective date, guides and
1468 controls the project area development.

1469 (52) (a) "Property tax" means each levy on an ad valorem basis on tangible or
1470 intangible personal or real property.

1471 (b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege
1472 Tax.

1473 (53) "Public entity" means:

1474 (a) the United States, including an agency of the United States;

1475 (b) the state, including any of the state's departments or agencies; or

1476 (c) a political subdivision of the state, including a county, municipality, school district,
1477 special district, special service district, community reinvestment agency, or interlocal
1478 cooperation entity.

1479 (54) "Publicly owned infrastructure and improvements" means water, sewer, storm
1480 drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets,
1481 roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or
1482 other facilities, infrastructure, and improvements benefitting the public and to be publicly

1483 owned or publicly maintained or operated.

1484 (55) "Record property owner" or "record owner of property" means the owner of real
1485 property, as shown on the records of the county in which the property is located, to whom the
1486 property's tax notice is sent.

1487 (56) "Sales and use tax revenue" means revenue that is:

1488 (a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act;
1489 and

1490 (b) distributed to a taxing entity in accordance with Sections [59-12-204](#) and [59-12-205](#).

1491 (57) "Superfund site":

1492 (a) means an area included in the National Priorities List under the Comprehensive
1493 Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

1494 (b) includes an area formerly included in the National Priorities List, as described in
1495 Subsection (57)(a), but removed from the list following remediation that leaves on site the
1496 waste that caused the area to be included in the National Priorities List.

1497 (58) "Survey area" means a geographic area designated for study by a survey area
1498 resolution to determine whether:

1499 (a) one or more project areas within the survey area are feasible; or

1500 (b) a development impediment exists within the survey area.

1501 (59) "Survey area resolution" means a resolution adopted by a board that designates a
1502 survey area.

1503 (60) "Taxable value" means:

1504 (a) the taxable value of all real property a county assessor assesses in accordance with
1505 Title 59, Chapter 2, Part 3, County Assessment, for the current year;

1506 (b) the taxable value of all real and personal property the commission assesses in
1507 accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

1508 (c) the year end taxable value of all personal property a county assessor assesses in
1509 accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's
1510 tax rolls of the taxing entity.

1511 (61) (a) "Tax increment" means the difference between:

1512 (i) the amount of property tax revenue generated each tax year by a taxing entity from
1513 the area within a project area designated in the project area plan as the area from which tax

1514 increment is to be collected, using the current assessed value of the property and each taxing
1515 entity's current certified tax rate as defined in Section 59-2-924; and

1516 (ii) the amount of property tax revenue that would be generated from that same area
1517 using the base taxable value of the property and each taxing entity's current certified tax rate as
1518 defined in Section 59-2-924.

1519 (b) "Tax increment" does not include taxes levied and collected under Section
1520 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

1521 (i) the project area plan was adopted before May 4, 1993, whether or not the project
1522 area plan was subsequently amended; and

1523 (ii) the taxes were pledged to support bond indebtedness or other contractual
1524 obligations of the agency.

1525 (62) "Taxing entity" means a public entity that:

1526 (a) levies a tax on property located within a project area; or

1527 (b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

1528 (63) "Taxing entity committee" means a committee representing the interests of taxing
1529 entities, created in accordance with Section 17C-1-402.

1530 (64) "Unincorporated" means not within a municipality.

1531 (65) "Urban renewal project area plan" means a project area plan adopted under
1532 Chapter 2, Part 1, Urban Renewal Project Area Plan.

1533 Section 26. Section 17C-2-304 is amended to read:

1534 **17C-2-304. Challenging a development impediment determination -- Time limit --**
1535 **De novo review.**

1536 (1) If the board makes a development impediment determination under Subsection
1537 17C-2-102(1)(a)(ii)(B) and that determination is approved by resolution adopted by the taxing
1538 entity committee, a record owner of property located within the proposed urban renewal project
1539 area may challenge the determination by ~~[filing an action with the district court for the county~~
1540 ~~in which the property is located]~~ bringing an action in a court with jurisdiction under Title 78A,
1541 Judiciary and Judicial Administration.

1542 (2) A person shall file a challenge under Subsection (1) within 30 days after the taxing
1543 entity committee approves the board's development impediment determination.

1544 (3) In each action under this section, the ~~[district]~~ court shall review the development

1545 impediment determination under the standards of review provided in Subsection 10-9a-801(3).

1546 Section 27. Section 17C-5-406 is amended to read:

1547 **17C-5-406. Challenging a finding of development impediment determination --**

1548 **Time limit -- Standards governing court review.**

1549 (1) If a board makes a development impediment determination under Subsection
1550 17C-5-402(2)(c)(ii), a record owner of property located within the survey area may challenge
1551 the determination by [~~filing an action in the district court in the county in which the property is~~
1552 ~~located~~] bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial
1553 Administration, no later than 30 days after the day on which the board makes the
1554 determination.

1555 (2) In an action under this section:

1556 (a) the agency shall transmit to the [~~district~~] court the record of the agency's
1557 proceedings, including any minutes, findings, determinations, orders, or transcripts of the
1558 agency's proceedings;

1559 (b) the [~~district~~] court shall review the development impediment determination under
1560 the standards of review provided in Subsection 10-9a-801(3); and

1561 (c) (i) if there is a record:

1562 (A) the [~~district~~] court's review is limited to the record provided by the agency; and

1563 (B) the [~~district~~] court may not accept or consider any evidence outside the record of
1564 the agency, unless the evidence was offered to the agency and the district court determines that
1565 the agency improperly excluded the evidence; or

1566 (ii) if there is no record, the [~~district~~] court may call witnesses and take evidence.

1567 Section 28. Section 17D-1-212 is amended to read:

1568 **17D-1-212. Action to challenge the creation of a special service district or a**
1569 **service to be provided.**

1570 (1) A person may [~~file an action in district court~~] bring an action in a court with
1571 jurisdiction under Title 78A, Judiciary and Judicial Administration, challenging the creation of
1572 a special service district or a service that a special service district is proposed to provide if:

1573 (a) the person filed a written protest under Section 17D-1-206;

1574 (b) the person:

1575 (i) (A) is a registered voter within the special service district; and

1576 (B) alleges in the action that the procedures used to create the special service district
1577 violated applicable law; or

1578 (ii) (A) is an owner of property included within the boundary of the special service
1579 district; and

1580 (B) alleges in the action that:

1581 (I) the person's property will not be benefitted by a service that the special service
1582 district is proposed to provide; or

1583 (II) the procedures used to create the special service district violated applicable law;
1584 and

1585 (c) the action is filed within 30 days after the date that the legislative body adopts a
1586 resolution or ordinance creating the special service district.

1587 (2) If an action is not filed within the time specified under Subsection (1), a registered
1588 voter or an owner of property located within the special service district may not contest the
1589 creation of the special service district or a service that the special service district is proposed to
1590 provide.

1591 Section 29. Section **17D-2-602** is amended to read:

1592 **17D-2-602. Contesting the legality of a resolution or other proceeding -- No cause**
1593 **of action after contest period.**

1594 (1) For a period of 30 days after publication of a resolution or other proceeding under
1595 Subsection **17D-2-601**(1) or a notice under Subsection **17D-2-601**(2), any person in interest
1596 may ~~[file an action in district court]~~ bring an action in a court with jurisdiction under Title 78A,
1597 Judiciary and Judicial Administration, contesting the regularity, formality, or legality of:

1598 (a) a resolution or other proceeding;

1599 (b) any bonds or a lease agreement authorized by a resolution or other proceeding; or

1600 (c) any provision made for the security or payment of local building authority bonds or
1601 lease agreement.

1602 (2) After the period referred to in Subsection (1), no one may have a cause of action to
1603 contest for any reason the regularity, formality, or legality of any of the matters listed in
1604 Subsection (1).

1605 Section 30. Section **17D-4-305** is amended to read:

1606 **17D-4-305. Action to contest tax, fee, or proceeding -- Requirements -- Exclusive**

1607 **remedy -- Bonds, taxes, and fees incontestable.**

1608 (1) A person who contests a tax or fee or any proceeding to create a public
1609 infrastructure district, levy a tax, or impose a fee may bring a civil action against the public
1610 infrastructure district or the creating entity to:

1611 (a) set aside the proceeding; or

1612 (b) enjoin the levy, imposition, or collection of a tax or fee.

1613 (2) The person bringing an action described in Subsection (1):

1614 (a) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, shall bring the
1615 action in [~~the district court with jurisdiction~~] in the county in which the public infrastructure
1616 district is located if the person brings the action in the district court; and

1617 (b) may not bring the action against or serve a summons relating to the action on the
1618 public infrastructure district more than 30 days after the effective date of the:

1619 (i) creation of the public infrastructure district, if the challenge is to the creation of the
1620 public infrastructure district; or

1621 (ii) tax or fee, if the challenge is to a tax or fee.

1622 (3) An action under Subsection (1) is the exclusive remedy of a person who:

1623 (a) claims an error or irregularity in a tax or fee or in any proceeding to create a public
1624 infrastructure district, levy a tax, or impose a fee; or

1625 (b) challenges a bondholder's right to repayment.

1626 (4) After the expiration of the 30-day period described in Subsection (2)(b):

1627 (a) a bond issued or to be issued with respect to a public infrastructure district and any
1628 tax levied or fee imposed becomes incontestable against any person who has not brought an
1629 action and served a summons in accordance with this section;

1630 (b) a person may not bring a suit to:

1631 (i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or
1632 enforcement of a tax or fee; or

1633 (ii) attack or question in any way the legality of a bond, tax, or fee; and

1634 (c) a court may not inquire into the matters described in Subsection (4)(b).

1635 (5) (a) This section does not insulate a public infrastructure district from a claim of
1636 misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

1637 (b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus

1638 is the sole form of relief available to a party challenging the misuse of funds.

1639 (ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal
1640 charges against or the prosecution of a party for the misuse of funds.

1641 Section 31. Section **18-1-4** is amended to read:

1642 **18-1-4. Use of arbitration in personal injury from dog attack cases.**

1643 (1) A person injured as a result of a dog attack may elect to submit all third party
1644 bodily injury claims to arbitration by filing a notice of the submission of the claim to binding
1645 arbitration in a [~~district~~] court if:

1646 (a) the claimant or the claimant's representative has:

1647 (i) previously and timely filed a complaint in a [~~district~~] court that includes a third
1648 party bodily injury claim; and

1649 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
1650 has been answered; and

1651 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
1652 Subsection (1)(a)(i) is still pending.

1653 (2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
1654 party submitting the claim or the party's representative is limited to an arbitration award that
1655 may not exceed \$50,000 in addition to any medical premise benefits and any claim for property
1656 damage.

1657 (b) A party who elects to proceed against a defendant under this section:

1658 (i) waives the right to obtain a judgment against the personal assets of the defendant;
1659 and

1660 (ii) is limited to recovery only against available limits of insurance coverage.

1661 (3) A claim for punitive damages may not be made in an arbitration proceeding under
1662 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial
1663 de novo under Subsection (11).

1664 (4) (a) A party who has elected arbitration under this section may rescind the party's
1665 election if the rescission is made within:

1666 (i) 90 days after the election to arbitrate; and

1667 (ii) no less than 30 days before any scheduled arbitration hearing.

1668 (b) A party seeking to rescind an election to arbitrate under this Subsection (4) shall:

1669 (i) file a notice of the rescission of the election to arbitrate with the [district] court in
1670 which the matter was filed; and

1671 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel
1672 of record to the action.

1673 (c) All discovery completed in anticipation of the arbitration hearing shall be available
1674 for use by the parties as allowed by the Utah Rules of Civil Procedure and the Utah Rules of
1675 Evidence.

1676 (d) A party who has elected to arbitrate under this section and then rescinded the
1677 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this
1678 section again.

1679 (5) (a) Unless otherwise agreed to by the parties or by order of the court, an arbitration
1680 process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.

1681 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be
1682 completed within 150 days after the date arbitration is elected under this section or the date the
1683 answer is filed, whichever is longer.

1684 (6) (a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
1685 arbitration under this section shall be resolved by a single arbitrator.

1686 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall
1687 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of
1688 the defendant.

1689 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
1690 (6)(b), the parties shall select a panel of three arbitrators.

1691 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):

1692 (i) each side shall select one arbitrator; and

1693 (ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional
1694 arbitrator to be included in the panel.

1695 (7) Unless otherwise agreed to in writing:

1696 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected
1697 under Subsection (6)(a); and

1698 (b) if an arbitration panel is selected under Subsection (6)(d):

1699 (i) each party shall pay the fees and costs of the arbitrator selected by that party's side;

1700 and

1701 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
1702 under Subsection (6)(d)(ii).

1703 (8) Except as otherwise provided in this section and unless otherwise agreed to in
1704 writing by the parties, an arbitration proceeding conducted under this section shall be governed
1705 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

1706 (9) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and
1707 the Utah Rules of Evidence apply to the arbitration proceeding.

1708 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied
1709 liberally with the intent of concluding the claim in a timely and cost-efficient manner.

1710 (c) Discovery shall be conducted in accordance with the Utah Rules of Civil Procedure
1711 and shall be subject to the jurisdiction of the [district] court in which the matter is filed.

1712 (d) Dispositive motions shall be filed, heard, and decided by the [district] court prior to
1713 the arbitration proceeding in accordance with the court's scheduling order.

1714 (10) A written decision by a single arbitrator or by a majority of the arbitration panel
1715 shall constitute a final decision.

1716 (11) An arbitration award issued under this section shall be the final resolution of all
1717 bodily injury claims between the parties and may be reduced to judgment by the court upon
1718 motion and notice unless:

1719 (a) either party, within 20 days after service of the arbitration award:

1720 (i) files a notice requesting a trial de novo in the [district] court; and

1721 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo
1722 under Subsection (11)(a)(i); or

1723 (b) the arbitration award has been satisfied.

1724 (12) (a) Upon filing a notice requesting a trial de novo under Subsection (11):

1725 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90
1726 days shall be allowed for further discovery;

1727 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice
1728 of appeal; and

1729 (iii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil
1730 Procedure and the Utah Rules of Evidence in the [district] court.

1731 (b) In accordance with the Utah Rules of Civil Procedure, either party may request a
1732 jury trial with a request for trial de novo filed under Subsection (11).

1733 (13) (a) If the plaintiff, as the moving party in a trial de novo requested under
1734 Subsection (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than
1735 the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.

1736 (b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall
1737 include:

1738 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

1739 (ii) the costs of expert witnesses and depositions.

1740 (c) An award of costs under this Subsection (13) may not exceed \$6,000.

1741 (14) (a) If a defendant, as the moving party in a trial de novo requested under
1742 Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award,
1743 the defendant is responsible for all of the nonmoving party's costs.

1744 (b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall
1745 include:

1746 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

1747 (ii) the costs of expert witnesses and depositions.

1748 (c) An award of costs under this Subsection (14) may not exceed \$6,000.

1749 (15) For purposes of determining whether a party's verdict is greater or less than the
1750 arbitration award under Subsections (13) and (14), a court may not consider any recovery or
1751 other relief granted on a claim for damages if the claim for damages was not disclosed in:

1752 (a) writing prior to the arbitration proceeding; or

1753 (b) response to discovery contrary to the Utah Rules of Civil Procedure.

1754 (16) If a [district] court determines, upon a motion of the nonmoving party, that the
1755 moving party's use of the trial de novo process was filed in bad faith, as described in Section
1756 78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving party.

1757 (17) Nothing in this section is intended to affect or prevent any first party claim from
1758 later being brought under any first party insurance policy under which the injured person is a
1759 covered person.

1760 (18) (a) If a defendant requests a trial de novo under Subsection (11), the total verdict
1761 at trial may not exceed \$15,000 above any available limits of insurance coverage and the total

1762 verdict may not exceed \$65,000.

1763 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may
1764 not exceed \$50,000.

1765 (19) All arbitration awards issued under this section shall bear postjudgment interest
1766 pursuant to Section 15-1-4.

1767 Section 32. Section 19-4-109 is amended to read:

1768 **19-4-109. Violations -- Penalties -- Reimbursement for expenses.**

1769 (1) As used in this section, "criminal negligence" means the same as that term is
1770 defined in Section 76-2-103.

1771 (2) (a) A person who violates this chapter, a rule or order issued under the authority of
1772 this chapter, or the terms of a permit or other administrative authorization issued under the
1773 authority of this chapter is subject to an administrative penalty:

1774 (i) not to exceed \$1,000 per day per violation, with respect to a public water system
1775 serving a population of less than 10,000 individuals; or

1776 (ii) exactly \$1,000 per day per violation, with respect to a public water system serving
1777 a population of more than 10,000 individuals.

1778 (b) In all cases, each day of violation is considered a separate violation.

1779 (3) The director may assess and make a demand for payment of an administrative
1780 penalty under this section and may compromise or settle that penalty.

1781 (4) To make a demand for payment of an administrative penalty assessed under this
1782 section, the director shall issue a notice of agency action, specifying, in addition to the
1783 requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative
1784 Procedures Act:

1785 (a) the date, facts, and nature of each act or omission charged;

1786 (b) the provision of the statute, rule, order, permit, or administrative authorization that
1787 is alleged to have been violated;

1788 (c) each penalty that the director proposes to assess, together with the amount and date
1789 of effect of that penalty; and

1790 (d) that failure to pay the penalty or respond may result in a civil action for collection.

1791 (5) A person notified according to Subsection (4) may request an adjudicative
1792 proceeding.

1793 (6) Upon request by the director, the attorney general may institute a civil action to
1794 collect a penalty assessed under this section.

1795 (7) (a) A person who, with criminal negligence, violates any rule or order made or
1796 issued pursuant to this chapter, or with criminal negligence fails to take corrective action
1797 required by an order, is guilty of a class B misdemeanor and subject to a fine of not more than
1798 \$5,000 per day for each day of violation.

1799 (b) In addition, the person is subject, in a civil proceeding, to a penalty of not more
1800 than \$5,000 per day for each day of violation.

1801 (8) (a) The director may bring a civil action for appropriate relief, including a
1802 permanent or temporary injunction, for a violation for which the director is authorized to issue
1803 a compliance order under Section [19-4-107](#).

1804 (b) ~~[The]~~ Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director
1805 shall bring an action under this Subsection (8) in the ~~[district court]~~ county where the violation
1806 occurs if the director brings the action in a district court.

1807 (9) (a) The attorney general is the legal advisor for the board and the director and shall
1808 defend them in an action or proceeding brought against the board or director.

1809 (b) The county attorney or district attorney, as appropriate under Section [17-18a-202](#) or
1810 [17-18a-203](#), in the county in which a cause of action arises, shall bring an action, civil or
1811 criminal, requested by the director, to abate a condition that exists in violation of, or to
1812 prosecute for the violation of, or to enforce the laws or the standards, orders, and rules of the
1813 board or the director issued under this chapter.

1814 (c) The director may initiate action under this section and be represented by the
1815 attorney general.

1816 (10) If a person fails to comply with a cease and desist order that is not subject to a stay
1817 pending administrative or judicial review, the director may initiate an action for and be entitled
1818 to injunctive relief to prevent further or continued violation of the order.

1819 (11) A bond may not be required for injunctive relief under this chapter.

1820 (12) (a) Except as provided in Subsection (12)(b), a penalty assessed and collected
1821 under the authority of this section shall be deposited into the General Fund.

1822 (b) The department may reimburse itself and local governments from money collected
1823 from civil penalties for extraordinary expenses incurred in environmental enforcement

1824 activities.

1825 (c) The department shall regulate reimbursements by making rules that define:

1826 (i) qualifying environmental enforcement activities; and

1827 (ii) qualifying extraordinary expenses.

1828 Section 33. Section **19-4-113** is amended to read:

1829 **19-4-113. Water source protection ordinance .**

1830 (1) As used in this section, "municipality" means the same as that term is defined in
1831 Section [10-1-104](#).

1832 (2) (a) Before May 3, 2010, a first or second class county shall:

1833 (i) adopt an ordinance in compliance with this section after:

1834 (A) considering the rules established by the board to protect a watershed or water
1835 source used by a public water system;

1836 (B) consulting with a wholesale water supplier or retail water supplier whose drinking
1837 water source is within the county's jurisdiction;

1838 (C) considering the effect of the proposed ordinance on:

1839 (I) agriculture production within an agricultural protection area created under Title 17,
1840 Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas; and

1841 (II) a manufacturing, industrial, or mining operation within the county's jurisdiction;
1842 and

1843 (D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public
1844 Meetings Act; and

1845 (ii) file a copy of the ordinance with the board.

1846 (b) A municipality in a first or second class county may adopt an ordinance that a first
1847 or second class county is required to adopt by this section by following the procedures and
1848 requirements of this section.

1849 (3) (a) A county ordinance adopted in accordance with this section applies to the
1850 incorporated and unincorporated areas of the county unless a municipality adopts an ordinance
1851 in accordance with this section.

1852 (b) A municipal ordinance adopted in accordance with this section supercedes, within
1853 the municipality's jurisdiction, a county ordinance adopted in accordance with this section.

1854 (4) An ordinance required or authorized by this section at a minimum shall:

1855 (a) designate a drinking water source protection zone in accordance with Subsection
1856 (5) for a groundwater source that is:
1857 (i) used by a public water system; and
1858 (ii) located within the county's or municipality's jurisdiction;
1859 (b) contain a zoning provision regulating the storage, handling, use, or production of a
1860 hazardous or toxic substance within a drinking water source protection zone designated under
1861 Subsection (4)(a); and
1862 (c) authorize a retail water supplier or wholesale water supplier to seek enforcement of
1863 the ordinance provision required by Subsections (4)(a) and (b) in a [~~district court located within~~
1864 ~~the county or municipality~~] court with jurisdiction under Title 78A, Judiciary and Judicial
1865 Administration, if the county or municipality:
1866 (i) notifies the retail water supplier or wholesale water supplier within 10 days of
1867 receiving notice of a violation of the ordinance that the county or municipality will not seek
1868 enforcement of the ordinance; or
1869 (ii) does not seek enforcement within two days of a notice of violation of the ordinance
1870 when the violation may cause irreparable harm to the groundwater source.
1871 (5) A county shall designate a drinking water source protection zone required by
1872 Subsection (4)(a) within:
1873 (a) a 100 foot radius from the groundwater source; and
1874 (b) a 250 day groundwater time of travel to the groundwater source if the supplier
1875 calculates the time of travel in the public water system's drinking water source protection plan
1876 in accordance with board rules.
1877 (6) A zoning provision required by Subsection (4)(b) is not subject to Subsection
1878 17-41-402(3).
1879 (7) An ordinance authorized by Section 10-8-15 supercedes an ordinance required or
1880 authorized by this section to the extent that the ordinances conflict.
1881 (8) The board shall
1882 provide information, guidelines, and technical resources to a county or municipality
1883 preparing and implementing an ordinance in accordance with this section.
1884 (9) A third, fourth, fifth, or sixth class county or a municipality located within a third,
1885 fourth, fifth, or sixth class county may adopt an ordinance in accordance with this section to

1886 establish a drinking water source protection zone and take any other action allowed under this
1887 section.

1888 Section 34. Section **19-5-115** is amended to read:

1889 **19-5-115. Violations -- Penalties -- Civil actions by director -- Ordinances and**
1890 **rules of political subdivisions -- Acts of individuals.**

1891 (1) As used in this section:

1892 (a) "Criminal negligence" means the same as that term is defined in Section [76-2-103](#).

1893 (b) "Knowingly" means the same as that term is defined in Section [76-2-103](#).

1894 (c) "Organization" means a legal entity, other than a government, established or
1895 organized for any purpose, and includes a corporation, company, association, firm, partnership,
1896 joint stock company, foundation, institution, trust, society, union, or any other association of
1897 persons.

1898 (d) "Serious bodily injury" means bodily injury that involves a substantial risk of death,
1899 unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted
1900 loss or impairment of the function of a bodily member, organ, or mental faculty.

1901 (e) "Willfully" means the same as that term is defined in Section [76-2-103](#).

1902 (2) A person who violates this chapter, or any permit, rule, or order adopted under this
1903 chapter, upon a showing that the violation occurred, is subject in a civil proceeding to a civil
1904 penalty not to exceed \$10,000 per day of violation.

1905 (3) (a) A person is guilty of a class A misdemeanor and is subject to imprisonment
1906 under Section [76-3-204](#) and a fine not exceeding \$25,000 per day who, with criminal
1907 negligence:

1908 (i) discharges pollutants in violation of Subsection [19-5-107](#)(1) or in violation of any
1909 condition or limitation included in a permit issued under Subsection [19-5-107](#)(3);

1910 (ii) violates Section [19-5-113](#);

1911 (iii) violates a pretreatment standard or toxic effluent standard for publicly owned
1912 treatment works; or

1913 (iv) manages sewage sludge in violation of this chapter or rules adopted under this
1914 chapter.

1915 (b) A person is guilty of a third degree felony and is subject to imprisonment under
1916 Section [76-3-203](#) and a fine not to exceed \$50,000 per day of violation who knowingly:

1917 (i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any
1918 condition or limitation included in a permit issued under Subsection 19-5-107(3);

1919 (ii) violates Section 19-5-113;

1920 (iii) violates a pretreatment standard or toxic effluent standard for publicly owned
1921 treatment works; or

1922 (iv) manages sewage sludge in violation of this chapter or rules adopted under this
1923 chapter.

1924 (4) A person is guilty of a third degree felony and subject to imprisonment under
1925 Section 76-3-203 and shall be punished by a fine not exceeding \$10,000 per day of violation if
1926 that person knowingly:

1927 (a) makes a false material statement, representation, or certification in any application,
1928 record, report, plan, or other document filed or required to be maintained under this chapter, or
1929 by any permit, rule, or order issued under this chapter; or

1930 (b) falsifies, tampers with, or knowingly renders inaccurate a monitoring device or
1931 method required to be maintained under this chapter.

1932 (5) (a) A person is guilty of a second degree felony and, upon conviction, is subject to
1933 imprisonment under Section 76-3-203 and a fine of not more than \$250,000 if that person:

1934 (i) knowingly violates this chapter, or any permit, rule, or order adopted under this
1935 chapter; and

1936 (ii) knows at that time that the person is placing another person in imminent danger of
1937 death or serious bodily injury.

1938 (b) If a person is an organization, the organization shall, upon conviction of violating
1939 Subsection (5)(a), be subject to a fine of not more than \$1,000,000.

1940 (c) (i) A defendant who is an individual is considered to have acted knowingly if:

1941 (A) the defendant's conduct placed another person in imminent danger of death or
1942 serious bodily injury; and

1943 (B) the defendant was aware of or believed that there was an imminent danger of death
1944 or serious bodily injury to another person.

1945 (ii) Knowledge possessed by a person other than the defendant may not be attributed to
1946 the defendant.

1947 (iii) Circumstantial evidence may be used to prove that the defendant possessed actual

1948 knowledge, including evidence that the defendant took affirmative steps to be shielded from
1949 receiving relevant information.

1950 (d) (i) It is an affirmative defense to prosecution under this Subsection (5) that the
1951 conduct charged was consented to by the person endangered and that the danger and conduct
1952 charged were reasonably foreseeable hazards of:

1953 (A) an occupation, a business, or a profession; or

1954 (B) medical treatment or medical or scientific experimentation conducted by
1955 professionally approved methods and the other person was aware of the risks involved before
1956 giving consent.

1957 (ii) The defendant has the burden of proof to establish an affirmative defense under this
1958 Subsection (5)(d) and shall prove that defense by a preponderance of the evidence.

1959 (6) For purposes of Subsections (3) through (5), a single operational upset that leads to
1960 simultaneous violations of more than one pollutant parameter shall be treated as a single
1961 violation.

1962 (7) (a) The director may ~~begin~~ bring a civil action for appropriate relief, including a
1963 permanent or temporary injunction, for any violation or threatened violation for which the
1964 director is authorized to issue a compliance order under Section [19-5-111](#).

1965 (b) ~~[The]~~ Notwithstanding Title 78A, Chapter 3a, Venue for Civil Actions, the director
1966 shall bring a civil action in the district court where the violation or threatened violation occurs
1967 if the director brings the action in a district court.

1968 (8) (a) The attorney general is the legal advisor for the board and the director and shall
1969 defend the board or director in an action or proceeding brought against the board or director.

1970 (b) The county attorney or district attorney, as appropriate under Section [17-18a-202](#) or
1971 [17-18a-203](#), in the county in which a cause of action arises, shall bring an action, civil or
1972 criminal, requested by the director, to abate a condition that exists in violation of, or to
1973 prosecute for the violation of, or to enforce, the laws or the standards, orders, and rules of the
1974 board or the director issued under this chapter.

1975 (c) The director may initiate an action under this section and be represented by the
1976 attorney general.

1977 (9) If a person fails to comply with a cease and desist order that is not subject to a stay
1978 pending administrative or judicial review, the director may initiate an action for and be entitled

1979 to injunctive relief to prevent any further or continued violation of the order.

1980 (10) A political subdivision of the state may enact and enforce ordinances or rules for
1981 the implementation of this chapter that are not inconsistent with this chapter.

1982 (11) (a) Except as provided in Subsection (11)(b), penalties assessed and collected
1983 under the authority of this section shall be deposited into the General Fund.

1984 (b) The department may reimburse itself and local governments from money collected
1985 from civil penalties for extraordinary expenses incurred in environmental enforcement
1986 activities.

1987 (c) The department shall regulate reimbursements by making rules, in accordance with
1988 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1989 (i) define qualifying environmental enforcement activities; and

1990 (ii) define qualifying extraordinary expenses.

1991 (12) (a) For purposes of this section or an ordinance or rule enacted by a political
1992 subdivision under Subsection (10), an act performed by an individual wholly within the scope
1993 of the individual's employment with an organization, is attributed to the organization.

1994 (b) Notwithstanding the other provisions of this section, an action may not be brought
1995 against an individual acting wholly within the scope of the individual's employment with an
1996 organization if the action is brought under:

1997 (i) this section;

1998 (ii) an ordinance or rule issued by a political subdivision under Subsection (10); or

1999 (iii) any local law or ordinance governing discharge.

2000 Section 35. Section **19-6-115** is amended to read:

2001 **19-6-115. Imminent danger to health or environment -- Authority of executive**
2002 **director to initiate action to restrain.**

2003 Notwithstanding any other provision of this part, upon receipt of evidence that the
2004 handling, transportation, treatment, storage, or disposal of any solid or hazardous waste, or a
2005 release from an underground storage tank, is presenting an imminent and substantial danger to
2006 health or the environment, the executive director may bring suit on behalf of this state in [~~the~~
2007 ~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration,
2008 to immediately restrain any person contributing, or who has contributed, to that action to stop
2009 the handling, storage, treatment, transportation, or disposal or to take other action as

2010 appropriate.

2011 Section 36. Section **19-6-206** is amended to read:

2012 **19-6-206. Exclusive remedy for devaluation of property caused by approved**
2013 **facility.**

2014 (1) (a) Before construction of a hazardous waste management facility, but in no case
2015 later than nine months after approval of a plan for a hazardous waste treatment, storage, or
2016 disposal facility, any owner or user of property adversely affected by approval may bring an
2017 action in [~~a district court of competent jurisdiction~~] a court with jurisdiction under Title 78A,
2018 Judiciary and Judicial Administration, against the owner of the proposed facility.

2019 (b) If the court determines that the planned construction and operation of the hazardous
2020 waste management facility will result in the devaluation of the plaintiff's property or will
2021 otherwise interfere with the plaintiff's rights in the property, [it] the court shall order the owner
2022 to compensate the plaintiff in an amount equal to the value of the plaintiff's loss.

2023 (2) The remedy provided in Subsection (1) is the exclusive remedy for owners or users
2024 aggrieved by the proposed construction and operation of a hazardous waste treatment, disposal,
2025 or storage facility, and no court has jurisdiction to enjoin the construction or operation of any
2026 facility located at a site included in the siting plan adopted by the board.

2027 (3) (a) Nothing in this part prevents an owner or user of property aggrieved by the
2028 construction and operation of a facility from seeking damages that result from a subsequent
2029 modification of the design or operation of a facility but damages are limited to the incremental
2030 damage that results from the modification.

2031 (b) Any action for damages from a modification shall be brought within nine months
2032 after the plans for modification of the design or operation of the facility are approved.

2033 (4) For the purpose of assessing damages, the value of the rights affected is fixed at the
2034 date the facility plan is approved and the actual value of the right at that date is the basis for the
2035 determination of the amount of damage suffered, and no improvements to the property
2036 subsequent to the date of approval of the plans shall be included in the assessment of damages.
2037 Similarly, for any subsequent modification of a facility, value is fixed at the date of approval of
2038 the amended facility plan.

2039 (5) (a) The owner or operator of a proposed facility may, at any time before an award
2040 of damages, abandon the construction or operation of the facility or any modification and cause

2041 the action to be dismissed.

2042 (b) As a condition of dismissal, however, the owner or operator shall compensate the
2043 plaintiff for any actual damage sustained as a result of construction or operation of the facility
2044 before abandonment together with court costs and a reasonable attorney's fee.

2045 (6) Nothing in this part prevents a court from enjoining any activity at a hazardous
2046 waste facility that is outside of, or not in compliance with, the terms and conditions of an
2047 approved hazardous waste operations plan.

2048 Section 37. Section **19-6-306** is amended to read:

2049 **19-6-306. Penalties -- Lawsuits.**

2050 (1) Any person who violates any final order or rule issued or made under this part is
2051 subject in a civil proceeding to a penalty of not more than \$10,000 per day for each day of
2052 violation.

2053 (2) Any person who violates the terms of any agreement made under authority of this
2054 part is subject in a civil proceeding to pay:

2055 (a) any penalties stipulated in the agreement; or

2056 (b) if no penalties are stipulated in the agreement, a penalty of not more than \$10,000
2057 per day for each day of violation.

2058 (3) The executive director shall deposit all civil penalties collected under the authority
2059 of this section into the General Fund.

2060 (4) (a) The executive director may enforce any orders issued under authority of this
2061 part by bringing a suit to enforce the order in [~~the district court in Salt Lake County or in the~~
2062 ~~district court in the county where the hazardous substances release occurred~~] a court with
2063 jurisdiction under Title 78A, Judiciary and Judicial Administration.

2064 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the executive
2065 director brings a suit described in Subsection (4)(a) in the district court, the executive director
2066 shall bring the suit in:

2067 (i) Salt Lake County; or

2068 (ii) the county where the hazardous substances release occurred.

2069 [~~(b)~~] (c) After a remedial investigation has been completed, the executive director may
2070 bring a suit in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial
2071 Administration, against all responsible parties, asking the court for injunctive relief and to

2072 apportion liability among the responsible parties for performance of remedial action.

2073 Section 38. Section **19-6-309** is amended to read:

2074 **19-6-309. Emergency provisions.**

2075 (1) (a) If the executive director has reason to believe any hazardous materials release
2076 that occurred after March 18, 1985, is presenting a direct and immediate threat to public health
2077 or the environment, the executive director may:

2078 (i) issue an order requiring the owner or operator of the facility to take abatement
2079 action within the time specified in the order; or

2080 (ii) bring suit on behalf of the state in [~~the district court~~] a court with jurisdiction under
2081 Title 78A, Judiciary and Judicial Administration, to require the owner or operator to take
2082 immediate abatement action.

2083 (b) If the executive director determines the owner or operator cannot be located or is
2084 unwilling or unable to take abatement action, the executive director may:

2085 (i) reach an agreement with one or more potentially responsible parties to take
2086 abatement action; or

2087 (ii) use fund money to investigate the release and take abatement action.

2088 (2) The executive director may use money from the fund created in Section **19-6-307**:

2089 (a) for abatement action even if an adjudicative proceeding or judicial review
2090 challenging an order or a decision to take abatement action is pending; and

2091 (b) to investigate a suspected hazardous materials release if he has reason to believe the
2092 release may present a direct and immediate threat to public health.

2093 (3) This section takes precedence over any conflicting provision in this part.

2094 Section 39. Section **19-6-310** is amended to read:

2095 **19-6-310. Apportionment of liability -- Liability agreements -- Legal remedies.**

2096 (1) The executive director may recover only the proportionate share of costs of any
2097 investigation and abatement performed under Section **19-6-309** and this section from each
2098 responsible party, as provided in this section.

2099 (2) (a) In apportioning responsibility for the investigation and abatement, or liability
2100 for the costs of the investigation and abatement, in any administrative proceeding or judicial
2101 action, the following standards apply:

2102 (i) liability shall be apportioned in proportion to each responsible party's respective

2103 contribution to the release; and

2104 (ii) the apportionment of liability shall be based on equitable factors, including the
2105 quantity, mobility, persistence, and toxicity of hazardous materials contributed by a responsible
2106 party, and the comparative behavior of a responsible party in contributing to the release,
2107 relative to other responsible parties.

2108 (b) Liability may not be apportioned against a current or previous owner or operator
2109 who acquired or became the operator of the facility before March 18, 1985, who may otherwise
2110 be a responsible party but who did not know that any hazardous material which is the subject of
2111 a release was on, in, or at the facility prior to acquisition or operation of the facility, and the
2112 release is not the result of an act or omission of the current or previous owner or operator.

2113 (c) Liability may not be apportioned against a current or previous owner or operator
2114 who acquired or became the operator of the facility on or after March 18, 1985, who may
2115 otherwise be a responsible party but who did not know and had no reason to know, after having
2116 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent
2117 with good commercial or customary practice at the time of the purchase, that any hazardous
2118 material which is the subject of a release was on, in, or at the facility prior to acquisition or
2119 operation of the facility, and the release is not the result of an act or omission of the current or
2120 previous owner or operator.

2121 (d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be
2122 considered to have contributed to the release and may be liable for a proportionate share of
2123 costs as provided under this section either by affirmatively causing a release or by failing to
2124 take action to prevent or abate a release which has originated at or from the facility. A person
2125 whose property is contaminated by migration from an offsite release is not considered to have
2126 contributed to the release unless the person takes actions which exacerbate the release.

2127 (e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person
2128 who is not considered to have contributed to a release under Subsection (2)(d) is not considered
2129 to have contributed to a release solely by failing to take abatement or remedial action pursuant
2130 to an administrative order.

2131 (f) (i) The burden of proving proportionate contribution shall be borne by each
2132 responsible party.

2133 (ii) If a responsible party does not prove his proportionate contribution, the court or the

2134 executive director shall apportion liability to the party based solely on available evidence and
2135 the standards of Subsection (2)(a).

2136 (iii) The ability of a responsible party to pay is not a factor in the apportionment of
2137 liability.

2138 (g) The court may not impose joint and several liability.

2139 (h) Each responsible party is strictly liable solely for his proportionate share of
2140 investigation and abatement costs.

2141 (3) The failure of the executive director to name all responsible parties is not a defense
2142 to an action under this section.

2143 (4) (a) Any party who incurs costs under Section 19-6-309 and this section in excess of
2144 [his] the party's liability may seek contribution from any other party who is or may be liable
2145 under Section 19-6-309 and this section for the excess costs in [the district court] a court with
2146 jurisdiction under Title 78A, Judiciary and Judicial Administration.

2147 (b) In resolving claims made under Subsection (4)(a), the court shall allocate costs
2148 using the standards set forth in Subsection (2).

2149 (5) (a) A party who has resolved his liability in an agreement under Section 19-6-309
2150 and this section is not liable for claims for contribution regarding matters addressed in the
2151 settlement.

2152 (b) (i) An agreement does not discharge any of the liability of responsible parties who
2153 are not parties to the agreement, unless the terms of the agreement provide otherwise.

2154 (ii) An agreement made under this subsection reduces the potential liability of other
2155 responsible parties by the amount of the agreement.

2156 (6) (a) If the executive director obtains less than complete relief from a party who has
2157 resolved his liability in an agreement under Section 19-6-309 and this section, the executive
2158 director may bring an action against any party who has not resolved his liability in an
2159 agreement.

2160 (b) In apportioning liability, the standards of Subsection (2) apply.

2161 (c) A party who resolved his liability for some or all of the costs in an agreement under
2162 Section 19-6-309 and this section may seek contribution from any person who is not party to an
2163 agreement under Section 19-6-309 and this section.

2164 (7) (a) An agreement made under Section 19-6-309 and this section may provide that

2165 the executive director will pay for costs of actions that the parties have agreed to perform, but
2166 which the executive director has agreed to finance, under the agreement.

2167 (b) If the executive director makes payments from the fund, he may recover the amount
2168 paid using the authority of Section 19-6-309 and this section or any other applicable authority.

2169 (8) (a) The executive director may not recover costs of any investigation performed
2170 under the authority of Subsection 19-6-309(2)(b) if the investigation does not confirm that a
2171 release presenting a direct and immediate threat to public health has occurred.

2172 (b) This subsection takes precedence over any conflicting provision of this section
2173 regarding cost recovery.

2174 Section 40. Section 19-6-316 is amended to read:

2175 **19-6-316. Liability for costs of remedial investigations -- Liability agreements.**

2176 (1) The executive director may recover only a proportionate share of costs of any
2177 remedial investigation performed under Sections 19-6-314 and 19-6-315 from each responsible
2178 party, as provided in this section.

2179 (2) (a) In apportioning responsibility for the remedial investigation, or liability for the
2180 costs of the remedial investigation, in any administrative proceeding or judicial action, the
2181 following standards apply:

2182 (i) liability shall be apportioned in proportion to each responsible party's respective
2183 contribution to the release;

2184 (ii) the apportionment of liability shall be based on equitable factors, including the
2185 quantity, mobility, persistence, and toxicity of hazardous substances contributed by a
2186 responsible party, and the comparative behavior of a responsible party in contributing to the
2187 release, relative to other responsible parties.

2188 (b) Liability may not be apportioned against a current or previous owner or operator
2189 who acquired or became the operator of the facility before March 18, 1985, who may otherwise
2190 be a responsible party but who did not know that any hazardous material which is the subject of
2191 a release was on, in, or at the facility prior to acquisition or operation of the facility, and the
2192 release is not the result of an act or omission of the current or previous owner or operator.

2193 (c) Liability may not be apportioned against a current or previous owner or operator
2194 who acquired or became the operator of the facility on or after March 18, 1985, who may
2195 otherwise be a responsible party but who did not know and had no reason to know, after having

2196 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent
2197 with good commercial or customary practice at the time of the purchase, that any hazardous
2198 material which is the subject of a release was on, in, or at the facility prior to acquisition or
2199 operation of the facility, and the release is not the result of an act or omission of the current or
2200 previous owner or operator.

2201 (d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be
2202 considered to have contributed to the release and may be liable for a proportionate share of
2203 costs as provided under this section either by affirmatively causing a release or by failing to
2204 take action to prevent or abate a release which has originated at or from the facility. A person
2205 whose property is contaminated by migration from an offsite release is not considered to have
2206 contributed to the release unless the person takes actions which exacerbate the release.

2207 (e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person
2208 who is not considered to have contributed to a release under Subsection (2)(d) is not considered
2209 to have contributed to a release solely by failing to take abatement or remedial action pursuant
2210 to an administrative order.

2211 (f) (i) The burden of proving proportionate contribution shall be borne by each
2212 responsible party.

2213 (ii) If a responsible party does not prove his proportionate contribution, the court or the
2214 executive director shall apportion liability to the party based solely on available evidence and
2215 the standards of Subsection (2)(a).

2216 (iii) The ability of a responsible party to pay is not a factor in the apportionment of
2217 liability.

2218 (g) The court may not impose joint and several liability.

2219 (h) Each responsible party is strictly liable solely for his proportionate share of
2220 investigation costs.

2221 (3) The failure of the executive director to name all responsible parties is not a defense
2222 to an action under this section.

2223 (4) (a) Any party who incurs costs under this part in excess of his liability may seek
2224 contribution from any other party who is or may be liable under this part for the excess costs in
2225 ~~[district court]~~ a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

2226 (b) In resolving claims made under Subsection (4)(a), the court shall allocate costs

2227 using the standards set forth in Subsection (2).

2228 (5) (a) A party who has resolved his liability in an agreement under Sections 19-6-314
2229 through this section is not liable for claims for contribution regarding matters addressed in the
2230 settlement.

2231 (b) (i) An agreement does not discharge any of the liability of responsible parties who
2232 are not parties to the agreement, unless the terms of the agreement provide otherwise.

2233 (ii) An agreement made under this Subsection (5)(b) reduces the potential liability of
2234 other responsible parties by the amount of the agreement.

2235 (6) (a) If the executive director obtains less than complete relief from a party who has
2236 resolved his liability in an agreement under Sections 19-6-314 through this section, the
2237 executive director may bring an action against any party who has not resolved his liability in an
2238 agreement.

2239 (b) In apportioning liability, the standards of Subsection (2) apply.

2240 (c) A party who resolved his liability for some or all of the costs in an agreement under
2241 Sections 19-6-314 through this section may seek contribution from any person who is not party
2242 to an agreement under Sections 19-6-314 through this section.

2243 (7) (a) An agreement made under Sections 19-6-314 through this section may provide
2244 that the executive director will pay for costs of actions that the parties have agreed to perform,
2245 but which the executive director has agreed to finance, under the agreement.

2246 (b) If the executive director makes payments from the fund, he may recover the amount
2247 paid using the authority of Sections 19-6-314 through this section or any other applicable
2248 authority.

2249 Section 41. Section 19-6-318 is amended to read:

2250 **19-6-318. Remedial action liability -- Liability agreements.**

2251 (1) (a) In apportioning responsibility for the remedial action in any administrative
2252 proceeding or judicial action under Sections 19-6-317 and 19-6-319, the following standards
2253 apply:

2254 (i) liability shall be apportioned in proportion to each responsible party's respective
2255 contribution to the release;

2256 (ii) the apportionment of liability shall be based on equitable factors, including the
2257 quantity, mobility, persistence, and toxicity of hazardous substances contributed by a

2258 responsible party, and the comparative behavior of a responsible party in contributing to the
2259 release, relative to other responsible parties.

2260 (b) Liability may not be apportioned against a current or previous owner or operator
2261 who acquired or became the operator of the facility before March 18, 1985, who may otherwise
2262 be a responsible party but who did not know that any hazardous material which is the subject of
2263 a release was on, in, or at the facility prior to acquisition or operation of the facility, and the
2264 release is not the result of an act or omission of the current or previous owner or operator.

2265 (c) Liability may not be apportioned against a current or previous owner or operator
2266 who acquired or became the operator of the facility on or after March 18, 1985, who may
2267 otherwise be a responsible party but who did not know and had no reason to know, after having
2268 taken all appropriate inquiry into the previous ownership and uses of the facility, consistent
2269 with good commercial or customary practice at the time of the purchase, that any hazardous
2270 material which is the subject of a release was on, in, or at the facility prior to acquisition or
2271 operation of the facility, and the release is not the result of an act or omission of the current or
2272 previous owner or operator.

2273 (d) A responsible party who is not exempt under Subsection (1)(b) or (c) may be
2274 considered to have contributed to the release and may be liable for a proportionate share of
2275 costs as provided under this section either by affirmatively causing a release or by failing to
2276 take action to prevent or abate a release which has originated at or from the facility. A person
2277 whose property is contaminated by migration from an offsite release is not considered to have
2278 contributed to the release unless the person takes actions which exacerbate the release.

2279 (e) A responsible party who meets the criteria in Subsection (1)(b) or (c) or a person
2280 who is not considered to have contributed to a release under Subsection (1)(d) is not considered
2281 to have contributed to a release solely by failing to take abatement or remedial action pursuant
2282 to an administrative order.

2283 (f) (i) The burden of proving proportionate contribution shall be borne by each
2284 responsible party.

2285 (ii) If a responsible party does not prove his proportionate contribution, the court or the
2286 director shall apportion liability to the party solely based on available evidence and the
2287 standards of Subsection (1)(a).

2288 (iii) The ability of a responsible party to pay is not a factor in the apportionment of

2289 liability.

2290 (g) The court may not impose joint and several liability.

2291 (h) Each responsible party is strictly liable solely for his proportionate share of
2292 remedial action costs.

2293 (2) The failure of the executive director to name all responsible parties is not a defense
2294 to an action under this section.

2295 (3) (a) Any party who incurs costs under Sections 19-6-317 through 19-6-320 in excess
2296 of his liability may seek contribution from any other party who is or may be liable under
2297 Sections 19-6-317 through 19-6-320 for the excess costs in [~~district court~~] a court with
2298 jurisdiction under Title 78A, Judiciary and Judicial Administration.

2299 (b) In resolving claims made under Subsection (3)(a), the court shall allocate costs
2300 using the standards set forth in Subsection (1).

2301 (4) (a) A party who has resolved his liability in an agreement under Sections 19-6-317
2302 through 19-6-320 is not liable for claims for contribution regarding matters addressed in the
2303 settlement.

2304 (b) (i) An agreement does not discharge any of the liability of responsible parties who
2305 are not parties to the agreement, unless the terms of the agreement provide otherwise.

2306 (ii) An agreement made under this Subsection (4)(b) reduces the potential liability of
2307 other responsible parties by the amount of the agreement.

2308 (5) (a) If the executive director obtains less than complete relief from a party who has
2309 resolved his liability in an agreement under Sections 19-6-317 through 19-6-320, the executive
2310 director may bring an action against any party who has not resolved his liability in an
2311 agreement.

2312 (b) In apportioning liability, the standards of Subsection (1) apply.

2313 (c) A party who resolved his liability for some or all of the costs in an agreement under
2314 Sections 19-6-317 through 19-6-320 may seek contribution from any person who is not party to
2315 an agreement under Sections 19-6-317 through 19-6-320.

2316 (6) (a) An agreement made under Sections 19-6-317 through 19-6-320 may provide
2317 that the executive director will pay for costs of actions that the parties have agreed to perform,
2318 but which the executive director has agreed to finance, under the agreement.

2319 (b) If the executive director makes payments, he may recover the amount using the

2320 authority of Sections 19-6-317 through 19-6-320 or any other applicable authority.

2321 Section 42. Section 19-6-325 is amended to read:

2322 **19-6-325. Voluntary agreements -- Parties -- Funds -- Enforcement.**

2323 (1) (a) Under this part, and subject to Subsection (1)(b), the executive director may
2324 enter into a voluntary agreement with a responsible party providing for the responsible party to
2325 conduct an investigation or a cleanup action on sites that contain hazardous materials.

2326 (b) The executive director and a responsible party may not enter into a voluntary
2327 agreement under this part unless all known potentially responsible parties:

2328 (i) have been notified by either the executive director or the responsible party of the
2329 proposed agreement; and

2330 (ii) have been given an opportunity to comment on the proposed agreement prior to the
2331 parties' entering into the agreement.

2332 (2) (a) The executive director may receive funds from any responsible party that signs a
2333 voluntary agreement allowing the executive director to:

2334 (i) review any proposals outlining how the investigation or cleanup action is to be
2335 performed; and

2336 (ii) oversee the investigation or cleanup action.

2337 (b) Funds received by the executive director under this section shall be deposited in the
2338 fund and used by the executive director as provided in the voluntary agreement.

2339 (3) If a responsible party fails to perform as required under a voluntary agreement
2340 entered into under this part, the executive director may take action and seek penalties to enforce
2341 the agreement as provided in the agreement.

2342 (4) The executive director may not use the provisions of Section 19-6-310, 19-6-316,
2343 or 19-6-318 to recover costs received or expended pursuant to a voluntary agreement from any
2344 person not a party to that agreement.

2345 (5) (a) Any party who incurs costs under a voluntary agreement in excess of his
2346 liability may seek contribution from any other party who is or may be liable under this part for
2347 the excess costs in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and
2348 Judicial Administration.

2349 (b) In resolving claims made under Subsection (5)(a), the court shall allocate costs
2350 using the standards in Subsection 19-6-310(2).

2351 (6) This section takes precedence over conflicting provisions in this chapter regarding
2352 agreements with responsible parties to conduct an investigation or cleanup action.

2353 Section 43. Section **19-6-424.5** is amended to read:

2354 **19-6-424.5. Apportionment of liability -- Liability agreements -- Legal remedies --**
2355 **Amounts recovered.**

2356 (1) After providing notice and opportunity for comment to responsible parties
2357 identified and named under Section [19-6-420](#), the director may:

2358 (a) issue written orders determining responsible parties;

2359 (b) issue written orders apportioning liability among responsible parties; and

2360 (c) take action, including legal action or issuing written orders, to recover costs from
2361 responsible parties, including costs of any investigation, abatement, and corrective action
2362 performed under this part.

2363 (2) (a) In any apportionment of liability, whether made by the director or made in any
2364 administrative proceeding or judicial action, the following standards apply:

2365 (i) liability shall be apportioned among responsible parties in proportion to their
2366 respective contributions to the release; and

2367 (ii) the apportionment of liability shall be based on equitable factors, including the
2368 quantity, mobility, persistence, and toxicity of regulated substances contributed by a
2369 responsible party, and the comparative behavior of a responsible party in contributing to the
2370 release, relative to other responsible parties.

2371 (b) (i) The burden of proving proportionate contribution shall be borne by each
2372 responsible party.

2373 (ii) If a responsible party does not prove the responsible party's proportionate
2374 contribution, the court or the director shall apportion liability to the party based on available
2375 evidence and the standards of Subsection (2)(a).

2376 (c) The court, the board, or the director may not impose joint and several liability.

2377 (d) Each responsible party is strictly liable for his share of costs.

2378 (3) The failure of the director to name all responsible parties is not a defense to an
2379 action under this section.

2380 (4) The director may enter into an agreement with any responsible party regarding that
2381 party's proportionate share of liability or any action to be taken by that party.

2382 (5) The director and a responsible party may not enter into an agreement under this part
2383 unless all responsible parties named and identified under Subsection 19-6-420(1)(a):

2384 (a) have been notified in writing by either the director or the responsible party of the
2385 proposed agreement; and

2386 (b) have been given an opportunity to comment on the proposed agreement prior to the
2387 parties' entering into the agreement.

2388 (6) (a) Any party who incurs costs under this part in excess of ~~his~~ the party's liability
2389 may seek contribution from any other party who is or may be liable under this part for the
2390 excess costs in ~~the district court~~ a court with jurisdiction under Title 78A, Judiciary and
2391 Judicial Administration.

2392 (b) In resolving claims made under Subsection (6)(a), the court shall allocate costs
2393 using the standards in Subsection (2).

2394 (7) (a) A party who has resolved his liability under this part is not liable for claims for
2395 contribution regarding matters addressed in the agreement or order.

2396 (b) (i) An agreement or order determining liability under this part does not discharge
2397 any of the liability of responsible parties who are not parties to the agreement or order, unless
2398 the terms of the agreement or order expressly provide otherwise.

2399 (ii) An agreement or order determining liability made under this subsection reduces the
2400 potential liability of other responsible parties by the amount of the agreement or order.

2401 (8) (a) If the director obtains less than complete relief from a party who has resolved
2402 his liability under this section, the director may bring an action against any party who has not
2403 resolved his liability as determined in an order.

2404 (b) In apportioning liability, the standards of Subsection (2) apply.

2405 (c) A party who resolved his liability for some or all of the costs under this part may
2406 seek contribution from any person who is not a party to the agreement or order.

2407 (9) (a) An agreement or order determining liability under this part may provide that the
2408 director will pay for costs of actions that the parties have agreed to perform, but which the
2409 director has agreed to finance, under the terms of the agreement or order.

2410 (b) If the director makes payments from the fund or state cleanup appropriation, he
2411 may recover the amount paid using the authority of Section 19-6-420 and this section or any
2412 other applicable authority.

2413 (c) Any amounts recovered under this section shall be deposited ~~[in]~~ into the Petroleum
2414 Storage Tank Cleanup Fund created under Section 19-6-405.7.

2415 Section 44. Section 19-6-425 is amended to read:

2416 **19-6-425. Violation of part -- Civil penalty -- Civil action.**

2417 (1) Except as provided in Section 19-6-407, any person who violates any requirement
2418 of this part or any order issued or rule made under the authority of this part is subject to a civil
2419 penalty of not more than \$10,000 per day for each day of violation.

2420 (2) (a) The director may enforce any requirement, rule, agreement, or order issued
2421 under this part by bringing ~~[a suit in the district court]~~ an action in a court with jurisdiction
2422 under Title 78A, Judiciary and Judicial Administration.

2423 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall
2424 bring an action in the county where the underground storage tank or petroleum storage tank is
2425 located if the director brings the action in the district court.

2426 (3) The department shall deposit the penalties collected under this part in the
2427 Petroleum Storage Tank Restricted Account created under Section 19-6-405.5.

2428 Section 45. Section 19-6-804 is amended to read:

2429 **19-6-804. Restrictions on disposal and transfer of tires -- Penalties.**

2430 (1) (a) An individual, including a waste tire transporter, may not transfer for temporary
2431 storage more than 12 whole tires at one time to a landfill or other location in the state
2432 authorized by the director to receive waste tires, except for purposes authorized by board rule.

2433 (b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter
2434 greater than 24.5 inches.

2435 (c) A person, including a waste tire transporter, may not dispose of waste tires or store
2436 waste tires in any manner not allowed under this part or rules made under this part.

2437 (2) The operator of the landfill or other authorized location shall direct that the waste
2438 tires be stored in a designated area to facilitate retrieval if a market becomes available for the
2439 disposed waste tires or material derived from waste tires.

2440 (3) An individual, including a waste tire transporter, may dispose of shredded waste
2441 tires in a landfill in accordance with Section 19-6-812, and may also, without reimbursement,
2442 dispose in a landfill materials derived from waste tires that do not qualify for reimbursement
2443 under Section 19-6-812, but the landfill shall dispose of the material in accordance with

2444 Section 19-6-812.

2445 (4) A tire retailer may only transfer ownership of a waste tire described in Subsection
2446 19-6-803(28)(b) to:

2447 (a) a person who purchases it for the person's own use and not for resale; or

2448 (b) a waste tire transporter that:

2449 (i) is registered in accordance with Section 19-6-806; and

2450 (ii) agrees to transport the tire to:

2451 (A) a tire retailer that sells the tire wholesale or retail; or

2452 (B) a recycler.

2453 (5) (a) (i) An individual, including a waste tire transporter, violating this section is
2454 subject to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or
2455 per passenger tire equivalent disposed of in violation of this section.

2456 (ii) A warning notice may be issued before taking further enforcement action under this
2457 Subsection (5).

2458 ~~[(b) A civil proceeding to enforce this section and collect penalties under this section
2459 may be brought in the district court where the violation occurred by the director, the local
2460 health department, or the county attorney having jurisdiction over the location where the tires
2461 were disposed in violation of this section.]~~

2462 (b) The director, the local health department, or the county attorney with jurisdiction
2463 over the location where the tires were disposed in violation of this section, may bring an action
2464 to enforce this section and collect penalties in a court with jurisdiction under Title 78A,
2465 Judiciary and Judicial Administration.

2466 (c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director, local
2467 health department, or county attorney shall bring an action described in Subsection (5)(b) in the
2468 county where the violation occurred if the action is brought in the district court.

2469 ~~[(e)]~~ (d) Penalties collected under this section shall be deposited ~~[in]~~ into the fund.

2470 Section 46. Section 19-8-119 is amended to read:

2471 **19-8-119. Apportionment or contribution.**

2472 (1) Any party who incurs costs under a voluntary agreement entered into under this part
2473 in excess of the party's liability may seek contribution in an action in ~~[district court]~~ a court
2474 with jurisdiction under Title 78A, Judiciary and Judicial Administration, from any other party

2475 who is or may be liable under Subsection 19-6-302(21) or 19-6-402(27) for the excess costs
2476 after providing written notice to any other party that the party bringing the action has entered
2477 into a voluntary agreement and will incur costs.

2478 (2) In resolving claims made under Subsection (1), the court shall allocate costs using
2479 the standards in Subsection 19-6-310(2).

2480 Section 47. Section 23A-13-201 is amended to read:

2481 **23A-13-201. Creation of a migratory bird production area.**

2482 (1) (a) On or before July 1, 2022, an owner or owners of at least 500 contiguous acres
2483 of land in an unincorporated area may dedicate the land as a migratory bird production area by
2484 filing a notice of dedication with the county recorder of the county in which the land is located.

2485 (b) The notice of dedication shall contain:

2486 (i) the legal description of the land included within the migratory bird production area;

2487 (ii) the name of the owner or owners of the land included within the migratory bird
2488 production area; and

2489 (iii) an affidavit signed by each landowner that all of the land, except as provided by
2490 Subsection (2), within the migratory bird production area is:

2491 (A) actively managed for migratory bird:

2492 (I) production;

2493 (II) habitat; or

2494 (III) hunting; and

2495 (B) used for a purpose compatible with the purposes described in Subsection

2496 (1)(b)(iii)(A).

2497 (c) A person who files a notice of dedication under this section shall give a copy of the
2498 notice of dedication within 10 days of its filing to the legislative body of the county in which
2499 the migratory bird production area is located.

2500 (2) (a) The notice of dedication may designate land, the amount of which is less than
2501 1% of the total acreage within a migratory bird production area, upon which the landowner
2502 may build a structure described in Subsection 23A-13-302(1)(c).

2503 (b) (i) An owner may build or maintain a road, dike, or water control structure within
2504 the migratory bird production area.

2505 (ii) A road, dike, or water control structure is not considered a structure for purposes of

2506 Subsection (2)(a).

2507 (3) (a) Within 30 days of the day on which the county legislative body receives a copy
2508 of the notice of dedication under Subsection (1)(c), the county legislative body may bring an
2509 action in [~~district court~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial
2510 Administration, to cancel or revise a migratory bird production area on the basis that an
2511 affidavit filed as part of the notice of dedication under Subsection (1)(b)(iii) is inaccurate.

2512 (b) In bringing the action, the county legislative body shall specify the portion of the
2513 migratory bird production area and the affidavit subject to the action.

2514 (c) In an action brought under this Subsection (3), the person who files an affidavit
2515 described in Subsection (3)(a) has the burden to prove by a preponderance of the evidence that
2516 the affidavit is accurate.

2517 (d) If the court cancels or revises a migratory bird production area, the person who filed
2518 the original notice of dedication shall file a revision notice with the county recorder reflecting
2519 the court's order.

2520 (4) In accordance with Section [23A-13-202](#), a person may at any time add land to a
2521 migratory bird production area created under this section.

2522 Section 48. Section **26B-3-1110** is amended to read:

2523 **26B-3-1110. Revocation of license of assisted living facility -- Appointment of**
2524 **receiver.**

2525 (1) (a) If the license of an assisted living facility is revoked for violation of this [part](#),
2526 [the county attorney may \[file a petition with the district court for the county in which the](#)
2527 [facility is located\]](#) bring a petition in a court with jurisdiction under Title 78A, Judiciary and
2528 Judicial Administration, for the appointment of a receiver.

2529 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall
2530 bring the petition in the county in which the facility is located if the person brings the petition
2531 in the district court.

2532 (2) The [~~district~~] court shall issue an order to show cause why a receiver should not be
2533 appointed returnable within five days after the filing of the petition.

2534 (3) (a) If the court finds that the facts warrant the granting of the petition, the court
2535 shall appoint a receiver to take charge of the facility.

2536 (b) The court may determine fair compensation for the receiver.

2537 (4) A receiver appointed pursuant to this section shall have the powers and duties
2538 prescribed by the court.

2539 Section 49. Section **26B-3-1114** is amended to read:

2540 **26B-3-1114. Investigations -- Civil investigative demands.**

2541 (1) The attorney general may take investigative action under Subsection (2) if the
2542 attorney general has reason to believe that:

2543 (a) a person has information or custody or control of documentary material relevant to
2544 the subject matter of an investigation of an alleged violation of this part;

2545 (b) a person is committing, has committed, or is about to commit a violation of this
2546 part; or

2547 (c) it is in the public interest to conduct an investigation to ascertain whether or not a
2548 person is committing, has committed, or is about to commit a violation of this part.

2549 (2) In taking investigative action, the attorney general may:

2550 (a) require the person to file on a prescribed form a statement in writing, under oath or
2551 affirmation describing:

2552 (i) the facts and circumstances concerning the alleged violation of this part; and

2553 (ii) other information considered necessary by the attorney general;

2554 (b) examine under oath a person in connection with the alleged violation of this part;
2555 and

2556 (c) in accordance with Subsections (7) through (18), execute in writing, and serve on
2557 the person, a civil investigative demand requiring the person to produce the documentary
2558 material and permit inspection and copying of the material.

2559 (3) The attorney general may not release or disclose information that is obtained under
2560 Subsection (2)(a) or (b), or any documentary material or other record derived from the
2561 information obtained under Subsection (2)(a) or (b), except:

2562 (a) by court order for good cause shown;

2563 (b) with the consent of the person who provided the information;

2564 (c) to an employee of the attorney general or the department;

2565 (d) to an agency of this state, the United States, or another state;

2566 (e) to a special assistant attorney general representing the state in a civil action;

2567 (f) to a political subdivision of this state; or

- 2568 (g) to a person authorized by the attorney general to receive the information.
- 2569 (4) The attorney general may use documentary material derived from information
2570 obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general
2571 determines necessary in the enforcement of this part, including presentation before a court.
- 2572 (5) (a) If a person fails to file a statement as required by Subsection (2)(a) or fails to
2573 submit to an examination as required by Subsection (2)(b), the attorney general may [~~file in~~
2574 ~~district court~~] bring in a court with jurisdiction under Title 78A, Judiciary and Judicial
2575 Administration, a complaint for an order to compel the person to within a period stated by
2576 court order:
- 2577 (i) file the statement required by Subsection (2)(a); or
2578 (ii) submit to the examination required by Subsection (2)(b).
- 2579 (b) Failure to comply with an order entered under Subsection (5)(a) is punishable as
2580 contempt.
- 2581 (6) A civil investigative demand shall:
- 2582 (a) state the rule or statute under which the alleged violation of this part is being
2583 investigated;
- 2584 (b) describe the:
- 2585 (i) general subject matter of the investigation; and
2586 (ii) class or classes of documentary material to be produced with reasonable specificity
2587 to fairly indicate the documentary material demanded;
- 2588 (c) designate a date within which the documentary material is to be produced; and
2589 (d) identify an authorized employee of the attorney general to whom the documentary
2590 material is to be made available for inspection and copying.
- 2591 (7) A civil investigative demand may require disclosure of any documentary material
2592 that is discoverable under the Utah Rules of Civil Procedure.
- 2593 (8) Service of a civil investigative demand may be made by:
- 2594 (a) delivering an executed copy of the demand to the person to be served or to a
2595 partner, an officer, or an agent authorized by appointment or by law to receive service of
2596 process on behalf of that person;
- 2597 (b) delivering an executed copy of the demand to the principal place of business in this
2598 state of the person to be served; or

2599 (c) mailing by registered or certified mail an executed copy of the demand addressed to
2600 the person to be served:

2601 (i) at the person's principal place of business in this state; or

2602 (ii) if the person has no place of business in this state, to the person's principal office or
2603 place of business.

2604 (9) Documentary material demanded in a civil investigative demand shall be produced
2605 for inspection and copying during normal business hours at the office of the attorney general or
2606 as agreed by the person served and the attorney general.

2607 (10) The attorney general may not produce for inspection or copying or otherwise
2608 disclose the contents of documentary material obtained pursuant to a civil investigative demand
2609 except:

2610 (a) by court order for good cause shown;

2611 (b) with the consent of the person who produced the information;

2612 (c) to an employee of the attorney general or the department;

2613 (d) to an agency of this state, the United States, or another state;

2614 (e) to a special assistant attorney general representing the state in a civil action;

2615 (f) to a political subdivision of this state; or

2616 (g) to a person authorized by the attorney general to receive the information.

2617 (11) (a) With respect to documentary material obtained pursuant to a civil investigative
2618 demand, the attorney general shall prescribe reasonable terms and conditions allowing such
2619 documentary material to be available for inspection and copying by the person who produced
2620 the material or by an authorized representative of that person.

2621 (b) The attorney general may use such documentary material or copies of it as the
2622 attorney general determines necessary in the enforcement of this part, including presentation
2623 before a court.

2624 (12) (a) A person may file a complaint, stating good cause, to extend the return date for
2625 the demand or to modify or set aside the demand.

2626 (b) A complaint under this Subsection (12) shall be filed in [district] court before the
2627 earlier of:

2628 (i) the return date specified in the demand; or

2629 (ii) the 20th day after the date the demand is served.

2630 (13) Except as provided by court order, a person who has been served with a civil
2631 investigative demand shall comply with the terms of the demand.

2632 (14) (a) A person who has committed a violation of this part in relation to the Medicaid
2633 program in this state or to any other medical benefit program administered by the state has
2634 submitted to the jurisdiction of this state.

2635 (b) Personal service of a civil investigative demand under this section may be made on
2636 the person described in Subsection (14)(a) outside of this state.

2637 (15) This section does not limit the authority of the attorney general to conduct
2638 investigations or to access a person's documentary materials or other information under another
2639 state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

2640 (16) The attorney general may [~~file a complaint in district court~~] bring a complaint in a
2641 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order to
2642 enforce the civil investigative demand if:

2643 (a) a person fails to comply with a civil investigative demand; or

2644 (b) copying and reproduction of the documentary material demanded:

2645 (i) cannot be satisfactorily accomplished; and

2646 (ii) the person refuses to surrender the documentary material.

2647 (17) If a complaint is filed under Subsection (16), the court may determine the matter
2648 presented and may enter an order to enforce the civil investigative demand.

2649 (18) Failure to comply with a final order entered under Subsection (17) is punishable
2650 by contempt.

2651 Section 50. Section **26B-3-1115** is amended to read:

2652 **26B-3-1115. Limitation of actions -- Civil acts antedating this section -- Civil**
2653 **burden of proof -- Estoppel -- Joint civil liability -- Venue.**

2654 (1) An action under this part may not be brought after the later of:

2655 (a) six years after the date on which the violation was committed; or

2656 (b) three years after the date an official of the state charged with responsibility to act in
2657 the circumstances discovers the violation, but in no event more than 10 years after the date on
2658 which the violation was committed.

2659 (2) A civil action brought under this part may be brought for acts occurring prior to the
2660 effective date of this section if the limitations period set forth in Subsection (1) has not lapsed.

2661 (3) In any civil action brought under this part the state shall be required to prove by a
2662 preponderance of evidence, all essential elements of the cause of action including damages.

2663 (4) Notwithstanding any other provision of law, a final judgment rendered in favor of
2664 the state in any criminal proceeding under this part, whether upon a verdict after trial or upon a
2665 plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements
2666 of the offense in any civil action under this part which involves the same transaction.

2667 (5) Civil liability under this part shall be joint and several for a violation committed by
2668 two or more persons.

2669 (6) A person shall bring an action under this part:

2670 (a) in Salt Lake County; or

2671 (b) in accordance with Title 78A, Chapter 3a, Venue for Civil Actions.

2672 [~~(6) Any action brought by the state under this part shall be brought in district court in~~
2673 ~~Salt Lake County or in any county where the defendant resides or does business.]~~

2674 Section 51. Section **31A-22-305** is amended to read:

2675 **31A-22-305. Uninsured motorist coverage.**

2676 (1) As used in this section, "covered persons" includes:

2677 (a) the named insured;

2678 (b) for a claim arising on or after May 13, 2014, the named insured's dependent minor
2679 children;

2680 (c) persons related to the named insured by blood, marriage, adoption, or guardianship,
2681 who are residents of the named insured's household, including those who usually make their
2682 home in the same household but temporarily live elsewhere;

2683 (d) any person occupying or using a motor vehicle:

2684 (i) referred to in the policy; or

2685 (ii) owned by a self-insured; and

2686 (e) any person who is entitled to recover damages against the owner or operator of the
2687 uninsured or underinsured motor vehicle because of bodily injury to or death of persons under
2688 Subsection (1)(a), (b), (c), or (d).

2689 (2) As used in this section, "uninsured motor vehicle" includes:

2690 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
2691 under a liability policy at the time of an injury-causing occurrence; or

2692 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
2693 31A-22-304; and

2694 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of
2695 the deficiency;

2696 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
2697 by the motor vehicle operator;

2698 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
2699 disputed by the liability insurer for more than 60 days or continues to be disputed for more than
2700 60 days; or

2701 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of
2702 the motor vehicle is declared insolvent by a court of competent jurisdiction; and

2703 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
2704 that the claim against the insolvent insurer is not paid by a guaranty association or fund.

2705 (3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides
2706 coverage for covered persons who are legally entitled to recover damages from owners or
2707 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

2708 (4) (a) For new policies written on or after January 1, 2001, the limits of uninsured
2709 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
2710 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
2711 under the named insured's motor vehicle policy, unless a named insured rejects or purchases
2712 coverage in a lesser amount by signing an acknowledgment form that:

2713 (i) is filed with the department;

2714 (ii) is provided by the insurer;

2715 (iii) waives the higher coverage;

2716 (iv) need only state in this or similar language that uninsured motorist coverage
2717 provides benefits or protection to you and other covered persons for bodily injury resulting
2718 from an accident caused by the fault of another party where the other party has no liability
2719 insurance; and

2720 (v) discloses the additional premiums required to purchase uninsured motorist
2721 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
2722 liability coverage or the maximum uninsured motorist coverage limits available by the insurer

2723 under the named insured's motor vehicle policy.

2724 (b) Any selection or rejection under this Subsection (4) continues for that issuer of the
2725 liability coverage until the insured requests, in writing, a change of uninsured motorist
2726 coverage from that liability insurer.

2727 (c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after
2728 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
2729 arbitration or filed a complaint in a court of competent jurisdiction.

2730 (ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b)
2731 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

2732 (d) For purposes of this Subsection (4), "new policy" means:

2733 (i) any policy that is issued which does not include a renewal or reinstatement of an
2734 existing policy; or

2735 (ii) a change to an existing policy that results in:

2736 (A) a named insured being added to or deleted from the policy; or

2737 (B) a change in the limits of the named insured's motor vehicle liability coverage.

2738 (e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change
2739 that increases the total number of vehicles insured by the policy, and does not include
2740 replacement, substitute, or temporary vehicles.

2741 (ii) The adding of an additional motor vehicle to an existing personal lines or
2742 commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

2743 (iii) If an additional motor vehicle is added to a personal lines policy where uninsured
2744 motorist coverage has been rejected, or where uninsured motorist limits are lower than the
2745 named insured's motor vehicle liability limits, the insurer shall provide a notice to a named
2746 insured within 30 days that:

2747 (A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of
2748 uninsured motorist coverage; and

2749 (B) encourages the named insured to contact the insurance company or insurance
2750 producer for quotes as to the additional premiums required to purchase uninsured motorist
2751 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
2752 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
2753 under the named insured's motor vehicle policy.

2754 (f) A change in policy number resulting from any policy change not identified under
2755 Subsection (4)(d)(ii) does not constitute a new policy.

2756 (g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1,
2757 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration
2758 or filed a complaint in a court of competent jurisdiction.

2759 (ii) The Legislature finds that the retroactive application of Subsection (4):

2760 (A) does not enlarge, eliminate, or destroy vested rights; and

2761 (B) clarifies legislative intent.

2762 (h) A self-insured, including a governmental entity, may elect to provide uninsured
2763 motorist coverage in an amount that is less than its maximum self-insured retention under
2764 Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from
2765 the chief financial officer or chief risk officer that declares the:

2766 (i) self-insured entity's coverage level; and

2767 (ii) process for filing an uninsured motorist claim.

2768 (i) Uninsured motorist coverage may not be sold with limits that are less than the
2769 minimum bodily injury limits for motor vehicle liability policies under Section [31A-22-304](#).

2770 (j) The acknowledgment under Subsection (4)(a) continues for that issuer of the
2771 uninsured motorist coverage until the named insured requests, in writing, different uninsured
2772 motorist coverage from the insurer.

2773 (k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
2774 policies existing on that date, the insurer shall disclose in the same medium as the premium
2775 renewal notice, an explanation of:

2776 (A) the purpose of uninsured motorist coverage in the same manner as described in
2777 Subsection (4)(a)(iv); and

2778 (B) a disclosure of the additional premiums required to purchase uninsured motorist
2779 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
2780 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
2781 under the named insured's motor vehicle policy.

2782 (ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named
2783 insureds that carry uninsured motorist coverage limits in an amount less than the named
2784 insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage

2785 limits available by the insurer under the named insured's motor vehicle policy.

2786 (l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in
2787 a household constitutes notice or disclosure to all insureds within the household.

2788 (5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject
2789 uninsured motorist coverage by an express writing to the insurer that provides liability
2790 coverage under Subsection [31A-22-302\(1\)\(a\)](#).

2791 (ii) This rejection shall be on a form provided by the insurer that includes a reasonable
2792 explanation of the purpose of uninsured motorist coverage.

2793 (iii) This rejection continues for that issuer of the liability coverage until the insured in
2794 writing requests uninsured motorist coverage from that liability insurer.

2795 (b) (i) All persons, including governmental entities, that are engaged in the business of,
2796 or that accept payment for, transporting natural persons by motor vehicle, and all school
2797 districts that provide transportation services for their students, shall provide coverage for all
2798 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
2799 uninsured motorist coverage of at least \$25,000 per person and \$500,000 per accident.

2800 (ii) This coverage is secondary to any other insurance covering an injured covered
2801 person.

2802 (c) Uninsured motorist coverage:

2803 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'
2804 Compensation Act, except that the covered person is credited an amount described in
2805 Subsection [34A-2-106\(5\)](#);

2806 (ii) may not be subrogated by the workers' compensation insurance carrier, workers'
2807 compensation insurance, uninsured employer, the Uninsured Employers Fund created in
2808 Section [34A-2-704](#), or the Employers' Reinsurance Fund created in Section [34A-2-702](#);

2809 (iii) may not be reduced by any benefits provided by workers' compensation insurance,
2810 uninsured employer, the Uninsured Employers Fund created in Section [34A-2-704](#), or the
2811 Employers' Reinsurance Fund created in Section [34A-2-702](#);

2812 (iv) notwithstanding Subsection [31A-1-103\(3\)\(f\)](#), may be reduced by health insurance
2813 subrogation only after the covered person has been made whole;

2814 (v) may not be collected for bodily injury or death sustained by a person:

2815 (A) while committing a violation of Section [41-1a-1314](#);

2816 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
2817 in violation of Section 41-1a-1314; or

2818 (C) while committing a felony; and

2819 (vi) notwithstanding Subsection (5)(c)(v), may be recovered:

2820 (A) for a person under 18 years old who is injured within the scope of Subsection
2821 (5)(c)(v) but limited to medical and funeral expenses; or

2822 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
2823 within the course and scope of the law enforcement officer's duties.

2824 (d) As used in this Subsection (5), "motor vehicle" has the same meaning as under
2825 Section 41-1a-102.

2826 (6) When a covered person alleges that an uninsured motor vehicle under Subsection
2827 (2)(b) proximately caused an accident without touching the covered person or the motor
2828 vehicle occupied by the covered person, the covered person shall show the existence of the
2829 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered
2830 person's testimony.

2831 (7) (a) The limit of liability for uninsured motorist coverage for two or more motor
2832 vehicles may not be added together, combined, or stacked to determine the limit of insurance
2833 coverage available to an injured person for any one accident.

2834 (b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under
2835 Subsection (8)(b).

2836 (ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest
2837 limits of uninsured motorist coverage afforded for any one motor vehicle that the covered
2838 person is the named insured or an insured family member.

2839 (iii) This coverage shall be in addition to the coverage on the motor vehicle the covered
2840 person is occupying.

2841 (iv) Neither the primary nor the secondary coverage may be set off against the other.

2842 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary
2843 coverage, and the coverage elected by a person described under Subsections (1)(a) through (c)
2844 shall be secondary coverage.

2845 (8) (a) Uninsured motorist coverage under this section applies to bodily injury,
2846 sickness, disease, or death of covered persons while occupying or using a motor vehicle only if

2847 the motor vehicle is described in the policy under which a claim is made, or if the motor
2848 vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.
2849 Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a
2850 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to
2851 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy
2852 under which the person is a covered person.

2853 (b) Each of the following persons may also recover uninsured motorist benefits under
2854 any one other policy in which they are described as a "covered person" as defined in Subsection

2855 (1):

2856 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

2857 (ii) except as provided in Subsection (8)(c), a covered person injured while occupying
2858 or using a motor vehicle that is not owned, leased, or furnished:

2859 (A) to the covered person;

2860 (B) to the covered person's spouse; or

2861 (C) to the covered person's resident parent or resident sibling.

2862 (c) (i) A covered person may recover benefits from no more than two additional
2863 policies, one additional policy from each parent's household if the covered person is:

2864 (A) a dependent minor of parents who reside in separate households; and

2865 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
2866 furnished:

2867 (I) to the covered person;

2868 (II) to the covered person's resident parent; or

2869 (III) to the covered person's resident sibling.

2870 (ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of
2871 the damages that the limit of liability of each parent's policy of uninsured motorist coverage
2872 bears to the total of both parents' uninsured coverage applicable to the accident.

2873 (d) A covered person's recovery under any available policies may not exceed the full
2874 amount of damages.

2875 (e) A covered person in Subsection (8)(b) is not barred against making subsequent
2876 elections if recovery is unavailable under previous elections.

2877 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a

2878 single incident of loss under more than one insurance policy.

2879 (ii) Except to the extent permitted by Subsection (7) and this Subsection (8),
2880 interpolicy stacking is prohibited for uninsured motorist coverage.

2881 (9) (a) When a claim is brought by a named insured or a person described in
2882 Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the
2883 claimant may elect to resolve the claim:

2884 (i) by submitting the claim to binding arbitration; or

2885 (ii) through litigation.

2886 (b) Unless otherwise provided in the policy under which uninsured benefits are
2887 claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that
2888 if the policy under which insured benefits are claimed provides that either an insured or the
2889 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
2890 arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

2891 (c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),
2892 the claimant may not elect to resolve the claim through binding arbitration under this section
2893 without the written consent of the uninsured motorist carrier.

2894 (d) For purposes of the statute of limitations applicable to a claim described in
2895 Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the
2896 claim is considered filed when the claimant submits the claim to binding arbitration in
2897 accordance with this Subsection (9).

2898 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
2899 binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

2900 (ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

2901 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
2902 (9)(e)(ii), the parties shall select a panel of three arbitrators.

2903 (f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

2904 (i) each side shall select one arbitrator; and

2905 (ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional
2906 arbitrator to be included in the panel.

2907 (g) Unless otherwise agreed to in writing:

2908 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected

2909 under Subsection (9)(e)(i); or

2910 (ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

2911 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

2912 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected

2913 under Subsection (9)(f)(ii).

2914 (h) Except as otherwise provided in this section or unless otherwise agreed to in

2915 writing by the parties, an arbitration proceeding conducted under this section shall be governed

2916 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

2917 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),

2918 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of

2919 Subsections (10)(a) through (c) are satisfied.

2920 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure

2921 shall be determined based on the claimant's specific monetary amount in the written demand

2922 for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

2923 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to

2924 arbitration claims under this part.

2925 (j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

2926 (k) A written decision by a single arbitrator or by a majority of the arbitration panel

2927 shall constitute a final decision.

2928 (l) (i) Except as provided in Subsection (10), the amount of an arbitration award may

2929 not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies,

2930 including applicable uninsured motorist umbrella policies.

2931 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all

2932 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount

2933 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist

2934 policies.

2935 (m) The arbitrator or arbitration panel may not decide the issues of coverage or

2936 extra-contractual damages, including:

2937 (i) whether the claimant is a covered person;

2938 (ii) whether the policy extends coverage to the loss; or

2939 (iii) any allegations or claims asserting consequential damages or bad faith liability.

2940 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
2941 class-representative basis.

2942 (o) If the arbitrator or arbitration panel finds that the action was not brought, pursued,
2943 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
2944 and costs against the party that failed to bring, pursue, or defend the claim in good faith.

2945 (p) An arbitration award issued under this section shall be the final resolution of all
2946 claims not excluded by Subsection (9)(m) between the parties unless:

2947 (i) the award was procured by corruption, fraud, or other undue means; and

2948 (ii) [~~either party;~~] within 20 days after service of the arbitration award, a party:

2949 (A) files a complaint requesting a trial de novo in [~~the district court~~] a court with
2950 jurisdiction under Title 78A, Judiciary and Judicial Administration; and

2951 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
2952 under Subsection (9)(p)(ii)(A).

2953 (q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim
2954 shall proceed through litigation [~~pursuant to~~] in accordance with the Utah Rules of Civil
2955 Procedure and Utah Rules of Evidence [~~in the district court~~].

2956 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, [~~either~~] a party may
2957 request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

2958 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
2959 (9)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
2960 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

2961 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested
2962 under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration
2963 award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

2964 (iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r)
2965 shall include:

2966 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

2967 (B) the costs of expert witnesses and depositions.

2968 (iv) An award of costs under this Subsection (9)(r) may not exceed \$2,500 unless
2969 Subsection (10)(h)(iii) applies.

2970 (s) For purposes of determining whether a party's verdict is greater or less than the

2971 arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief
2972 granted on a claim for damages if the claim for damages:

2973 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

2974 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
2975 Procedure.

2976 (t) If a [district] court determines, upon a motion of the nonmoving party, that the
2977 moving party's use of the trial de novo process was filed in bad faith in accordance with
2978 Section 78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving
2979 party.

2980 (u) Nothing in this section is intended to limit any claim under any other portion of an
2981 applicable insurance policy.

2982 (v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the
2983 claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist
2984 carriers.

2985 (10) (a) Within 30 days after a covered person elects to submit a claim for uninsured
2986 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
2987 the uninsured motorist carrier:

2988 (i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

2989 (A) subject to Subsection (10)(l), the specific monetary amount of the demand,
2990 including a computation of the covered person's claimed past medical expenses, claimed past
2991 lost wages, and the other claimed past economic damages; and

2992 (B) the factual and legal basis and any supporting documentation for the demand;

2993 (ii) a written statement under oath disclosing:

2994 (A) (I) the names and last known addresses of all health care providers who have
2995 rendered health care services to the covered person that are material to the claims for which
2996 uninsured motorist benefits are sought for a period of five years preceding the date of the event
2997 giving rise to the claim for uninsured motorist benefits up to the time the election for
2998 arbitration or litigation has been exercised; and

2999 (II) the names and last known addresses of the health care providers who have rendered
3000 health care services to the covered person, which the covered person claims are immaterial to
3001 the claims for which uninsured motorist benefits are sought, for a period of five years

3002 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the
3003 time the election for arbitration or litigation has been exercised that have not been disclosed
3004 under Subsection (10)(a)(ii)(A)(I);

3005 (B) (I) the names and last known addresses of all health insurers or other entities to
3006 whom the covered person has submitted claims for health care services or benefits material to
3007 the claims for which uninsured motorist benefits are sought, for a period of five years
3008 preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the
3009 time the election for arbitration or litigation has been exercised; and

3010 (II) the names and last known addresses of the health insurers or other entities to whom
3011 the covered person has submitted claims for health care services or benefits, which the covered
3012 person claims are immaterial to the claims for which uninsured motorist benefits are sought,
3013 for a period of five years preceding the date of the event giving rise to the claim for uninsured
3014 motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

3015 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
3016 employers of the covered person for a period of five years preceding the date of the event
3017 giving rise to the claim for uninsured motorist benefits up to the time the election for
3018 arbitration or litigation has been exercised;

3019 (D) other documents to reasonably support the claims being asserted; and

3020 (E) all state and federal statutory lienholders including a statement as to whether the
3021 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
3022 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health
3023 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

3024 (iii) signed authorizations to allow the uninsured motorist carrier to only obtain records
3025 and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I),
3026 (B)(I), and (C).

3027 (b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed
3028 health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably
3029 necessary, the uninsured motorist carrier may:

3030 (A) make a request for the disclosure of the identity of the health care providers or
3031 health care insurers; and

3032 (B) make a request for authorizations to allow the uninsured motorist carrier to only

3033 obtain records and billings from the individuals or entities not disclosed.

3034 (ii) If the covered person does not provide the requested information within 10 days:

3035 (A) the covered person shall disclose, in writing, the legal or factual basis for the
3036 failure to disclose the health care providers or health care insurers; and

3037 (B) either the covered person or the uninsured motorist carrier may request the
3038 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
3039 provided if the covered person has elected arbitration.

3040 (iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of
3041 the dispute concerning the disclosure and production of records of the health care providers or
3042 health care insurers.

3043 (c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice
3044 of filing litigation and the demand for payment of uninsured motorist benefits under Subsection
3045 (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and
3046 receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

3047 (A) provide a written response to the written demand for payment provided for in
3048 Subsection (10)(a)(i);

3049 (B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the
3050 uninsured motorist carrier's determination of the amount owed to the covered person; and

3051 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
3052 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah
3053 Children's Health Insurance Program, or if the claim is subject to any other state or federal
3054 statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of
3055 the amount owed to the covered person less:

3056 (I) if the amount of the state or federal statutory lien is established, the amount of the
3057 lien; or

3058 (II) if the amount of the state or federal statutory lien is not established, two times the
3059 amount of the medical expenses subject to the state or federal statutory lien until such time as
3060 the amount of the state or federal statutory lien is established.

3061 (ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i)
3062 is the total amount of the uninsured motorist policy limits, the tendered amount shall be
3063 accepted by the covered person.

3064 (d) A covered person who receives a written response from an uninsured motorist
3065 carrier as provided for in Subsection (10)(c)(i), may:

3066 (i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all
3067 uninsured motorist claims; or

3068 (ii) elect to:

3069 (A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all
3070 uninsured motorist claims; and

3071 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
3072 made under Subsections (9)(a) through (c).

3073 (e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i)
3074 as partial payment of all uninsured motorist claims, the final award obtained through
3075 arbitration, litigation, or later settlement shall be reduced by any payment made by the
3076 uninsured motorist carrier under Subsection (10)(c)(i).

3077 (f) In an arbitration proceeding on the remaining uninsured claims:

3078 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
3079 under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

3080 (ii) the parties may not disclose the amount of the limits of uninsured motorist benefits
3081 provided by the policy.

3082 (g) If the final award obtained through arbitration or litigation is greater than the
3083 average of the covered person's initial written demand for payment provided for in Subsection
3084 (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in
3085 Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

3086 (i) the final award obtained through arbitration or litigation, except that if the award
3087 exceeds the policy limits of the subject uninsured motorist policy by more than \$15,000, the
3088 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

3089 (ii) any of the following applicable costs:

3090 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

3091 (B) the arbitrator or arbitration panel's fee; and

3092 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
3093 evidence during arbitration or litigation.

3094 (h) (i) The covered person shall provide an affidavit of costs within five days of an

3095 arbitration award.

3096 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
3097 which the uninsured motorist carrier objects.

3098 (B) The objection shall be resolved by the arbitrator or arbitration panel.

3099 (iii) The award of costs by the arbitrator or arbitration panel under Subsection
3100 (10)(g)(ii) may not exceed \$5,000.

3101 (i) (i) A covered person shall disclose all material information, other than rebuttal
3102 evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist
3103 coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

3104 (ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person
3105 may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

3106 (j) This Subsection (10) does not limit any other cause of action that arose or may arise
3107 against the uninsured motorist carrier from the same dispute.

3108 (k) The provisions of this Subsection (10) only apply to motor vehicle accidents that
3109 occur on or after March 30, 2010.

3110 (l) (i) (A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect
3111 the covered person's requirement to provide a computation of any other economic damages
3112 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
3113 computation of any other economic damages claimed to conduct fact and expert discovery as to
3114 any additional damages claimed.

3115 (B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and
3116 Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a
3117 claim submitted to binding arbitration or through litigation on or after May 13, 2014.

3118 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter
3119 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to
3120 binding arbitration or through litigation on or after May 13, 2014.

3121 (11) (a) A person shall commence an action on a written policy or contract for
3122 uninsured motorist coverage within four years after the inception of loss.

3123 (b) Subsection (11)(a) shall apply to all claims that have not been time barred by
3124 Subsection [31A-21-313\(1\)\(a\)](#) as of May 14, 2019.

3125 Section 52. Section **31A-22-305.3** is amended to read:

3126 **31A-22-305.3. Underinsured motorist coverage.**

3127 (1) As used in this section:

3128 (a) "Covered person" has the same meaning as defined in Section [31A-22-305](#).

3129 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,
3130 maintenance, or use of which is covered under a liability policy at the time of an injury-causing
3131 occurrence, but which has insufficient liability coverage to compensate fully the injured party
3132 for all special and general damages.

3133 (ii) The term "underinsured motor vehicle" does not include:

3134 (A) a motor vehicle that is covered under the liability coverage of the same policy that
3135 also contains the underinsured motorist coverage;

3136 (B) an uninsured motor vehicle as defined in Subsection [31A-22-305\(2\)](#); or

3137 (C) a motor vehicle owned or leased by:

3138 (I) a named insured;

3139 (II) a named insured's spouse; or

3140 (III) a dependent of a named insured.

3141 (2) (a) Underinsured motorist coverage under Subsection [31A-22-302\(1\)\(c\)](#) provides
3142 coverage for a covered person who is legally entitled to recover damages from an owner or
3143 operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

3144 (b) A covered person occupying or using a motor vehicle owned, leased, or furnished
3145 to the covered person, the covered person's spouse, or covered person's resident relative may
3146 recover underinsured benefits only if the motor vehicle is:

3147 (i) described in the policy under which a claim is made; or

3148 (ii) a newly acquired or replacement motor vehicle covered under the terms of the
3149 policy.

3150 (3) (a) For purposes of this Subsection (3), "new policy" means:

3151 (i) any policy that is issued that does not include a renewal or reinstatement of an
3152 existing policy; or

3153 (ii) a change to an existing policy that results in:

3154 (A) a named insured being added to or deleted from the policy; or

3155 (B) a change in the limits of the named insured's motor vehicle liability coverage.

3156 (b) For new policies written on or after January 1, 2001, the limits of underinsured

3157 motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle
3158 liability coverage or the maximum underinsured motorist coverage limits available by the
3159 insurer under the named insured's motor vehicle policy, unless a named insured rejects or
3160 purchases coverage in a lesser amount by signing an acknowledgment form that:

3161 (i) is filed with the department;

3162 (ii) is provided by the insurer;

3163 (iii) waives the higher coverage;

3164 (iv) need only state in this or similar language that "underinsured motorist coverage
3165 provides benefits or protection to you and other covered persons for bodily injury resulting
3166 from an accident caused by the fault of another party where the other party has insufficient
3167 liability insurance"; and

3168 (v) discloses the additional premiums required to purchase underinsured motorist
3169 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
3170 liability coverage or the maximum underinsured motorist coverage limits available by the
3171 insurer under the named insured's motor vehicle policy.

3172 (c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the
3173 liability coverage until the insured requests, in writing, a change of underinsured motorist
3174 coverage from that liability insurer.

3175 (d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after
3176 January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for
3177 arbitration or filed a complaint in a court of competent jurisdiction.

3178 (ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c)
3179 clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

3180 (e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change
3181 that increases the total number of vehicles insured by the policy, and does not include
3182 replacement, substitute, or temporary vehicles.

3183 (ii) The adding of an additional motor vehicle to an existing personal lines or
3184 commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

3185 (iii) If an additional motor vehicle is added to a personal lines policy where
3186 underinsured motorist coverage has been rejected, or where underinsured motorist limits are
3187 lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice

3188 to a named insured within 30 days that:

3189 (A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of
3190 underinsured motorist coverage; and

3191 (B) encourages the named insured to contact the insurance company or insurance
3192 producer for quotes as to the additional premiums required to purchase underinsured motorist
3193 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
3194 liability coverage or the maximum underinsured motorist coverage limits available by the
3195 insurer under the named insured's motor vehicle policy.

3196 (f) A change in policy number resulting from any policy change not identified under
3197 Subsection (3)(a)(ii) does not constitute a new policy.

3198 (g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1,
3199 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or
3200 filed a complaint in a court of competent jurisdiction.

3201 (ii) The Legislature finds that the retroactive application of Subsection (3)(a):

3202 (A) does not enlarge, eliminate, or destroy vested rights; and

3203 (B) clarifies legislative intent.

3204 (h) A self-insured, including a governmental entity, may elect to provide underinsured
3205 motorist coverage in an amount that is less than its maximum self-insured retention under
3206 Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the
3207 chief financial officer or chief risk officer that declares the:

3208 (i) self-insured entity's coverage level; and

3209 (ii) process for filing an underinsured motorist claim.

3210 (i) Underinsured motorist coverage may not be sold with limits that are less than:

3211 (i) \$10,000 for one person in any one accident; and

3212 (ii) at least \$20,000 for two or more persons in any one accident.

3213 (j) An acknowledgment under Subsection (3)(b) continues for that issuer of the
3214 underinsured motorist coverage until the named insured, in writing, requests different
3215 underinsured motorist coverage from the insurer.

3216 (k) (i) The named insured's underinsured motorist coverage, as described in Subsection
3217 (2), is secondary to the liability coverage of an owner or operator of an underinsured motor
3218 vehicle, as described in Subsection (1).

3219 (ii) Underinsured motorist coverage may not be set off against the liability coverage of
3220 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,
3221 or stacked upon the liability coverage of the owner or operator of the underinsured motor
3222 vehicle to determine the limit of coverage available to the injured person.

3223 (l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
3224 policies existing on that date, the insurer shall disclose in the same medium as the premium
3225 renewal notice, an explanation of:

3226 (A) the purpose of underinsured motorist coverage in the same manner as described in
3227 Subsection (3)(b)(iv); and

3228 (B) a disclosure of the additional premiums required to purchase underinsured motorist
3229 coverage with limits equal to the lesser of the limits of the named insured's motor vehicle
3230 liability coverage or the maximum underinsured motorist coverage limits available by the
3231 insurer under the named insured's motor vehicle policy.

3232 (ii) The disclosure required under this Subsection (3)(l) shall be sent to all named
3233 insureds that carry underinsured motorist coverage limits in an amount less than the named
3234 insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage
3235 limits available by the insurer under the named insured's motor vehicle policy.

3236 (m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured
3237 in a household constitutes notice or disclosure to all insureds within the household.

3238 (4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a
3239 motor vehicle described in a policy that includes underinsured motorist benefits may not elect
3240 to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

3241 (ii) The limit of liability for underinsured motorist coverage for two or more motor
3242 vehicles may not be added together, combined, or stacked to determine the limit of insurance
3243 coverage available to an injured person for any one accident.

3244 (iii) Subsection (4)(a)(ii) applies to all persons except a covered person described
3245 under Subsections (4)(b)(i) and (ii).

3246 (b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may
3247 recover underinsured motorist benefits under any one other policy in which they are described
3248 as a covered person.

3249 (ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while

3250 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
3251 covered person, the covered person's spouse, or the covered person's resident parent or resident
3252 sibling, may also recover benefits under any one other policy under which the covered person is
3253 also a covered person.

3254 (iii) (A) A covered person may recover benefits from no more than two additional
3255 policies, one additional policy from each parent's household if the covered person is:

3256 (I) a dependent minor of parents who reside in separate households; and

3257 (II) injured while occupying or using a motor vehicle that is not owned, leased, or
3258 furnished to the covered person, the covered person's resident parent, or the covered person's
3259 resident sibling.

3260 (B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the
3261 percentage of the damages that the limit of liability of each parent's policy of underinsured
3262 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
3263 accident.

3264 (iv) A covered person's recovery under any available policies may not exceed the full
3265 amount of damages.

3266 (v) Underinsured coverage on a motor vehicle occupied at the time of an accident is
3267 primary coverage, and the coverage elected by a person described under Subsections
3268 [31A-22-305\(1\)\(a\), \(b\), and \(c\)](#) is secondary coverage.

3269 (vi) The primary and the secondary coverage may not be set off against the other.

3270 (vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the
3271 highest limits of underinsured motorist coverage under only one additional policy per
3272 household applicable to that covered person as a named insured, spouse, or relative.

3273 (viii) A covered injured person is not barred against making subsequent elections if
3274 recovery is unavailable under previous elections.

3275 (ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a
3276 single incident of loss under more than one insurance policy.

3277 (B) Except to the extent permitted by this Subsection (4), interpolicy stacking is
3278 prohibited for underinsured motorist coverage.

3279 (c) Underinsured motorist coverage:

3280 (i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'

3281 Compensation Act, except that the covered person is credited an amount described in
3282 Subsection 34A-2-106(5);

3283 (ii) may not be subrogated by a workers' compensation insurance carrier, workers'
3284 compensation insurance, uninsured employer, the Uninsured Employers Fund created in
3285 Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

3286 (iii) may not be reduced by benefits provided by workers' compensation insurance,
3287 uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the
3288 Employers' Reinsurance Fund created in Section 34A-2-702;

3289 (iv) notwithstanding Subsection 31A-1-103(3)(f) may be reduced by health insurance
3290 subrogation only after the covered person is made whole;

3291 (v) may not be collected for bodily injury or death sustained by a person:

3292 (A) while committing a violation of Section 41-1a-1314;

3293 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
3294 in violation of Section 41-1a-1314; or

3295 (C) while committing a felony; and

3296 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:

3297 (A) for a person younger than 18 years old who is injured within the scope of
3298 Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

3299 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
3300 within the course and scope of the law enforcement officer's duties.

3301 (5) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract
3302 for underinsured motorist coverage shall be commenced within four years after the inception of
3303 loss.

3304 (b) The inception of the loss under Subsection 31A-21-313(1) for underinsured
3305 motorist claims occurs upon the date of the settlement check representing the last liability
3306 policy payment.

3307 (6) An underinsured motorist insurer does not have a right of reimbursement against a
3308 person liable for the damages resulting from an injury-causing occurrence if the person's
3309 liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

3310 (7) Except as otherwise provided in this section, a covered person may seek, subject to
3311 the terms and conditions of the policy, additional coverage under any policy:

3312 (a) that provides coverage for damages resulting from motor vehicle accidents; and

3313 (b) that is not required to conform to Section 31A-22-302.

3314 (8) (a) When a claim is brought by a named insured or a person described in

3315 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
3316 carrier, the claimant may elect to resolve the claim:

3317 (i) by submitting the claim to binding arbitration; or

3318 (ii) through litigation.

3319 (b) Unless otherwise provided in the policy under which underinsured benefits are
3320 claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that
3321 if the policy under which insured benefits are claimed provides that either an insured or the
3322 insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to
3323 arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

3324 (c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the
3325 claimant may not elect to resolve the claim through binding arbitration under this section
3326 without the written consent of the underinsured motorist coverage carrier.

3327 (d) For purposes of the statute of limitations applicable to a claim described in
3328 Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the
3329 claim is considered filed when the claimant submits the claim to binding arbitration in
3330 accordance with this Subsection (8).

3331 (e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
3332 binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

3333 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

3334 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
3335 (8)(e)(ii), the parties shall select a panel of three arbitrators.

3336 (f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

3337 (i) each side shall select one arbitrator; and

3338 (ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional
3339 arbitrator to be included in the panel.

3340 (g) Unless otherwise agreed to in writing:

3341 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
3342 under Subsection (8)(e)(i); or

3343 (ii) if an arbitration panel is selected under Subsection (8)(e)(iii):
3344 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and
3345 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
3346 under Subsection (8)(f)(ii).

3347 (h) Except as otherwise provided in this section or unless otherwise agreed to in
3348 writing by the parties, an arbitration proceeding conducted under this section is governed by
3349 Title 78B, Chapter 11, Utah Uniform Arbitration Act.

3350 (i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f),
3351 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of
3352 Subsections (9)(a) through (c) are satisfied.

3353 (ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure
3354 shall be determined based on the claimant's specific monetary amount in the written demand
3355 for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

3356 (iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to
3357 arbitration claims under this part.

3358 (j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

3359 (k) A written decision by a single arbitrator or by a majority of the arbitration panel
3360 constitutes a final decision.

3361 (l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not
3362 exceed the underinsured motorist policy limits of all applicable underinsured motorist policies,
3363 including applicable underinsured motorist umbrella policies.

3364 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
3365 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
3366 equal to the combined underinsured motorist policy limits of all applicable underinsured
3367 motorist policies.

3368 (m) The arbitrator or arbitration panel may not decide an issue of coverage or
3369 extra-contractual damages, including:

3370 (i) whether the claimant is a covered person;

3371 (ii) whether the policy extends coverage to the loss; or

3372 (iii) an allegation or claim asserting consequential damages or bad faith liability.

3373 (n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or

3374 class-representative basis.

3375 (o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued,
3376 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
3377 and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

3378 (p) An arbitration award issued under this section shall be the final resolution of all
3379 claims not excluded by Subsection (8)(m) between the parties unless:

3380 (i) the award is procured by corruption, fraud, or other undue means; or

3381 (ii) either party, within 20 days after service of the arbitration award:

3382 (A) files a complaint requesting a trial de novo in the [~~district court~~] a court with
3383 jurisdiction under Title 78A, Judiciary and Judicial Administration; and

3384 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
3385 under Subsection (8)(p)(ii)(A).

3386 (q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall
3387 proceed through litigation [~~pursuant to~~] in accordance with the Utah Rules of Civil Procedure
3388 and Utah Rules of Evidence [~~in the district court~~].

3389 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
3390 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

3391 (r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection
3392 (8)(p), does not obtain a verdict that is at least \$5,000 and is at least 20% greater than the
3393 arbitration award, the claimant is responsible for all of the nonmoving party's costs.

3394 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested
3395 under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration
3396 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

3397 (iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r)
3398 shall include:

3399 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

3400 (B) the costs of expert witnesses and depositions.

3401 (iv) An award of costs under this Subsection (8)(r) may not exceed \$2,500 unless
3402 Subsection (9)(h)(iii) applies.

3403 (s) For purposes of determining whether a party's verdict is greater or less than the
3404 arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief

3405 granted on a claim for damages if the claim for damages:

3406 (i) was not fully disclosed in writing prior to the arbitration proceeding; or

3407 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
3408 Procedure.

3409 (t) If a [district] court determines, upon a motion of the nonmoving party, that a
3410 moving party's use of the trial de novo process is filed in bad faith in accordance with Section
3411 78B-5-825, the [district] court may award reasonable attorney fees to the nonmoving party.

3412 (u) Nothing in this section is intended to limit a claim under another portion of an
3413 applicable insurance policy.

3414 (v) If there are multiple underinsured motorist policies, as set forth in Subsection (4),
3415 the claimant may elect to arbitrate in one hearing the claims against all the underinsured
3416 motorist carriers.

3417 (9) (a) Within 30 days after a covered person elects to submit a claim for underinsured
3418 motorist benefits to binding arbitration or files litigation, the covered person shall provide to
3419 the underinsured motorist carrier:

3420 (i) a written demand for payment of underinsured motorist coverage benefits, setting
3421 forth:

3422 (A) subject to Subsection (9)(l), the specific monetary amount of the demand,
3423 including a computation of the covered person's claimed past medical expenses, claimed past
3424 lost wages, and all other claimed past economic damages; and

3425 (B) the factual and legal basis and any supporting documentation for the demand;

3426 (ii) a written statement under oath disclosing:

3427 (A) (I) the names and last known addresses of all health care providers who have
3428 rendered health care services to the covered person that are material to the claims for which the
3429 underinsured motorist benefits are sought for a period of five years preceding the date of the
3430 event giving rise to the claim for underinsured motorist benefits up to the time the election for
3431 arbitration or litigation has been exercised; and

3432 (II) the names and last known addresses of the health care providers who have rendered
3433 health care services to the covered person, which the covered person claims are immaterial to
3434 the claims for which underinsured motorist benefits are sought, for a period of five years
3435 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to

3436 the time the election for arbitration or litigation has been exercised that have not been disclosed
3437 under Subsection (9)(a)(ii)(A)(I);

3438 (B) (I) the names and last known addresses of all health insurers or other entities to
3439 whom the covered person has submitted claims for health care services or benefits material to
3440 the claims for which underinsured motorist benefits are sought, for a period of five years
3441 preceding the date of the event giving rise to the claim for underinsured motorist benefits up to
3442 the time the election for arbitration or litigation has been exercised; and

3443 (II) the names and last known addresses of the health insurers or other entities to whom
3444 the covered person has submitted claims for health care services or benefits, which the covered
3445 person claims are immaterial to the claims for which underinsured motorist benefits are sought,
3446 for a period of five years preceding the date of the event giving rise to the claim for
3447 underinsured motorist benefits up to the time the election for arbitration or litigation have not
3448 been disclosed;

3449 (C) if lost wages, diminished earning capacity, or similar damages are claimed, all
3450 employers of the covered person for a period of five years preceding the date of the event
3451 giving rise to the claim for underinsured motorist benefits up to the time the election for
3452 arbitration or litigation has been exercised;

3453 (D) other documents to reasonably support the claims being asserted; and

3454 (E) all state and federal statutory lienholders including a statement as to whether the
3455 covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health
3456 Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health
3457 Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

3458 (iii) signed authorizations to allow the underinsured motorist carrier to only obtain
3459 records and billings from the individuals or entities disclosed under Subsections
3460 (9)(a)(ii)(A)(I), (B)(I), and (C).

3461 (b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed
3462 health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary,
3463 the underinsured motorist carrier may:

3464 (A) make a request for the disclosure of the identity of the health care providers or
3465 health care insurers; and

3466 (B) make a request for authorizations to allow the underinsured motorist carrier to only

3467 obtain records and billings from the individuals or entities not disclosed.

3468 (ii) If the covered person does not provide the requested information within 10 days:

3469 (A) the covered person shall disclose, in writing, the legal or factual basis for the
3470 failure to disclose the health care providers or health care insurers; and

3471 (B) either the covered person or the underinsured motorist carrier may request the
3472 arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be
3473 provided if the covered person has elected arbitration.

3474 (iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of
3475 the dispute concerning the disclosure and production of records of the health care providers or
3476 health care insurers.

3477 (c) (i) An underinsured motorist carrier that receives an election for arbitration or a
3478 notice of filing litigation and the demand for payment of underinsured motorist benefits under
3479 Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the
3480 demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

3481 (A) provide a written response to the written demand for payment provided for in
3482 Subsection (9)(a)(i);

3483 (B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the
3484 underinsured motorist carrier's determination of the amount owed to the covered person; and

3485 (C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah
3486 Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah
3487 Children's Health Insurance Program, or if the claim is subject to any other state or federal
3488 statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of
3489 the amount owed to the covered person less:

3490 (I) if the amount of the state or federal statutory lien is established, the amount of the
3491 lien; or

3492 (II) if the amount of the state or federal statutory lien is not established, two times the
3493 amount of the medical expenses subject to the state or federal statutory lien until such time as
3494 the amount of the state or federal statutory lien is established.

3495 (ii) If the amount tendered by the underinsured motorist carrier under Subsection
3496 (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount
3497 shall be accepted by the covered person.

3498 (d) A covered person who receives a written response from an underinsured motorist
3499 carrier as provided for in Subsection (9)(c)(i), may:

3500 (i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all
3501 underinsured motorist claims; or

3502 (ii) elect to:

3503 (A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all
3504 underinsured motorist claims; and

3505 (B) continue to litigate or arbitrate the remaining claim in accordance with the election
3506 made under Subsections (8)(a) through (c).

3507 (e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i)
3508 as partial payment of all underinsured motorist claims, the final award obtained through
3509 arbitration, litigation, or later settlement shall be reduced by any payment made by the
3510 underinsured motorist carrier under Subsection (9)(c)(i).

3511 (f) In an arbitration proceeding on the remaining underinsured claims:

3512 (i) the parties may not disclose to the arbitrator or arbitration panel the amount paid
3513 under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

3514 (ii) the parties may not disclose the amount of the limits of underinsured motorist
3515 benefits provided by the policy.

3516 (g) If the final award obtained through arbitration or litigation is greater than the
3517 average of the covered person's initial written demand for payment provided for in Subsection
3518 (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in
3519 Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

3520 (i) the final award obtained through arbitration or litigation, except that if the award
3521 exceeds the policy limits of the subject underinsured motorist policy by more than \$15,000, the
3522 amount shall be reduced to an amount equal to the policy limits plus \$15,000; and

3523 (ii) any of the following applicable costs:

3524 (A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

3525 (B) the arbitrator or arbitration panel's fee; and

3526 (C) the reasonable costs of expert witnesses and depositions used in the presentation of
3527 evidence during arbitration or litigation.

3528 (h) (i) The covered person shall provide an affidavit of costs within five days of an

3529 arbitration award.

3530 (ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to
3531 which the underinsured motorist carrier objects.

3532 (B) The objection shall be resolved by the arbitrator or arbitration panel.

3533 (iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii)
3534 may not exceed \$5,000.

3535 (i) (i) A covered person shall disclose all material information, other than rebuttal
3536 evidence, within 30 days after a covered person elects to submit a claim for underinsured
3537 motorist coverage benefits to binding arbitration or files litigation as specified in Subsection
3538 (9)(a).

3539 (ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person
3540 may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

3541 (j) This Subsection (9) does not limit any other cause of action that arose or may arise
3542 against the underinsured motorist carrier from the same dispute.

3543 (k) The provisions of this Subsection (9) only apply to motor vehicle accidents that
3544 occur on or after March 30, 2010.

3545 (l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the
3546 covered person's requirement to provide a computation of any other economic damages
3547 claimed, and the one or more respondents shall have a reasonable time after the receipt of the
3548 computation of any other economic damages claimed to conduct fact and expert discovery as to
3549 any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290,
3550 Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A)
3551 apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

3552 (ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter
3553 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to
3554 binding arbitration or through litigation on or after May 13, 2014.

3555 Section 53. Section **31A-22-321** is amended to read:

3556 **31A-22-321. Use of arbitration in third party motor vehicle accident cases.**

3557 (1) A person injured as a result of a motor vehicle accident may elect to submit all third
3558 party bodily injury claims to arbitration by filing a notice of the submission of the claim to
3559 binding arbitration in a ~~[district court]~~ court with jurisdiction under Title 78A, Judiciary and

3560 Judicial Administration, if:

3561 (a) the claimant or the claimant's representative has:

3562 (i) previously and timely filed a complaint in a [district] court that includes a third
3563 party bodily injury claim; and

3564 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
3565 has been answered; and

3566 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
3567 Subsection (1)(a)(i) is still pending.

3568 (2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
3569 party submitting the claim or the party's representative is limited to an arbitration award that
3570 does not exceed \$50,000 in addition to any available personal injury protection benefits and
3571 any claim for property damage.

3572 (b) A claim for reimbursement of personal injury protection benefits is to be resolved
3573 between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).

3574 (c) A claim for property damage may not be made in an arbitration proceeding under
3575 Subsection (1) unless agreed upon by the parties in writing.

3576 (d) A party who elects to proceed against a defendant under this section:

3577 (i) waives the right to obtain a judgment against the personal assets of the defendant;
3578 and

3579 (ii) is limited to recovery only against available limits of insurance coverage.

3580 (e) (i) This section does not prevent a party from pursuing an underinsured motorist
3581 claim as set out in Section 31A-22-305.3.

3582 (ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to
3583 the \$50,000 limit described in Subsection (2)(a).

3584 (iii) There shall be no right of subrogation on the part of the underinsured motorist
3585 carrier for a claim submitted to arbitration under this section.

3586 (3) A claim for punitive damages may not be made in an arbitration proceeding under
3587 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial
3588 de novo under Subsection (11).

3589 (4) (a) A person who has elected arbitration under this section may rescind the person's
3590 election if the rescission is made within:

- 3591 (i) 90 days after the election to arbitrate; and
3592 (ii) no less than 30 days before any scheduled arbitration hearing.
- 3593 (b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:
3594 (i) file a notice of the rescission of the election to arbitrate with the [district] court in
3595 which the matter was filed; and
3596 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel
3597 of record to the action.
- 3598 (c) All discovery completed in anticipation of the arbitration hearing shall be available
3599 for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah Rules of
3600 Evidence.
- 3601 (d) A party who has elected to arbitrate under this section and then rescinded the
3602 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this
3603 section again.
- 3604 (5) (a) Unless otherwise agreed to by the parties or by order of the court, an arbitration
3605 process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.
- 3606 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be
3607 completed within 150 days after the date arbitration is elected under this section or the date the
3608 answer is filed, whichever is longer.
- 3609 (6) (a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
3610 arbitration under this section shall be resolved by a single arbitrator.
- 3611 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall
3612 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of
3613 the defendant.
- 3614 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
3615 (6)(b), the parties shall select a panel of three arbitrators.
- 3616 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):
3617 (i) each side shall select one arbitrator; and
3618 (ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional
3619 arbitrator to be included in the panel.
- 3620 (7) Unless otherwise agreed to in writing:
3621 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected

3622 under Subsection (6)(a); and

3623 (b) if an arbitration panel is selected under Subsection (6)(d):

3624 (i) each party shall pay the fees and costs of the arbitrator selected by that party's side;

3625 and

3626 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
3627 under Subsection (6)(d)(ii).

3628 (8) Except as otherwise provided in this section and unless otherwise agreed to in
3629 writing by the parties, an arbitration proceeding conducted under this section shall be governed
3630 by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

3631 (9) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and
3632 Utah Rules of Evidence apply to the arbitration proceeding.

3633 (b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied
3634 liberally with the intent of concluding the claim in a timely and cost-efficient manner.

3635 (c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah
3636 Rules of Civil Procedure and shall be subject to the jurisdiction of the [district] court in which
3637 the matter is filed.

3638 (d) Dispositive motions shall be filed, heard, and decided by the [district] court prior to
3639 the arbitration proceeding in accordance with the court's scheduling order.

3640 (10) A written decision by a single arbitrator or by a majority of the arbitration panel
3641 shall constitute a final decision.

3642 (11) An arbitration award issued under this section shall be the final resolution of all
3643 bodily injury claims between the parties and may be reduced to judgment by the court upon
3644 motion and notice unless:

3645 (a) either party, within 20 days after service of the arbitration award:

3646 (i) files a notice requesting a trial de novo in the [district] court; and

3647 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo
3648 under Subsection (11)(a)(i); or

3649 (b) the arbitration award has been satisfied.

3650 (12) (a) Upon filing a notice requesting a trial de novo under Subsection (11):

3651 (i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90
3652 days shall be allowed for further discovery;

3653 (ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice
3654 of appeal; and

3655 (iii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the
3656 Utah Rules of Civil Procedure and Utah Rules of Evidence [~~in the district court~~].

3657 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
3658 request a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).

3659 (13) (a) If the plaintiff, as the moving party in a trial de novo requested under
3660 Subsection (11), does not obtain a verdict that is at least \$5,000 and is at least 30% greater than
3661 the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.

3662 (b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall
3663 include:

3664 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

3665 (ii) the costs of expert witnesses and depositions.

3666 (c) An award of costs under this Subsection (13) may not exceed \$6,000.

3667 (14) (a) If a defendant, as the moving party in a trial de novo requested under
3668 Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award,
3669 the defendant is responsible for all of the nonmoving party's costs.

3670 (b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall
3671 include:

3672 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

3673 (ii) the costs of expert witnesses and depositions.

3674 (c) An award of costs under this Subsection (14) may not exceed \$6,000.

3675 (15) For purposes of determining whether a party's verdict is greater or less than the
3676 arbitration award under Subsections (13) and (14), a court may not consider any recovery or
3677 other relief granted on a claim for damages if the claim for damages:

3678 (a) was not fully disclosed in writing prior to the arbitration proceeding; or

3679 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
3680 Procedure.

3681 (16) If a [~~district~~] court determines, upon a motion of the nonmoving party, that the
3682 moving party's use of the trial de novo process was filed in bad faith as defined in Section
3683 [78B-5-825](#), the [~~district~~] court may award reasonable attorney fees to the nonmoving party.

3684 (17) Nothing in this section is intended to affect or prevent any first party claim from
3685 later being brought under any first party insurance policy under which the injured person is a
3686 covered person.

3687 (18) (a) If a defendant requests a trial de novo under Subsection (11), in no event can
3688 the total verdict at trial exceed \$15,000 above any available limits of insurance coverage and in
3689 no event can the total verdict exceed \$65,000.

3690 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may
3691 not exceed \$50,000.

3692 (19) All arbitration awards issued under this section shall bear postjudgment interest
3693 pursuant to Section 15-1-4.

3694 (20) If a party requests a trial de novo under Subsection (11), the party shall file a copy
3695 of the notice requesting a trial de novo with the commissioner notifying the commissioner of
3696 the party's request for a trial de novo under Subsection (11).

3697 Section 54. Section **32B-4-205** is amended to read:

3698 **32B-4-205. Prosecutions.**

3699 (1) (a) A prosecution for a violation of this title shall be in the name of the state.

3700 (b) A criminal action for violation of a county or municipal ordinance enacted in
3701 furtherance of this title shall be in the name of the governmental entity involved.

3702 (2) (a) A prosecution for violation of this title shall be brought by the county attorney
3703 of the county or district attorney of the prosecution district where the violation occurs. If a
3704 county attorney or district attorney fails to initiate or diligently pursue a prosecution authorized
3705 and warranted under this title, the attorney general shall exercise supervisory authority over the
3706 county attorney or district attorney to ensure prosecution is initiated and diligently pursued.

3707 (b) If a violation occurs within a city or town, prosecution may be brought by either the
3708 county, district, or city attorney, notwithstanding any provision of law limiting the powers of a
3709 city attorney.

3710 (c) A city or town prosecutor has the responsibility of initiating and diligently pursuing
3711 prosecutions for a violation of a local ordinance enacted in furtherance of this title or
3712 commission rules.

3713 (3) [~~(a) A prosecution for a violation of this title shall be commenced~~] Notwithstanding
3714 Section 76-1-201, a prosecuting attorney shall commence a prosecution by the return of an

3715 indictment or the filing of an information [~~with the district court of the~~] in a court with
3716 jurisdiction under Title 78A, Judiciary and Judicial Administration, in the county in which the
3717 offense occurs or where the premises are located upon which an alcoholic product is seized, if
3718 the offense involves an alcoholic product.

3719 ~~[(b) An offense prescribed by this title that is not described in Subsection (3)(a) shall~~
3720 ~~be filed before a court having jurisdiction of the offense committed.]~~

3721 (4) (a) Unless otherwise provided by law, an information may not be filed charging the
3722 commission of a felony or class A misdemeanor under this title unless authorized by a
3723 prosecuting attorney.

3724 (b) This Subsection (4) does not apply if the magistrate has reasonable cause to believe
3725 that the person to be charged may avoid apprehension or escape before approval can be
3726 obtained.

3727 (5) (a) In describing an offense respecting the sale, keeping for sale, or other disposal
3728 of an alcoholic product, or the possessing, keeping, purchasing, consumption, or giving of an
3729 alcoholic product in an information, indictment, summons, judgment, warrant, or proceeding
3730 under this title, it is sufficient to state the possessing, purchasing, keeping, sale, keeping for
3731 sale, giving, consumption, or disposal of the alcoholic product without stating:

- 3732 (i) the name or kind of alcoholic product;
3733 (ii) the price of the alcoholic product;
3734 (iii) any person to whom the alcoholic product is sold or disposed of;
3735 (iv) by whom the alcoholic product is taken or consumed; or
3736 (v) from whom the alcoholic product is purchased or received.

3737 (b) It is not necessary to state the quantity of alcoholic product possessed, purchased,
3738 kept, kept for sale, sold, given, consumed, or disposed of, except in the case of an offense when
3739 the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less
3740 than the quantity.

3741 (6) If an offense is committed under a local ordinance enacted to carry out this title, it
3742 is sufficient if the charging document refers to the chapter and section of the ordinance under
3743 which the offense is committed.

3744 Section 55. Section **34-20-10** is amended to read:

3745 **34-20-10. Unfair labor practices -- Powers of board to prevent -- Procedure.**

3746 (1) (a) The board may prevent any person from engaging in any unfair labor practice,
3747 as listed in Section 34-20-8, affecting intrastate commerce or the orderly operation of industry.

3748 (b) This authority is exclusive and is not affected by any other means of adjustment or
3749 prevention that has been or may be established by agreement, code, law, or otherwise.

3750 (2) The board shall comply with the procedures and requirements of Title 63G, Chapter
3751 4, Administrative Procedures Act, in its adjudicative proceedings.

3752 (3) When it is charged that any person has engaged in or is engaged in any unfair labor
3753 practice, the board, or any agent or agency designated by the board, may issue and serve a
3754 notice of agency action on that person.

3755 (4) (a) If, upon all the testimony taken, the board finds that any person named in the
3756 complaint has engaged in or is engaging in an unfair labor practice, the board shall state its
3757 findings of fact and shall issue and serve on the person an order to cease and desist from the
3758 unfair labor practice and to take other affirmative action designated by the commission,
3759 including reinstatement of employees with or without back pay, to effectuate the policies of
3760 this chapter.

3761 (b) The order may require the person to make periodic reports showing the extent to
3762 which it has complied with the order.

3763 (c) If, upon all the testimony taken, the board determines that no person named in the
3764 complaint has engaged in or is engaging in any unfair labor practice, the board shall state its
3765 findings of fact and shall issue an order dismissing the complaint.

3766 (5) (a) The board may petition [~~the district court~~] a court with jurisdiction under Title
3767 78A, Judiciary and Judicial Administration, to enforce the order and for appropriate temporary
3768 relief or for a restraining order.

3769 (b) The board shall certify and file in the court:

3770 (i) a transcript of the entire record in the proceeding;

3771 (ii) the pleadings and testimony upon which the order was entered; and

3772 (iii) the findings and order of the board.

3773 (c) When the petition is filed, the board shall serve notice on all parties to the action.

3774 (d) Upon filing of the petition, the court has jurisdiction of the proceeding and of the
3775 question to be determined.

3776 (e) The court may grant temporary relief or a restraining order, and, based upon the

3777 pleadings, testimony, and proceedings set forth in the transcript, order that the board's order be
3778 enforced, modified, or set aside in whole or in part.

3779 (f) The court may not consider any objection that was not presented before the board,
3780 its member, agent, or agency, unless the failure or neglect to urge the objection is excused
3781 because of extraordinary circumstances.

3782 (g) The board's findings of fact, if supported by evidence, are conclusive.

3783 (h) (i) If either party applies to the court for leave to adduce additional evidence, and
3784 shows to the satisfaction of the court that the additional evidence is material and that there were
3785 reasonable grounds for the failure to adduce the evidence in the hearing before the board, its
3786 member, agent, or agency, the court may order additional evidence to be taken before the
3787 board, its member, agent, or agency, and to be made part of the transcript.

3788 (ii) The board may modify its findings as to the facts, or make new findings, because of
3789 the additional evidence taken and filed.

3790 (iii) The board shall file the modified or new findings, which, if supported by evidence,
3791 are conclusive, and shall file its recommendations, if any, for the modification or setting aside
3792 of its original order.

3793 Section 56. Section 34-20-11 is amended to read:

3794 **34-20-11. Hearings and investigations -- Power of board -- Witnesses --**

3795 **Procedure.**

3796 For the purpose of all hearings and investigations, which, in the opinion of the board,
3797 are necessary and proper for the exercise of the powers vested in it by Sections 34-20-9 and
3798 34-20-10:

3799 (1) The board, or its duly authorized agents or agencies, shall at all reasonable times
3800 have access to, for the purpose of examination, and the right to copy, any evidence of any
3801 person being investigated or proceeded against that relates to any matter under investigation or
3802 in question. Any member of the board shall have power to issue subpoenas requiring the
3803 attendance and testimony of witnesses and the production of any evidence that relates to any
3804 matter under investigation or in question, before the board, its member, agent, or agency
3805 conducting the hearing or investigation. Any member of the board, or any agent or agency
3806 designated by the board, for these purposes, may administer oaths and affirmations, examine
3807 witnesses, and receive evidence. Attendance of witnesses and the production of evidence may

3808 be required from any place in the state at any duly designated place of hearing.

3809 (2) (a) In case of contumacy or refusal to obey a subpoena issued to any person, [~~any~~
3810 ~~district court of Utah within the jurisdiction of which the inquiry is carried on or within the~~
3811 ~~jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or~~
3812 ~~transacts business upon application by the board shall have jurisdiction to issue to the person] a
3813 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may issue an
3814 order requiring the person to:~~

3815 (i) appear before the board, [~~its~~] or the board's member, agent, or agency, to produce
3816 evidence if so ordered[~~;-or to~~]; or

3817 (ii) give testimony touching the matter under investigation or in question[~~;-and any~~].

3818 (b) A failure to obey the order of the court may be punished by the court as a contempt.

3819 (3) In the event a witness asserts a privilege against self-incrimination, testimony and
3820 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of
3821 Immunity.

3822 (4) Complaints, orders, and other processes and papers of the board, its member, agent,
3823 or agency, may be served either personally, by certified or registered mail, by telegraph, or by
3824 leaving a copy at the principal office or place of business of the person required to be served.
3825 The verified return by the individual serving the documents setting forth the manner of the
3826 service shall be proof of the service, and the return post office receipt or telegram receipt when
3827 certified or registered and mailed or telegraphed shall be proof of service. Witnesses
3828 summoned before the board, its member, agent, or agency, shall be paid the same fees and
3829 mileage that are paid witnesses in the courts of the state, and witnesses whose depositions are
3830 taken and the persons taking them shall be entitled to the same fees paid for the same services
3831 in the courts of the state.

3832 (5) All departments and agencies of the state, when directed by the governor, shall
3833 furnish to the board, upon its request, all records, papers, and information in their possession
3834 relating to any matter before the board.

3835 Section 57. Section ~~34-28-9.5~~ is amended to read:

3836 **34-28-9.5. Private cause of action.**

3837 (1) Except as provided in Subsection (2), for a wage claim that is less than or equal to
3838 \$10,000, the employee shall exhaust the employee's administrative remedies described in

3839 Section 34-28-9 and rules made by the commission under Section 34-28-9 before the employee
3840 may file an action in [~~district court~~] a court with jurisdiction under Title 78A, Judiciary and
3841 Judicial Administration.

3842 (2) An employee may file an action for a wage claim in [~~district~~] a court without
3843 exhausting the administrative remedies described in Section 34-28-9 and rules made by the
3844 commission under Section 34-28-9 if:

3845 (a) the employee's wage claim is over \$10,000;

3846 (b) (i) the employee's wage claim is less than or equal to \$10,000;

3847 (ii) the employee asserts one or more additional claims against the same employer; and

3848 (iii) the aggregate amount of damages resulting from the claims described in this

3849 Subsection (2)(b) is greater than \$10,000; or

3850 (c) (i) in the same civil action, more than one employee files a wage claim against an
3851 employer; and

3852 (ii) the aggregate amount of the employees' combined wage claim is greater than
3853 \$10,000.

3854 (3) In an action under this section, the court may award an employee:

3855 (a) actual damages;

3856 (b) an amount equal to 2.5% of the unpaid wages owed to the employee, assessed daily
3857 for the lesser of:

3858 (i) the period beginning the day on which the court issues a final order and ending the
3859 day on which the employer pays the unpaid wages owed to the employee; or

3860 (ii) 20 days after the day on which the court issues a final order; and

3861 (c) a penalty described in Subsection 34-28-5(1)(c), if applicable.

3862 Section 58. Section 34A-1-407 is amended to read:

3863 **34A-1-407. Investigation of places of employment -- Violations of rules or orders**
3864 **-- Temporary injunction.**

3865 (1) (a) Upon complaint by any person that any employment or place of employment,
3866 regardless of the number of persons employed, is not safe for any employee or is in violation of
3867 state law, the commission shall refer the complaint for investigation and administrative action
3868 under:

3869 (i) Chapter 2, Workers' Compensation Act;

- 3870 (ii) Chapter 3, Utah Occupational Disease Act;
- 3871 (iii) Chapter 5, Utah Antidiscrimination Act;
- 3872 (iv) Chapter 6, Utah Occupational Safety and Health Act;
- 3873 (v) Chapter 7, Safety; or
- 3874 (vi) any combination of Subsections (1)(a)(i) through (v).
- 3875 (b) Notwithstanding Subsection (1)(a) and Title 40, Chapter 2, Coal Mine Safety Act,
- 3876 for any Utah mine subject to the Federal Mine Safety and Health Act, the sole duty of the
- 3877 commission is to notify the appropriate federal agency of the complaint.
- 3878 (2) Notwithstanding any other penalty provided in this title, if any employer, after
- 3879 receiving notice, fails or refuses to obey the rules or order of the commission relative to the
- 3880 protection of the life, health, or safety of any employee, ~~[the district court of Utah]~~ a court with
- 3881 jurisdiction under Title 78A, Judiciary and Judicial Administration, is empowered, upon
- 3882 petition of the commission to issue, ex parte and without bond, a temporary injunction
- 3883 restraining the further operation of the employer's business.
- 3884 Section 59. Section **34A-5-102** is amended to read:
- 3885 **34A-5-102. Definitions -- Unincorporated entities -- Joint employers --**
- 3886 **Franchisors.**
- 3887 (1) As used in this chapter:
- 3888 (a) "Affiliate" means the same as that term is defined in Section [16-6a-102](#).
- 3889 (b) "Apprenticeship" means a program for the training of apprentices including a
- 3890 program providing the training of those persons defined as apprentices by Section [35A-6-102](#).
- 3891 (c) "Bona fide occupational qualification" means a characteristic applying to an
- 3892 employee that:
- 3893 (i) is necessary to the operation; or
- 3894 (ii) is the essence of the employee's employer's business.
- 3895 ~~[(d) "Court" means:]~~
- 3896 ~~[(i) the district court in the judicial district of the state in which the asserted unfair~~
- 3897 ~~employment practice occurs; or]~~
- 3898 ~~[(ii) if the district court is not in session at that time, a judge of the court described in~~
- 3899 ~~Subsection (1)(d)(i).]~~
- 3900 (d) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial

3901 Administration.

3902 (e) "Director" means the director of the division.

3903 (f) "Disability" means a physical or mental disability as defined and covered by the
3904 Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

3905 (g) "Division" means the Division of Antidiscrimination and Labor.

3906 (h) "Employee" means a person applying with or employed by an employer.

3907 (i) (i) "Employer" means:

3908 (A) the state;

3909 (B) a political subdivision;

3910 (C) a board, commission, department, institution, school district, trust, or agent of the
3911 state or a political subdivision of the state; or3912 (D) a person employing 15 or more employees within the state for each working day in
3913 each of 20 calendar weeks or more in the current or preceding calendar year.

3914 (ii) "Employer" does not include:

3915 (A) a religious organization, a religious corporation sole, a religious association, a
3916 religious society, a religious educational institution, or a religious leader, when that individual
3917 is acting in the capacity of a religious leader;3918 (B) any corporation or association constituting an affiliate, a wholly owned subsidiary,
3919 or an agency of any religious organization, religious corporation sole, religious association, or
3920 religious society; or

3921 (C) the Boy Scouts of America or its councils, chapters, or subsidiaries.

3922 (j) "Employment agency" means a person:

3923 (i) undertaking to procure employees or opportunities to work for any other person; or

3924 (ii) holding the person out to be equipped to take an action described in Subsection
3925 (1)(j)(i).3926 (k) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec.
3927 105, of the federal government.

3928 (l) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

3929 (m) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

3930 (n) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

3931 (o) "Gender identity" has the meaning provided in the Diagnostic and Statistical

3932 Manual (DSM-5). A person's gender identity can be shown by providing evidence, including,
3933 but not limited to, medical history, care or treatment of the gender identity, consistent and
3934 uniform assertion of the gender identity, or other evidence that the gender identity is sincerely
3935 held, part of a person's core identity, and not being asserted for an improper purpose.

3936 (p) "Joint apprenticeship committee" means an association of representatives of a labor
3937 organization and an employer providing, coordinating, or controlling an apprentice training
3938 program.

3939 (q) "Labor organization" means an organization that exists for the purpose in whole or
3940 in part of:

3941 (i) collective bargaining;

3942 (ii) dealing with employers concerning grievances, terms or conditions of employment;

3943 or

3944 (iii) other mutual aid or protection in connection with employment.

3945 (r) "National origin" means the place of birth, domicile, or residence of an individual or
3946 of an individual's ancestors.

3947 (s) "On-the-job-training" means a program designed to instruct a person who, while
3948 learning the particular job for which the person is receiving instruction:

3949 (i) is also employed at that job; or

3950 (ii) may be employed by the employer conducting the program during the course of the
3951 program, or when the program is completed.

3952 (t) "Person" means:

3953 (i) one or more individuals, partnerships, associations, corporations, legal
3954 representatives, trusts or trustees, or receivers;

3955 (ii) the state; and

3956 (iii) a political subdivision of the state.

3957 (u) "Pregnancy, childbirth, or pregnancy-related conditions" includes breastfeeding or
3958 medical conditions related to breastfeeding.

3959 (v) "Presiding officer" means the same as that term is defined in Section [63G-4-103](#).

3960 (w) "Prohibited employment practice" means a practice specified as discriminatory,
3961 and therefore unlawful, in Section [34A-5-106](#).

3962 (x) "Religious leader" means an individual who is associated with, and is an authorized

3963 representative of, a religious organization or association or a religious corporation sole,
3964 including a member of clergy, a minister, a pastor, a priest, a rabbi, an imam, or a spiritual
3965 advisor.

3966 (y) "Retaliate" means the taking of adverse action by an employer, employment agency,
3967 labor organization, apprenticeship program, on-the-job training program, or vocational school
3968 against one of its employees, applicants, or members because the employee, applicant, or
3969 member:

3970 (i) opposes an employment practice prohibited under this chapter; or

3971 (ii) files charges, testifies, assists, or participates in any way in a proceeding,
3972 investigation, or hearing under this chapter.

3973 (z) "Sexual orientation" means an individual's actual or perceived orientation as
3974 heterosexual, homosexual, or bisexual.

3975 (aa) "Undue hardship" means an action that requires significant difficulty or expense
3976 when considered in relation to factors such as the size of the entity, the entity's financial
3977 resources, and the nature and structure of the entity's operation.

3978 (bb) "Unincorporated entity" means an entity organized or doing business in the state
3979 that is not:

3980 (i) an individual;

3981 (ii) a corporation; or

3982 (iii) publicly traded.

3983 (cc) "Vocational school" means a school or institution conducting a course of
3984 instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to
3985 pursue a manual, technical, industrial, business, commercial, office, personal services, or other
3986 nonprofessional occupations.

3987 (2) (a) For purposes of this chapter, an unincorporated entity that is required to be
3988 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to
3989 be the employer of each individual who, directly or indirectly, holds an ownership interest in
3990 the unincorporated entity.

3991 (b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,
3992 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption
3993 under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that

3994 the individual:

3995 (i) is an active manager of the unincorporated entity;

3996 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
3997 entity; or

3998 (iii) is not subject to supervision or control in the performance of work by:

3999 (A) the unincorporated entity; or

4000 (B) a person with whom the unincorporated entity contracts.

4001 (c) As part of the rules made under Subsection (2)(b), the commission may define:

4002 (i) "active manager";

4003 (ii) "directly or indirectly holds at least an 8% ownership interest"; and

4004 (iii) "subject to supervision or control in the performance of work."

4005 (3) For purposes of determining whether two or more persons are considered joint
4006 employers under this chapter, an administrative ruling of a federal executive agency may not be
4007 considered a generally applicable law unless that administrative ruling is determined to be
4008 generally applicable by a court of law, or adopted by statute or rule.

4009 (4) (a) For purposes of this chapter, a franchisor is not considered to be an employer of:

4010 (i) a franchisee; or

4011 (ii) a franchisee's employee.

4012 (b) With respect to a specific claim for relief under this chapter made by a franchisee or
4013 a franchisee's employee, this Subsection (4) does not apply to a franchisor under a franchise
4014 that exercises a type or degree of control over the franchisee or the franchisee's employee not
4015 customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks
4016 and brand.

4017 (5) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
4018 bring an action under this chapter in the judicial district in which the asserted unfair
4019 employment practice occurs if the action is brought in the district court.

4020 Section 60. Section **34A-6-202** is amended to read:

4021 **34A-6-202. Standards -- Procedure for issuance, modification, or revocation by**
4022 **division -- Emergency temporary standard -- Variances from standards -- Statement of**
4023 **reasons for administrator's actions -- Judicial review -- Priority for establishing**
4024 **standards.**

4025 (1) (a) The division, as soon as practicable, shall issue as standards any national
4026 consensus standard, any adopted federal standard, or any adopted Utah standard, unless it
4027 determines that issuance of the standard would not result in improved safety or health.

4028 (b) All codes, standards, and rules adopted under Subsection (1)(a) shall take effect 30
4029 days after publication unless otherwise specified.

4030 (c) If any conflict exists between standards, the division shall issue the standard that
4031 assures the greatest protection of safety or health for affected employees.

4032 (2) The division may issue, modify, or revoke any standard as follows:

4033 (a) The division shall publish a proposed rule issuing, modifying, or revoking an
4034 occupational safety or health standard and shall afford interested parties an opportunity to
4035 submit written data or comments as prescribed by Title 63G, Chapter 3, Utah Administrative
4036 Rulemaking Act. When the administrator determines that a rule should be issued, the division
4037 shall publish the proposed rule after the expiration of the period prescribed by the administrator
4038 for submission.

4039 (b) The administrator, in issuing standards for toxic materials or harmful physical
4040 agents under this subsection, shall set the standard which most adequately assures, to the extent
4041 feasible, on the basis of the best available evidence, that no employee will suffer material
4042 impairment of health or functional capacity even if the employee has regular exposure to the
4043 hazard during an employee's working life. Development of standards under this subsection
4044 shall be based upon research, demonstrations, experiments, and other information deemed
4045 appropriate. In addition to the attainment of the highest degree of health and safety protection
4046 for the employee, other considerations shall be the latest available scientific data in the field,
4047 the feasibility of the standards, and experience under this and other health and safety laws.
4048 Whenever practicable, the standard shall be expressed in terms of objective criteria and of the
4049 performance desired.

4050 (c) (i) Any employer may apply to the administrator for a temporary order granting a
4051 variance from a standard issued under this section. Temporary orders shall be granted only if
4052 the employer:

4053 (A) files an application which meets the requirements of Subsection (2)(c)(iv);

4054 (B) establishes that the employer is unable to comply with a standard by its effective
4055 date because of unavailability of professional or technical personnel or of materials and

4056 equipment needed for compliance with the standard or because necessary construction or
4057 alteration of facilities cannot be completed by the effective date;

4058 (C) establishes that the employer is taking all available steps to safeguard the
4059 employer's employees against hazards; and

4060 (D) establishes that the employer has an effective program for compliance as quickly as
4061 practicable.

4062 (ii) Any temporary order shall prescribe the practices, means, methods, operations, and
4063 processes which the employer shall adopt and use while the order is in effect and state in detail
4064 the employer's program for compliance with the standard. A temporary order may be granted
4065 only after notice to employees and an opportunity for a public hearing; provided, that the
4066 administrator may issue one interim order effective until a decision is made after public
4067 hearing.

4068 (iii) A temporary order may not be in effect longer than the period reasonably required
4069 by the employer to achieve compliance. In no case shall the period of a temporary order
4070 exceed one year.

4071 (iv) An application for a temporary order under Subsection (2)(c) shall contain:

4072 (A) a specification of the standard or part from which the employer seeks a variance;

4073 (B) a representation by the employer, supported by representations from qualified
4074 persons having first-hand knowledge of the facts represented, that the employer is unable to
4075 comply with the standard or some part of the standard;

4076 (C) a detailed statement of the reasons the employer is unable to comply;

4077 (D) a statement of the measures taken and anticipated with specific dates, to protect
4078 employees against the hazard;

4079 (E) a statement of when the employer expects to comply with the standard and what
4080 measures the employer has taken and those anticipated, giving specific dates for compliance;
4081 and

4082 (F) a certification that the employer has informed the employer's employees of the
4083 application by:

4084 (I) giving a copy to their authorized representative;

4085 (II) posting a statement giving a summary of the application and specifying where a
4086 copy may be examined at the place or places where notices to employees are normally posted;

4087 and

4088 (III) by other appropriate means.

4089 (v) The certification required under Subsection (2)(c)(iv) shall contain a description of
4090 how employees have been informed.

4091 (vi) The information to employees required under Subsection (2)(c)(v) shall inform the
4092 employees of their right to petition the division for a hearing.

4093 (vii) The administrator is authorized to grant a variance from any standard or some part
4094 of the standard when the administrator determines that it is necessary to permit an employer to
4095 participate in a research and development project approved by the administrator to demonstrate
4096 or validate new and improved techniques to safeguard the health or safety of workers.

4097 (d) (i) Any standard issued under this subsection shall prescribe the use of labels or
4098 other forms of warning necessary to ensure that employees are apprised of all hazards, relevant
4099 symptoms and emergency treatment, and proper conditions and precautions of safe use or
4100 exposure. When appropriate, a standard shall prescribe suitable protective equipment and
4101 control or technological procedures for use in connection with such hazards and provide for
4102 monitoring or measuring employee exposure at such locations and intervals, and in a manner
4103 necessary for the protection of employees. In addition, any such standard shall prescribe the
4104 type and frequency of medical examinations or other tests which shall be made available by the
4105 employer, or at the employer's cost, to employees exposed to hazards in order to most
4106 effectively determine whether the health of employees is adversely affected by exposure. If
4107 medical examinations are in the nature of research as determined by the division, the
4108 examinations may be furnished at division expense. The results of such examinations or tests
4109 shall be furnished only to the division; and, at the request of the employee, to the employee's
4110 physician.

4111 (ii) The administrator may by rule make appropriate modifications in requirements for
4112 the use of labels or other forms of warning, monitoring or measuring, and medical
4113 examinations warranted by experience, information, or medical or technological developments
4114 acquired subsequent to the promulgation of the relevant standard.

4115 (e) Whenever a rule issued by the administrator differs substantially from an existing
4116 national consensus standard, the division shall publish a statement of the reasons why the rule
4117 as adopted will better effectuate the purposes of this chapter than the national consensus

4118 standard.

4119 (f) Whenever a rule, standard, or national consensus standard is modified by the
4120 secretary so as to make less restrictive the federal Williams-Steiger Occupational Safety and
4121 Health Act of 1970, the less restrictive modification shall be immediately applicable to this
4122 chapter and shall be immediately implemented by the division.

4123 (3) (a) The administrator shall provide an emergency temporary standard to take
4124 immediate effect upon publication if the administrator determines that:

4125 (i) employees are exposed to grave danger from exposure to substances or agents
4126 determined to be toxic or physically harmful or from new hazards; and

4127 (ii) that the standard is necessary to protect employees from danger.

4128 (b) An emergency standard shall be effective until superseded by a standard issued in
4129 accordance with the procedures prescribed in this Subsection (3)(c).

4130 (c) Upon publication of an emergency standard the division shall commence a
4131 proceeding in accordance with Subsection (2) and the standard as published shall serve as a
4132 proposed rule for the proceedings. The division shall issue a standard under Subsection (3) no
4133 later than 120 days after publication of the emergency standard.

4134 (4) (a) Any affected employer may apply to the division for a rule or order for a
4135 variance from a standard issued under this section. Affected employees shall be given notice of
4136 each application and may participate in a hearing. The administrator shall issue a rule or order
4137 if the administrator determines on the record, after opportunity for an inspection where
4138 appropriate and a hearing, that the proponent of the variance has demonstrated by a
4139 preponderance of the evidence that the conditions, practices, means, methods, operations, or
4140 processes used or proposed to be used by an employer will provide employment and a
4141 workplace to the employer's employees that are as safe and healthful as those which would
4142 prevail if the employer complied with the standard.

4143 (b) The rule or order issued under Subsection (4)(a) shall prescribe the conditions the
4144 employer must maintain, and the practices, means, methods, operations and processes that the
4145 employer must adopt and use to the extent they differ from the standard in question.

4146 (c) A rule or order issued under Subsection (4)(a) may be modified or revoked upon
4147 application by an employer, employees, or by the administrator on its own motion, in the
4148 manner prescribed for its issuance under this Subsection (4) at any time after six months from

4149 its issuance.

4150 (5) The administrator shall include a statement of reasons for the administrator's
4151 actions when the administrator:

4152 (a) issues any code, standard, rule, or order;

4153 (b) grants any exemption or extension of time; or

4154 (c) compromises, mitigates, or settles any penalty assessed under this chapter.

4155 (6) Any person adversely affected by a standard issued under this section, at any time
4156 prior to 60 days after a standard is issued, may file a petition challenging [its] the standard's
4157 validity with [~~the district court having jurisdiction for judicial review~~] a court with jurisdiction
4158 under Title 78A, Judiciary and Judicial Administration. A copy of the petition shall be served
4159 upon the division by the petitioner. The filing of a petition may not, unless otherwise ordered
4160 by the court, operate as a stay of the standard. The determinations of the division shall be
4161 conclusive if supported by substantial evidence on the record as a whole.

4162 (7) In determining the priority for establishing standards under this section, the division
4163 shall give due regard to the urgency of the need for mandatory safety and health standards for
4164 particular industries, trades, crafts, occupations, businesses, workplaces or work environments.
4165 The administrator shall also give due regard to the recommendations of the Department of
4166 Health and Human Services about the need for mandatory standards in determining the priority
4167 for establishing the standards.

4168 Section 61. Section **38-1a-308** is amended to read:

4169 **38-1a-308. Intentional submission of excessive lien notice -- Criminal and civil**
4170 **liability.**

4171 (1) As used in this section, "residential project" means a project on real property:

4172 (a) for which a preconstruction service or construction work is provided; and

4173 (b) that consists of:

4174 (i) one single-family residence; or

4175 (ii) one multi-family residence that contains no more than four units.

4176 (2) A person is guilty of a class B misdemeanor if:

4177 (a) the person intentionally submits for recording a notice of preconstruction lien or
4178 notice of construction lien against any property containing a greater demand than the sum due;
4179 and

4180 (b) by submitting the notice, the person intends:

4181 (i) to cloud the title;

4182 (ii) to exact from the owner or person liable by means of the excessive notice of
4183 preconstruction or construction lien more than is due; or

4184 (iii) to procure any unjustified advantage or benefit.

4185 (3) (a) As used in this Subsection (3), "third party" means an owner, original
4186 contractor, or subcontractor.

4187 (b) In addition to any criminal penalty under Subsection (2), a person who submits a
4188 notice of preconstruction lien or notice of construction lien as described in Subsection (2) is
4189 liable to a third party who is affected by the notice of preconstruction lien or the notice of
4190 construction lien for twice the amount by which the lien notice exceeds the amount actually
4191 due or the actual damages incurred by the owner, original contractor, or subcontractor,
4192 whichever is greater.

4193 (4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the
4194 claim shall arbitrate in accordance with Subsections (5) through (15) if the notice of
4195 preconstruction lien, or the notice of construction lien, that is the subject of the claim is:

4196 (a) for a residential project; and

4197 (b) for \$50,000 or less.

4198 (5) (a) Unless otherwise agreed to by the parties, a claim that is submitted to arbitration
4199 under this section shall be resolved by a single arbitrator.

4200 (b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within
4201 60 days after the day on which an answer is filed.

4202 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
4203 (5)(b), the parties shall select a panel of three arbitrators.

4204 (d) If the parties select a panel of three arbitrators under Subsection (5)(c):

4205 (i) each side shall select one arbitrator; and

4206 (ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional
4207 arbitrator to be included in the panel.

4208 (6) Unless otherwise agreed to in writing:

4209 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected
4210 under Subsection (5)(b); or

4211 (b) if an arbitration panel is selected under Subsection (5)(d):

4212 (i) each party shall pay the fees and costs of that party's selected arbitrator; and

4213 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
4214 under Subsection (5)(d)(ii).

4215 (7) Except as otherwise provided in this section or otherwise agreed to by the parties,
4216 an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter
4217 11, Utah Uniform Arbitration Act.

4218 (8) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and
4219 the Utah Rules of Evidence shall apply to an arbitration proceeding under this section.

4220 (b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied
4221 liberally with the intent of resolving the claim in a timely and cost-efficient manner.

4222 (c) Subject to the provisions of this section, [~~discovery shall be conducted in~~
4223 ~~accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject~~
4224 ~~to the jurisdiction of the district court in which the claim is filed]~~ the parties shall conduct
4225 discovery in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.

4226 (d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an
4227 arbitration proceeding under this section shall be limited to the discovery available in a tier 1
4228 case under Rule 26 of the Utah Rules of Civil Procedure.

4229 (9) A written decision by a single arbitrator or by a majority of the arbitration panel
4230 shall constitute a final decision.

4231 (10) An arbitration award issued under this section:

4232 (a) shall be the final resolution of all excessive notice claims described in Subsection
4233 (3)(b) that are:

4234 (i) between the parties;

4235 (ii) for a residential project; and

4236 (iii) for \$50,000 or less; and

4237 (b) may be reduced to judgment by the court upon motion and notice, unless:

4238 (i) any party, within 20 days after the day on which the arbitration award is served, files
4239 a notice requesting a trial de novo in [~~district court~~] a court with jurisdiction under Title 78A,
4240 Judiciary and Judicial Administration; or

4241 (ii) the arbitration award has been satisfied.

4242 (11) (a) Upon filing a notice requesting a trial de novo under Subsection [(10)]

4243 (10)(b)(i):

4244 (i) unless otherwise stipulated to by the parties or ordered by the court, the parties are
4245 allowed an additional 60 days for discovery; and

4246 (ii) the claim shall proceed through litigation [~~pursuant to~~] in accordance with the Utah
4247 Rules of Civil Procedure and the Utah Rules of Evidence [~~in the district court~~].

4248 (b) The additional discovery time described in Subsection (11)(a)(i) shall run from the
4249 day on which the notice requesting a trial de novo is filed.

4250 (12) If the plaintiff, as the moving party in a trial de novo requested under Subsection
4251 [(10)] (10)(b)(i), does not obtain a verdict that is at least 10% greater than the arbitration
4252 award, the plaintiff is responsible for all of the nonmoving party's costs, including expert
4253 witness fees.

4254 (13) If a defendant, as the moving party in a trial de novo requested under Subsection
4255 [(10)] (10)(b)(i), does not obtain a verdict that is at least 10% less than the arbitration award,
4256 the defendant is responsible for all of the nonmoving party's costs, including expert witness
4257 fees.

4258 (14) If a [~~district~~] court determines, upon a motion of the nonmoving party, that the
4259 moving party's use of the trial de novo process was filed in bad faith, as defined in Section
4260 [78B-5-825](#), the [~~district~~] court may award reasonable attorney fees to the nonmoving party.

4261 (15) All arbitration awards issued under this section shall bear postjudgment interest
4262 pursuant to Section [15-1-4](#).

4263 Section 62. Section **38-1a-804** is amended to read:

4264 **38-1a-804. Notice of release of lien and substitution of alternate security.**

4265 (1) The owner of any interest in a project property that is subject to a recorded
4266 preconstruction or construction lien, or any original contractor or subcontractor affected by the
4267 lien, who disputes the correctness or validity of the lien may submit for recording a notice of
4268 release of lien and substitution of alternate security:

4269 (a) that meets the requirements of Subsection (2);

4270 (b) in the office of each applicable county recorder where the lien was recorded; and

4271 (c) at any time before the date that is 180 days after the first summons is served in an
4272 action to foreclose the preconstruction or construction lien for which the notice under this

4273 section is submitted for recording.

4274 (2) A notice of release of lien and substitution of alternate security recorded under
4275 Subsection (1) shall:

4276 (a) meet the requirements for the recording of documents in Title 57, Chapter 3,
4277 Recording of Documents;

4278 (b) reference the preconstruction or construction lien sought to be released, including
4279 the applicable entry number, book number, and page number; and

4280 (c) have as an attachment a surety bond or evidence of a cash deposit that:

4281 (i) (A) if a surety bond, is executed by a surety company that is treasury listed, A-rated
4282 by AM Best Company, and authorized to issue surety bonds in this state; or

4283 (B) if evidence of a cash deposit, meets the requirements established by rule by the
4284 Department of Commerce in accordance with Title 63G, Chapter 3, Utah Administrative
4285 Rulemaking Act;

4286 (ii) is in an amount equal to:

4287 (A) 150% of the amount claimed by the claimant under the preconstruction or
4288 construction lien or as determined under Subsection (7), if the lien claim is for \$25,000 or
4289 more;

4290 (B) 175% of the amount claimed by the claimant under the preconstruction or
4291 construction lien or as determined under Subsection (7), if the lien claim is for at least \$15,000
4292 but less than \$25,000; or

4293 (C) 200% of the amount claimed by the claimant under the preconstruction or
4294 construction lien or as determined under Subsection (7), if the lien claim is for less than
4295 \$15,000;

4296 (iii) is made payable to the claimant;

4297 (iv) is conditioned for the payment of:

4298 (A) the judgment that would have been rendered, or has been rendered against the
4299 project property in the action to enforce the lien; and

4300 (B) any costs and attorney fees awarded by the court; and

4301 (v) has as principal:

4302 (A) the owner of the interest in the project property; or

4303 (B) the original contractor or subcontractor affected by the lien.

4304 (3) (a) Upon the recording of the notice of release of lien and substitution of alternate
4305 security under Subsection (1), the real property described in the notice shall be released from
4306 the preconstruction lien or construction lien to which the notice applies.

4307 (b) A recorded notice of release of lien and substitution of alternate security is effective
4308 as to any amendment to the preconstruction or construction lien being released if the bond
4309 amount remains enough to satisfy the requirements of Subsection (2)(c)(ii).

4310 (4) (a) Upon the recording of a notice of release of lien and substitution of alternate
4311 security under Subsection (1), the person recording the notice shall serve a copy of the notice,
4312 together with any attachments, within 30 days upon the claimant.

4313 (b) If a suit is pending to foreclose the preconstruction or construction lien at the time
4314 the notice is served upon the claimant under Subsection (4)(a), the claimant shall, within 90
4315 days after the receipt of the notice, institute proceedings to add the alternate security as a party
4316 to the lien foreclosure suit.

4317 (5) The alternate security attached to a notice of release of lien shall be discharged and
4318 released upon:

4319 (a) the failure of the claimant to commence a suit against the alternate security within
4320 the same time as an action to enforce the lien under Section [38-1a-701](#);

4321 (b) the failure of the lien claimant to institute proceedings to add the alternate security
4322 as a party to a lien foreclosure suit within the time required by Subsection (4)(b);

4323 (c) the dismissal with prejudice of the lien foreclosure suit or suit against the alternate
4324 security as to the claimant; or

4325 (d) the entry of judgment against the claimant in:

4326 (i) a lien foreclosure suit; or

4327 (ii) suit against the alternate security.

4328 (6) If a copy of the notice of release of lien and substitution of alternate security is not
4329 served upon the claimant as provided in Subsection (4)(a), the claimant has six months after
4330 the discovery of the notice to commence an action against the alternate security, except that no
4331 action may be commenced against the alternate security after two years from the date the notice
4332 was recorded.

4333 (7) (a) (i) The owner of any interest in a project property that is subject to a recorded
4334 preconstruction or construction lien, or an original contractor or subcontractor affected by the

4335 lien, who disputes the amount claimed under a preconstruction or construction lien may
4336 petition [~~the district court in the county in which the notice of lien is recorded~~] a court with
4337 jurisdiction under Title 78A, Judiciary and Judicial Administration, for a summary
4338 determination of the correct amount owing under the lien for the sole purpose of providing
4339 alternate security.

4340 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
4341 bring a petition described in Subsection (7)(a)(i) in the county in which the notice of lien is
4342 recorded if the person brings the petition in the district court.

4343 (b) A petition under this Subsection (7) shall:

4344 (i) state with specificity the factual and legal bases for disputing the amount claimed
4345 under the preconstruction or construction lien; and

4346 (ii) be supported by a sworn affidavit and any other evidence supporting the petition.

4347 (c) A petitioner under Subsection (7)(a) shall, as provided in Utah Rules of Civil
4348 Procedure, Rule 4, serve on the claimant:

4349 (i) a copy of the petition; and

4350 (ii) a notice of hearing if a hearing is scheduled.

4351 (d) If a court finds a petition under Subsection (7)(a) insufficient, the court may
4352 dismiss the petition without a hearing.

4353 (e) If a court finds a petition under Subsection (7)(a) sufficient, the court shall schedule
4354 a hearing within 10 days to determine the correct amount claimed under the preconstruction or
4355 construction lien for the sole purpose of providing alternate security.

4356 (f) A claimant may:

4357 (i) attend a hearing held under this Subsection (7); and

4358 (ii) contest the petition.

4359 (g) A determination under this section is limited to a determination of the amount
4360 claimed under a preconstruction or construction lien for the sole purpose of providing alternate
4361 security and does not conclusively establish:

4362 (i) the amount to which the claimant is entitled;

4363 (ii) the validity of the claim; or

4364 (iii) any person's right to any other legal remedy.

4365 (h) If a court, in a proceeding under this Subsection (7), determines that the amount

4366 claimed under a preconstruction or construction lien is excessive, the court shall set the amount
4367 for the sole purpose of providing alternate security.

4368 (i) In an order under Subsection (7)(h), the court shall include a legal description of the
4369 project property.

4370 (j) A petitioner under this Subsection (7) may record a certified copy of any order
4371 issued under this Subsection (7) in the county in which the lien is recorded.

4372 (k) A court may not award attorney fees for a proceeding under this Subsection (7), but
4373 shall consider those attorney fees in any award of attorney fees under any other provision of
4374 this chapter.

4375 Section 63. Section **38-1a-805** is amended to read:

4376 **38-1a-805. Failure to file notice -- Petition to nullify preconstruction or**
4377 **construction lien -- Expedited proceeding.**

4378 (1) (a) An owner of an interest in a project property that is subject to a recorded
4379 preconstruction lien or a recorded construction lien may petition [~~the district court in the~~
4380 ~~county in which the project property is located]~~ a court with jurisdiction under Title 78A,
4381 Judiciary and Judicial Administration, for summary relief to nullify the preconstruction lien or
4382 the construction lien if:

4383 [~~(a)~~] (i) the owner claims that the preconstruction lien or the construction lien is invalid
4384 because:

4385 [~~(i)~~] (A) the lien claimant did not timely file a notice of preconstruction service under
4386 Section 38-1a-401; or

4387 [~~(ii)~~] (B) the lien claimant did not timely file a preliminary notice under Section
4388 38-1a-501;

4389 [~~(b)~~] (ii) the owner sent the lien claimant a written request to withdraw in accordance
4390 with Subsection (2); and

4391 [~~(c)~~] (iii) the lien claimant did not withdraw the preconstruction lien or the construction
4392 lien within 10 business days after the day on which the owner sent the written request to
4393 withdraw.

4394 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
4395 bring a petition described in Subsection (1)(a) in the county in which the project property is
4396 located if the person brings the petition in the district court.

- 4397 (2) A written request to withdraw described in Subsection (1) shall:
- 4398 (a) be delivered by certified mail to the lien claimant at the lien claimant's address
- 4399 provided in the recorded preconstruction lien or the recorded construction lien;
- 4400 (b) state the owner's name, address, and telephone number;
- 4401 (c) contain:
- 4402 (i) (A) the name of the county in which the property that is subject to the
- 4403 preconstruction lien or the construction lien is located; and
- 4404 (B) the tax parcel identification number of each parcel that is subject to the
- 4405 preconstruction lien or the construction lien; or
- 4406 (ii) a legal description of the property that is subject to the preconstruction lien or the
- 4407 construction lien;
- 4408 (d) state that the lien claimant has failed to timely file:
- 4409 (i) a notice of preconstruction service under Section [38-1a-401](#); or
- 4410 (ii) a preliminary notice under Section [38-1a-501](#);
- 4411 (e) request that the lien claimant withdraw the lien claimant's preconstruction lien or
- 4412 construction lien within 10 business days after the day on which the written request to
- 4413 withdraw is sent; and
- 4414 (f) state that if the lien claimant does not withdraw the preconstruction lien or the
- 4415 construction lien within 10 business days after the day on which the written request to
- 4416 withdraw is sent, the owner may petition a court to nullify the lien in an expedited proceeding
- 4417 under this section.
- 4418 (3) A petition under Subsection (1) shall:
- 4419 (a) state with specificity that:
- 4420 (i) the lien claimant's preconstruction lien or the lien claimant's construction lien is
- 4421 invalid because the lien claimant did not file a notice of preconstruction service or a
- 4422 preliminary notice, as applicable;
- 4423 (ii) the petitioner sent the lien claimant a written request to withdraw in accordance
- 4424 with Subsection (2); and
- 4425 (iii) the lien claimant did not withdraw the preconstruction lien or the construction lien
- 4426 within 10 business days after the day on which the owner sent the written request to withdraw;
- 4427 (b) be supported by a sworn affidavit of the petitioner; and

4428 (c) be served on the lien claimant, in accordance with the Rules of Civil Procedure,
4429 within three business days after the day on which the petitioner files the petition in the [district]
4430 court.

4431 (4) (a) If the court finds that a petition does not meet the requirements described in
4432 Subsection (3), the court may dismiss the petition without a hearing.

4433 (b) If the court finds that a petition meets the requirements described in Subsection (3),
4434 the court shall schedule an expedited hearing to determine whether the preconstruction lien or
4435 the construction lien is invalid because the lien claimant failed to file a notice of
4436 preconstruction service or a preliminary notice, as applicable.

4437 (5) (a) If the court grants a hearing, within three business days after the day on which
4438 the court schedules the hearing and at least seven business days before the day on which the
4439 hearing is scheduled, the petitioner shall serve on the lien claimant, in accordance with the
4440 Rules of Civil Procedure, a copy of the petition, notice of the hearing, and a copy of the court's
4441 order granting the expedited hearing.

4442 (b) The lien claimant may attend the hearing and contest the petition.

4443 (6) An expedited proceeding under this section may only determine:

4444 (a) whether the lien claimant filed a notice of preconstruction service or a preliminary
4445 notice; and

4446 (b) if the lien claimant failed to file a notice of preconstruction service or a preliminary
4447 notice, whether the lien claimant's preconstruction lien or construction lien is valid.

4448 (7) (a) If, following a hearing, the court determines that the preconstruction lien or the
4449 construction lien is invalid, the court shall issue an order that:

4450 (i) contains a legal description of the property;

4451 (ii) declares the preconstruction lien or the construction lien void ab initio;

4452 (iii) releases the property from the lien; and

4453 (iv) awards costs and reasonable attorney fees to the petitioner.

4454 (b) The petitioner may submit a copy of an order issued under Subsection (7)(a) to the
4455 county recorder for recording.

4456 (8) (a) If, following a hearing, the court determines that the preconstruction lien or the
4457 construction lien is valid, the court shall:

4458 (i) dismiss the petition; and

- 4459 (ii) award costs and reasonable attorney fees to the lien claimant.
- 4460 (b) The dismissal order shall contain a legal description of the property.
- 4461 (c) The lien claimant may submit a copy of the dismissal order to the county recorder
- 4462 for recording.
- 4463 (9) If a petition under this section contains a claim for damages, the proceedings related
- 4464 to the claim for damages may not be expedited under this section.
- 4465 Section 64. Section **38-2-4** is amended to read:
- 4466 **38-2-4. Disposal of property by lienholder -- Procedure.**
- 4467 (1) Any party holding a lien upon personal property as provided in this chapter may
- 4468 dispose of the property in the manner provided in Subsection (2).
- 4469 (2) (a) The lienor shall give notice to the owner of the property, to the customer as
- 4470 indicated on the work order, and to all other persons claiming an interest in or lien on it, as
- 4471 disclosed by the records of the Motor Vehicle Division, lieutenant governor's office, or of
- 4472 corresponding agencies of any other state in which the property appears registered or an interest
- 4473 in or lien on it is evidenced if known by the lienor.
- 4474 (b) The notice shall be sent by certified mail at least 30 days before the proposed or
- 4475 scheduled date of any sale and shall contain:
- 4476 (i) a description of the property and its location;
- 4477 (ii) the name and address of the owner of the property, the customer as indicated on the
- 4478 work order, and any person claiming an interest in or lien on the property;
- 4479 (iii) the name, address, and telephone number of the lienor;
- 4480 (iv) notice that the lienor claims a lien on the property for labor and services performed
- 4481 and interest and storage fees charged, if any, and the cash sum which, if paid to the lienor,
- 4482 would be sufficient to redeem the property from the lien claimed by the lienor;
- 4483 (v) notice that the lien claimed by the lienor is subject to enforcement under this
- 4484 section and that the property may be sold to satisfy the lien;
- 4485 (vi) the date, time, and location of any proposed or scheduled sale of the property and
- 4486 whether the sale is private or public, except that no property may be sold earlier than 45 days
- 4487 after completion of the repair work; and
- 4488 (vii) notice that the owner of the property has a right to recover possession of the
- 4489 property without instituting judicial proceedings by posting bond.

4490 (3) If the owner of the property is unknown or his whereabouts cannot be determined,
4491 or if the owner or any person notified under Subsection (2) fails to acknowledge receipt of the
4492 notice, the lienor, at least 20 days before the proposed or scheduled date of sale of the property,
4493 shall publish the notice required by this section once in a newspaper circulated in the county
4494 where the vehicle is held.

4495 (4) A lienee may have his property released from any lien claimed on it under this
4496 chapter by filing with the clerk of a [~~justice court or district~~] court a cash or surety bond,
4497 payable to the person claiming the lien, and conditioned for the payment of any judgment that
4498 may be recovered on the lien, with costs, interest, and storage fees.

4499 (5) (a) The lienor has 60 days after receiving notice that the lienee has filed the bond
4500 provided in Subsection (4) to file suit to foreclose his lien.

4501 (b) If the lienor fails to timely file an action, the clerk of the court shall release the
4502 bond.

4503 (6) Property subject to lien enforcement under this section may be sold by the lienor at
4504 public or private sale; however, in the case of a private sale, every aspect of the sale, including
4505 the method, manner, time, place, and terms shall be commercially reasonable.

4506 (7) This section may not be construed to affect an owner's right to redeem his property
4507 from the lien at any time prior to sale by paying the amount claimed by the lienor for work
4508 done, interest, and storage fees charged and any costs incurred by the repair shop for using
4509 enforcement procedures under this section.

4510 Section 65. Section **38-9-204** is amended to read:

4511 **38-9-204. Petition to file lien -- Notice to record interest holders -- Summary relief**
4512 **-- Contested petition.**

4513 (1) A lien claimant whose document is rejected pursuant to Section **38-9-202** may
4514 petition [~~the district court~~] a court with jurisdiction under Title 78A, Judiciary and Judicial
4515 Administration, for an expedited determination that the lien may be recorded.

4516 (2) A petition under Subsection (1) shall:

4517 (a) be filed:

4518 (i) [~~with the district court~~] notwithstanding Title 78B, Chapter 3a, Venue for Civil
4519 Actions, in the county of the county recorder who refused to record the document if the petition
4520 is filed in the district court; and

4521 (ii) within 10 days after the day on which the person who files the petition receives the
4522 notice under Subsection 38-9-202(1)(b) of the county recorder's refusal to record the document;

4523 (b) state with specificity the grounds why the document should lawfully be recorded;
4524 and

4525 (c) be supported by a sworn affidavit of the lien claimant.

4526 (3) If the court finds the petition is insufficient, it may dismiss the petition without a
4527 hearing.

4528 (4) (a) If the court grants a hearing, the petitioner shall, by certified or registered mail,
4529 serve a copy of the petition, notice of hearing, and a copy of the court's order granting an
4530 expedited hearing on all record interest holders of the property sufficiently in advance of the
4531 hearing to enable any record interest holder to attend the hearing.

4532 (b) Any record interest holder of the property has the right to attend and contest the
4533 petition.

4534 (5) (a) If, following a hearing, the court finds that the document may lawfully be
4535 recorded, the court shall issue an order directing the county recorder to accept the document for
4536 recording.

4537 (b) If the petition is contested, the court may award costs and reasonable attorney fees
4538 to the prevailing party.

4539 (6) (a) A summary proceeding under this section:

4540 (i) may only determine whether a contested document, on its face, shall be recorded by
4541 the county recorder; and

4542 (ii) may not determine the truth of the content of the document or the property or legal
4543 rights of the parties beyond the necessary determination of whether the document shall be
4544 recorded.

4545 (b) A court's grant or denial of a petition under this section may not restrict any other
4546 legal remedies of any party, including any right to injunctive relief pursuant to Rules of Civil
4547 Procedure, Rule 65A, Injunctions.

4548 (7) If a petition under this section contains a claim for damages, the proceedings related
4549 to the claim for damages may not be expedited under this section.

4550 Section 66. Section 38-9-205 is amended to read:

4551 **38-9-205. Petition to nullify lien -- Notice to lien claimant -- Summary relief --**

4552 **Finding of wrongful lien -- Wrongful lien is void.**

4553 (1) (a) A record interest holder of real property against which a wrongful lien is
4554 recorded may petition [~~the district court in the county in which the document is recorded~~] a
4555 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for summary
4556 relief to nullify the wrongful lien.

4557 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a record interest
4558 holder shall bring a petition described in Subsection (1)(a) in the county in which the document
4559 is recorded if the person brings the petition in the district court.

4560 (2) The petition described in Subsection (1) shall state with specificity the claim that
4561 the lien is a wrongful lien and shall be supported by a sworn affidavit of the record interest
4562 holder.

4563 (3) (a) If the court finds the petition insufficient, the court may dismiss the petition
4564 without a hearing.

4565 (b) If the court finds the petition is sufficient, the court shall schedule a hearing within
4566 10 days to determine whether the document is a wrongful lien.

4567 (c) The record interest holder shall serve a copy of the petition on the lien claimant and
4568 a copy of a notice of the hearing pursuant to Rules of Civil Procedure, Rule 4, Process.

4569 (d) The lien claimant is entitled to attend and contest the petition.

4570 (4) A summary proceeding under this section:

4571 (a) may only determine whether a document is a wrongful lien; and

4572 (b) may not determine any other property or legal rights of the parties or restrict other
4573 legal remedies of any party.

4574 (5) (a) If, following a hearing, the court determines that the recorded document is a
4575 wrongful lien, the court shall issue an order declaring the wrongful lien void ab initio, releasing
4576 the property from the lien, and awarding costs and reasonable attorney fees to the petitioner.

4577 (b) (i) The record interest holder may submit a certified copy of the order to the county
4578 recorder for recording.

4579 (ii) The order shall contain a legal description of the real property.

4580 (c) If the court determines that the claim of lien is valid, the court shall dismiss the
4581 petition and may award costs and reasonable attorney's fees to the lien claimant. The dismissal
4582 order shall contain a legal description of the real property. The prevailing lien claimant may

4583 record a certified copy of the dismissal order.

4584 (6) If the court determines that the recorded document is a wrongful lien, the wrongful
4585 lien is void ab initio and provides no notice of claim or interest.

4586 (7) If a petition under this section contains a claim for damages, the proceedings related
4587 to the claim for damages may not be expedited under this section.

4588 Section 67. Section **38-9-303** is amended to read:

4589 **38-9-303. Enforcement proceeding required.**

4590 (1) (a) For a nonconsensual common law document recorded on or after May 13, 2014,
4591 within 10 business days after the day on which a document sponsor submits a nonconsensual
4592 common law document to the county recorder for recording, the document sponsor shall ~~[file a~~
4593 ~~complaint in district court in the county of the county recorder where the nonconsensual~~
4594 ~~common law document was recorded for a proceeding]~~ bring an action in a court with
4595 jurisdiction under Title 78A, Judiciary and Judicial Administration, to obtain an order that the
4596 nonconsensual common law document is valid and enforceable.

4597 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the document
4598 sponsor shall bring an action described in Subsection (1)(a) in the county of the county recorder
4599 where the nonconsensual common law document was recorded if the person brings the petition
4600 in the district court.

4601 (2) A complaint to initiate ~~[a judicial proceeding]~~ an action described in Subsection (1)
4602 shall:

4603 (a) state with specificity the grounds that make the nonconsensual common law
4604 document valid and enforceable;

4605 (b) be supported by the document sponsor's sworn affidavit; and

4606 (c) name each affected person as an opposing party.

4607 (3) If the court finds that a complaint ~~[filed under Subsection (1)]~~ does not meet the
4608 requirements described in Subsection (2), the court may dismiss the complaint without a
4609 hearing.

4610 (4) If a complaint ~~[filed under Subsection (1)]~~ meets the requirements described in
4611 Subsection (2), the court:

4612 (a) shall hold a hearing;

4613 (b) following the hearing, shall issue an order that:

4614 (i) states whether the nonconsensual common law document is valid and enforceable;

4615 and

4616 (ii) includes a legal description of the real property that is the subject of the complaint;

4617 and

4618 (c) may award costs and reasonable attorney fees to the prevailing party.

4619 (5) Within three business days after the day on which the court issues a final order in a

4620 proceeding under this section, the prevailing party shall submit a copy of the court's final order

4621 to the county recorder for recording.

4622 (6) A nonconsensual common law document is presumed invalid and unenforceable.

4623 (7) A person's lack of belief in the jurisdiction or authority of the state or of the

4624 government of the United States is not a defense to liability under this section.

4625 (8) A court's order in [~~a proceeding~~] an action under this section does not restrict any

4626 other legal remedies available to any party, including any right to injunctive relief under Utah

4627 Rules of Civil Procedure, Rule 65A, Injunctions.

4628 Section 68. Section **38-9a-201** is amended to read:

4629 **38-9a-201. Wrongful lien injunction -- Forms.**

4630 (1) (a) Any person who believes that [~~he or she~~] the person is the victim of a wrongful

4631 lien may file a verified written petition for a civil wrongful lien injunction against the person

4632 filing, making, or uttering the lien, notice of interest, or other encumbrance in [~~the district court~~

4633 ~~in the district in which the petitioner or respondent resides or in which any of the events~~

4634 ~~occurred~~] in a court with jurisdiction under [Title 78A, Judiciary and Judicial Administration](#).

4635 (b) A minor accompanied by [~~his or her~~] the minor's parent or guardian may file a

4636 petition on [~~his or her~~] the minor's own behalf, or a parent, guardian, or custodian may file a

4637 petition on the minor's behalf.

4638 (2) (a) (i) The Administrative Office of the Courts shall develop and adopt forms for

4639 petitions, ex parte civil wrongful lien injunctions, civil wrongful lien injunctions, service, and

4640 any other necessary forms in accordance with the provisions of this chapter on or before May 2,

4641 2005.

4642 (ii) The office shall provide the forms adopted under Subsection (2)(a)(i) to the clerk of

4643 each district court.

4644 (b) The court clerks shall provide the forms to persons seeking to proceed under this

4645 chapter.

4646 (c) The [district] courts shall issue all petitions, injunctions, ex parte injunctions, and
4647 any other necessary forms in the form prescribed by the Administrative Office of the Courts.

4648 Section 69. Section **38-9a-202** is amended to read:

4649 **38-9a-202. Petition for wrongful lien injunction -- Ex parte injunction.**

4650 (1) The petition for a civil wrongful lien injunction shall include:

4651 (a) the name of the petitioner, except that at the petitioner's request his or her address
4652 shall be disclosed to the court for purposes of service, but may not be listed on the petition, and
4653 shall be maintained in a separate document or automated database, not subject to release,
4654 disclosure, or any form of public access except as ordered by the court for good cause shown;

4655 (b) the name and address, if known, of the respondent;

4656 (c) specific actions and dates of the actions constituting the alleged wrongful lien;

4657 (d) if there is a prior court order concerning the same conduct, the name of the court in
4658 which the order was rendered; and

4659 (e) corroborating evidence of a wrongful lien, which may be in the form of a police
4660 report, affidavit, record, statement, item, letter, copy of the lien, or any other evidence which
4661 tends to prove the allegation of wrongful lien.

4662 (2) If the court determines there is reason to believe that a wrongful lien has been
4663 made, uttered, recorded, or filed, the court may issue an ex parte civil wrongful lien injunction
4664 that includes any of the following:

4665 (a) enjoining the respondent from making, uttering, recording, or filing any further
4666 liens without specific permission of the court;

4667 (b) ordering that the lien be nullified; and

4668 (c) any other relief necessary or convenient for the protection of the petitioner and
4669 other specifically designated persons under the circumstances.

4670 (3) An ex parte civil wrongful lien injunction issued under this section shall state on its
4671 face:

4672 (a) that the respondent is entitled to a hearing, upon written request filed with the court
4673 within 10 days of the service of the injunction;

4674 (b) the name and address of the [district] court where the request may be filed;

4675 (c) that if the respondent fails to request a hearing within 10 days of service, the ex

4676 parte civil wrongful lien injunction is automatically modified to a civil wrongful lien injunction
4677 without further notice to the respondent and that the civil wrongful lien injunction expires three
4678 years after service on the respondent;

4679 (d) the following statement: "Attention. This is an official court order. If you disobey
4680 this order, the court may find you in contempt. You may also be arrested and prosecuted for
4681 the crime of making a wrongful lien and any other crime you may have committed in
4682 disobeying this order."; and

4683 (e) that if the respondent requests, in writing, a hearing after the ten-day period
4684 specified in Subsection (3)(a) the court shall set a hearing within a reasonable time from the
4685 date the hearing is requested.

4686 (4) The ex parte civil wrongful lien injunction shall be served on the respondent within
4687 90 days after the date it is signed, and is effective upon service.

4688 Section 70. Section **38-9a-205** is amended to read:

4689 **38-9a-205. Remedies -- Actions arising from injunctions -- Attorney fees.**

4690 (1) The remedies provided in this chapter for enforcement of the orders of the court are
4691 in addition to any other civil and criminal remedies available.

4692 [~~(2) The district court shall hear and decide all matters arising pursuant to this chapter.~~]

4693 [(3)] (2) After a hearing with notice to the affected party, the court may enter an order
4694 requiring any party to pay the costs of the action, including reasonable attorney's fees.

4695 Section 71. Section **38-11-110** is amended to read:

4696 **38-11-110. Issuance of certificates of compliance.**

4697 (1) (a) The director may issue a certificate of compliance only after determining
4698 through an informal proceeding, as set forth in Title 63G, Chapter 4, Administrative
4699 Procedures Act:

4700 (i) that the owner is in compliance with Subsections **38-11-204(4)(a)** and (b); or

4701 (ii) subject to Subsection (2), that the owner is entitled to protection under Subsection
4702 **38-11-107(1)(b)**.

4703 (b) If the director determines through an informal proceeding under Subsection (1)(a)
4704 that an owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(i) is
4705 not in compliance as provided in Subsection (1)(a)(i), the director may not issue a certificate of
4706 compliance.

4707 (2) (a) An owner seeking the issuance of a certificate of compliance under Subsection
4708 (1)(a)(ii) shall submit an affidavit, as defined by the division by rule, affirming that the owner
4709 is entitled to protection under Subsection 38-11-107(1)(b).

4710 (b) If an owner's affidavit under Subsection (2)(a) is disputed, the owner may file a
4711 complaint in [~~small claims court or district court~~] a court with jurisdiction under Title 78A,
4712 Judiciary and Judicial Administration, to resolve the dispute.

4713 (c) The director may issue a certificate of compliance to an owner seeking issuance of a
4714 certificate under Subsection (1)(a)(ii) if:

4715 (i) the owner's affidavit under Subsection (2)(a) is undisputed; or

4716 (ii) [~~a small claims court or district court~~] a court resolves any dispute over the owner's
4717 affidavit in favor of the owner.

4718 Section 72. Section 40-8-9 is amended to read:

4719 **40-8-9. Evasion of chapter or orders -- Penalties -- Limitations of actions --**
4720 **Violation of chapter or permit conditions -- Inspection -- Cessation order, abatement**
4721 **notice, or show cause order -- Suspension or revocation of permit -- Review -- Division**
4722 **enforcement authority -- Appeal provisions.**

4723 (1) (a) A person, owner, or operator who willfully or knowingly evades this chapter, or
4724 who for the purpose of evading this chapter or any order issued under this chapter, willfully or
4725 knowingly makes or causes to be made any false entry in any report, record, account, or
4726 memorandum required by this chapter, or by the order, or who willfully or knowingly omits or
4727 causes to be omitted from a report, record, account, or memorandum, full, true, and correct
4728 entries as required by this chapter, or by the order, or who willfully or knowingly removes from
4729 this state or destroys, mutilates, alters, or falsifies any record, account, or memorandum, is
4730 guilty of a class B misdemeanor and, upon conviction, is subject to a fine of not more than
4731 \$10,000 for each violation.

4732 (b) Each day of willful failure to comply with an emergency order is a separate
4733 violation.

4734 (2) No suit, action, or other proceeding based upon a violation of this chapter, or any
4735 rule or order issued under this chapter, may be commenced or maintained unless the suit,
4736 action, or proceeding is commenced within five years from the date of the alleged violation.

4737 (3) (a) If, on the basis of information available, the division has reason to believe that a

4738 person is in violation of a requirement of this chapter or a permit condition required by this
4739 chapter, the division shall immediately order inspection of the mining operation at which the
4740 alleged violation is occurring, unless the information available to the division is a result of a
4741 previous inspection of the mining operation.

4742 (b) (i) If, on the basis of an inspection, the division determines that a condition or
4743 practice exists, or that a permittee is in violation of a requirement of this chapter or a permit
4744 condition required by this chapter, and the condition, practice, or violation also creates an
4745 imminent danger to the health or safety of the public, or is causing, or can reasonably be
4746 expected to cause significant, imminent environmental harm to land, air, or water resources,
4747 the division shall immediately order a cessation of mining and operations or the portion
4748 relevant to the condition, practice, or violation.

4749 (ii) The cessation order shall remain in effect until the division determines that the
4750 condition, practice, or violation has been abated, or until modified, vacated, or terminated by
4751 the division.

4752 (iii) If the division finds that the ordered cessation of mining operations, or a portion of
4753 the operation, will not completely abate the imminent danger to the health or safety of the
4754 public or the significant imminent environmental harm to land, air, or water resources, the
4755 division shall, in addition to the cessation order, impose affirmative obligations on the operator
4756 requiring him to take whatever steps the division considers necessary to abate the imminent
4757 danger or the significant environmental harm.

4758 (c) (i) If, on the basis of an inspection, the division determines that a permittee is in
4759 violation of a requirement of this chapter or a permit condition required by this chapter, but the
4760 violation does not create an imminent danger to the health or safety of the public or cannot be
4761 reasonably expected to cause significant, imminent environmental harm to land, air, or water
4762 resources, the division shall issue a notice to the permittee or his agent specifying a reasonable
4763 time, but not more than 90 days, for the abatement of the violation and providing an
4764 opportunity for a conference with the division.

4765 (ii) If, upon expiration of the period of time as originally fixed or subsequently
4766 extended, for good cause shown, and upon the written finding of the division, the division finds
4767 that the violation has not been abated, it shall immediately order a cessation of mining
4768 operations or the portion of the mining operation relevant to the violation.

4769 (iii) The cessation order shall remain in effect until the division determines that the
4770 violation has been abated or until modified, vacated, or terminated by the division pursuant to
4771 this Subsection (3).

4772 (iv) In the order of cessation issued by the division under this Subsection (3), the
4773 division shall determine the steps necessary to abate the violation in the most expeditious
4774 manner possible and shall include the necessary measures in the order.

4775 (d) (i) Notices and orders issued under this section shall set forth with reasonable
4776 specificity:

4777 (A) the nature of the violation and the remedial action required;

4778 (B) the period of time established for abatement; and

4779 (C) a reasonable description of the portion of the mining and reclamation operation to
4780 which the notice or order applies.

4781 (ii) Each notice or order issued under this section shall be given promptly to the
4782 permittee or his agent by the division, and the notices and orders shall be in writing and shall
4783 be signed by the director, or his authorized representative who issues notices or orders.

4784 (iii) A notice or order issued under this section may be modified, vacated, or
4785 terminated by the division, but any notice or order issued under this section which requires
4786 cessation of mining by the operator shall expire within 30 days of the actual notice to the
4787 operator, unless a conference is held with the division.

4788 (4) (a) The division may request the attorney general to institute a civil action for relief,
4789 including a permanent or temporary injunction, restraining order, or any other appropriate order
4790 in [~~the district court for the district in which the mining and reclamation operation is located, or~~
4791 ~~in which the permittee of the operation has his principal office,]~~ a court with jurisdiction under
4792 Title 78A, Judiciary and Judicial Administration, if the permittee or [~~his~~] the permittee's agent:

4793 (i) violates or fails or refuses to comply with an order or decision issued by the division
4794 under this chapter;

4795 (ii) interferes with, hinders, or delays the division, or its authorized representatives, in
4796 carrying out the provisions of this chapter;

4797 (iii) refuses to admit the authorized representatives to the mine;

4798 (iv) refuses to permit inspection of the mine by the authorized representative; or

4799 (v) refuses to furnish any information or report requested by the division in furtherance

4800 of the provisions of this chapter.

4801 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
4802 general brings the action described in Subsection (4)(a) in the district court, the attorney
4803 general shall bring the action in the county in which:

4804 (i) the mining and reclamation operation is located; or

4805 (ii) the permittee of the operation has the permittee's principal office.

4806 [~~(b)~~] (c) (i) The court shall have jurisdiction to provide the appropriate relief.

4807 (ii) Relief granted by the court to enforce an order under Subsection (4)(a)(i) shall
4808 continue in effect until the completion or final termination of all proceedings for review of that
4809 order under this chapter, unless, prior to this completion or termination, the [~~district~~] court
4810 granting the relief sets it aside or modifies the order.

4811 (5) (a) (i) A permittee issued a notice or order by the division, pursuant to the
4812 provisions of Subsections (3)(b) and (3)(c), or a person having an interest which may be
4813 adversely affected by the notice or order, may apply to the board for review of the notice or
4814 order within 30 days of receipt of the notice or order, or within 30 days of a modification,
4815 vacation, or termination of the notice or order.

4816 (ii) Upon receipt of this application, the board shall pursue an investigation as it
4817 considers appropriate.

4818 (iii) The investigation shall provide an opportunity for a public hearing at the request of
4819 the applicant or the person having an interest which is or may be adversely affected, to enable
4820 the applicant or that person to present information relating to the issuance and continuance of
4821 the notice or order of the modification, vacation, or termination of the notice or order.

4822 (iv) The filing of an application for review under this Subsection (5)(a) shall not
4823 operate as a stay of an order or notice.

4824 (b) (i) The permittee and other interested persons shall be given written notice of the
4825 time and place of the hearing at least five days prior to the hearing.

4826 (ii) This hearing shall be of record and shall be subject to judicial review.

4827 (c) (i) Pending completion of the investigation and hearing required by this section, the
4828 applicant may file with the board a written request that the board grant temporary relief from
4829 any notice or order issued under this section, with a detailed statement giving the reasons for
4830 granting this relief.

4831 (ii) The board shall issue an order or decision granting or denying this relief
4832 expeditiously.

4833 (d) (i) Following the issuance of an order to show cause as to why a permit should not
4834 be suspended or revoked pursuant to this section, the board shall hold a public hearing, after
4835 giving written notice of the time, place, and date of the hearing.

4836 (ii) The hearing shall be of record and shall be subject to judicial review.

4837 (iii) Within 60 days following the public hearing, the board shall issue and furnish to
4838 the permittee and all other parties to the hearing, a written decision, and the reasons for the
4839 decision, regarding suspension or revocation of the permit.

4840 (iv) If the board revokes the permit, the permittee shall immediately cease mining
4841 operations on the permit area and shall complete reclamation within a period specified by the
4842 board, or the board shall declare the performance bonds forfeited for the operation.

4843 (e) An action taken by the board under this section, or any other provision of the state
4844 program, is subject to judicial review by a court with jurisdiction under Title 78A, Judiciary
4845 and Judicial Administration.

4846 [~~(e) Action by the board taken under this section or any other provision of the state~~
4847 ~~program shall be subject to judicial review by the appropriate district court within the state.]~~

4848 (6) A criminal proceeding for a violation of this chapter, or a regulation or order issued
4849 under this chapter, shall be commenced within five years from the date of the alleged violation.

4850 Section 73. Section **40-8-9.1** is amended to read:

4851 **40-8-9.1. Civil penalty for violation of chapter -- Informal conference -- Public**
4852 **hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties --**
4853 **Civil penalty for failure to correct violation -- Civil penalties.**

4854 (1) (a) (i) A permittee who violates a permit condition or other provision of this
4855 chapter, may be assessed a civil penalty by the division.

4856 (ii) If the violation leads to the issuance of a cessation order under [~~Section~~] Subsection
4857 40-8-9(3), the civil penalty shall be assessed.

4858 (b) (i) The penalty may not exceed \$5,000 for each violation.

4859 (ii) Each day of a continuing violation may be considered to be a separate violation for
4860 purposes of the penalty assessments.

4861 (c) In determining the amount of the penalty, consideration shall be given to:

4862 (i) the permittee's history of previous violations at the particular mining operation;
4863 (ii) the seriousness of the violation, including any irreparable harm to the environment
4864 and any hazard to the health or safety of the public;
4865 (iii) whether the permittee was negligent; and
4866 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid
4867 compliance after notification of the violation.

4868 (2) (a) Within 30 days after the issuance of a notice or order charging that a violation of
4869 this chapter has occurred, the division shall inform the permittee of the proposed assessment.

4870 (b) The person charged with the penalty shall then have 30 days to pay the proposed
4871 assessment in full, or request an informal conference with the division.

4872 (c) The informal conference held by the division may address either the amount of the
4873 proposed assessment or the fact of the violation, or both.

4874 (d) If the permittee who requested the informal conference and participated in the
4875 proceedings is not in agreement with the results of the informal conference, the permittee may,
4876 within 30 days of receipt of the decision made by the division in the informal conference,
4877 request a hearing before the board.

4878 (e) (i) Prior to any review of the proposed assessment or the fact of a violation by the
4879 board, and within 30 days of receipt of the decision made by the division in the informal
4880 conference, the permittee shall forward to the division the amount of the proposed assessment
4881 for placement in an escrow account.

4882 (ii) If the permittee fails to forward the amount of the penalty to the division within 30
4883 days of receipt of the results of the informal conference, the operator waives any opportunity
4884 for further review of the fact of the violation or to contest the amount of the civil penalty
4885 assessed for the violation.

4886 (iii) If, through administrative or judicial review, it is determined that no violation
4887 occurred or that the amount of the penalty should be reduced, the division shall, within 30 days,
4888 remit the appropriate amount to the operator with interest accumulated.

4889 (3) (a) A civil penalty assessed by the division shall be final only after the person
4890 charged with a violation described under Subsection (1) has been given an opportunity for a
4891 public hearing.

4892 (b) If a public hearing is held, the board shall make findings of fact and shall issue a

4893 written decision as to the occurrence of the violation and the amount of the penalty which is
4894 warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

4895 (c) When appropriate, the board shall consolidate the hearings with other proceedings
4896 under Section 40-8-9.

4897 (d) A hearing under this section shall be of record and shall be conducted pursuant to
4898 board rules governing the proceedings.

4899 (e) If the person charged with a violation does not attend the public hearing, a civil
4900 penalty shall be assessed by the division after the division:

4901 (i) has determined:

4902 (A) that a violation did occur; and

4903 (B) the amount of the penalty which is warranted; and

4904 (ii) has issued an order requiring that the penalty be paid.

4905 ~~[(4) Civil penalties owed under this chapter may be recovered in a civil action brought~~
4906 ~~by the attorney general of Utah at the request of the board in any appropriate district court of~~
4907 ~~the state.]~~

4908 (4) At the request of the board, the attorney general may bring a civil action in a court
4909 with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil
4910 penalty owed under this chapter.

4911 (5) Any person who willfully and knowingly violates a condition of a permit issued
4912 pursuant to this chapter or fails or refuses to comply with an order issued under Section 40-8-9,
4913 or any order incorporated in a final decision issued by the board under this chapter, except an
4914 order incorporated in a decision under Subsection (3), shall, upon conviction, be punished by a
4915 fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

4916 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to
4917 this chapter or fails or refuses to comply with any order incorporated in a final decision issued
4918 by the board under this chapter, except an order incorporated in a decision issued under
4919 Subsection (3), a director, officer, or agent of the corporation who willfully and knowingly
4920 authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same
4921 civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections
4922 (1) and (5).

4923 (7) Any person who knowingly makes a false statement, representation, or certification,

4924 or knowingly fails to make a statement, representation, or certification in an application,
4925 record, report, plan, or other document filed or required to be maintained pursuant to this
4926 chapter or an order or decision issued by the board under this chapter shall, upon conviction, be
4927 punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or
4928 both.

4929 (8) (a) An operator who fails to correct a violation for which a notice or cessation order
4930 has been issued under Subsection 40-8-9(3)(b) within the period permitted for a correction of
4931 the violation shall be assessed a civil penalty of not less than \$750 for each day during which
4932 the failure or violation continues.

4933 (b) The period permitted for correction of a violation for which a notice of cessation
4934 order has been issued under Subsection 40-8-9(3)(b) may not end until:

4935 (i) the entry of a final order by the board, in a review proceeding initiated by the
4936 operator, in which the board orders, after an expedited hearing, the suspension of the abatement
4937 requirements of the citation after determining that the operator will suffer irreparable loss or
4938 damage from the application of those requirements; or

4939 (ii) the entry of an order of the court, a review proceeding initiated by the operator, in
4940 which the court orders the suspension of the abatement requirements of the citation.

4941 (9) Money received by the state from civil penalties collected from actions resulting
4942 from this chapter shall be deposited into the division's Abandoned Mine Reclamation Fund as
4943 established under Section 40-10-25.1 and shall be used for the reclamation of mined land
4944 impacts not covered by reclamation bonds.

4945 Section 74. Section 40-10-14 is amended to read:

4946 **40-10-14. Division's findings issued to applicant and parties to conference --**
4947 **Notice to applicant of approval or disapproval of application -- Hearing -- Temporary**
4948 **relief -- Appeal to district court -- Further review.**

4949 (1) If a conference has been held under Subsection 40-10-13(2), the division shall issue
4950 and furnish the applicant for a permit and persons who are parties to the proceedings with the
4951 written finding of the division granting or denying the permit in whole or in part and stating the
4952 reasons, within the 60 days after the conference.

4953 (2) If there has been no conference held under Subsection 40-10-13(2), the division
4954 shall notify the applicant for a permit within a reasonable time as set forth in rules, taking into

4955 account the time needed for proper investigation of the site, the complexity of the permit
4956 application, and whether or not written objection to the application has been filed, whether the
4957 application has been approved or disapproved in whole or part.

4958 (3) Upon approval of the application, the permit shall be issued. If the application is
4959 disapproved, specific reasons shall be set forth in the notification. Within 30 days after the
4960 applicant is notified of the final decision of the division on the permit application, the applicant
4961 or any person with an interest which is or may be adversely affected may request a hearing on
4962 the reasons for the final determination. The board shall hold a hearing pursuant to the rules of
4963 practice and procedure of the board within 30 days of this request and provide notification to
4964 all interested parties at the time that the applicant is notified. Within 30 days after the hearing
4965 the board shall issue and furnish the applicant, and all persons who participated in the hearing,
4966 with the written decision of the board granting or denying the permit in whole or in part and
4967 stating the reasons.

4968 (4) Where a hearing is requested pursuant to Subsection (3), the board may, under
4969 conditions it prescribes, grant temporary relief it deems appropriate pending final determination
4970 of the proceedings if:

4971 (a) all parties to the proceedings have been notified and given an opportunity to be
4972 heard on a request for temporary relief;

4973 (b) the person requesting the relief shows that there is a substantial likelihood that the
4974 person will prevail on the merits of the final determination of the proceedings; and

4975 (c) the relief will not adversely affect the public health or safety or cause significant
4976 imminent environmental harm to land, air, or water resources.

4977 (5) For the purpose of the hearing, the board may administer oaths, subpoena witnesses
4978 or written or printed materials, compel attendance of the witnesses or production of the
4979 materials, and take evidence, including, but not limited to, site inspections of the land to be
4980 affected and other surface coal mining operations carried on by the applicant in the general
4981 vicinity of the proposed operation. A verbatim record of each public hearing required by this
4982 chapter shall be made, and a transcript made available on the motion of any party or by order of
4983 the board.

4984 (6) (a) An applicant or person with an interest which is or may be adversely affected
4985 who has participated in the proceedings as an objector, and who is aggrieved by the decision of

4986 the board, may appeal the decision of the board directly to the Utah Supreme Court.

4987 (b) If the board fails to act within the time limits specified in this chapter, the applicant
4988 or any person with an interest which is or may be adversely affected~~[, who]~~ and has requested a
4989 hearing in accordance with Subsection (3), may bring an action in ~~[the district court for the~~
4990 ~~county in which the proposed operation is located]~~ a court with jurisdiction under Title 78A,
4991 Judiciary and Judicial Administration.

4992 (c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the applicant or
4993 person shall bring an action described in Subsection (6)(b) in the county in which the proposed
4994 operation is located if the petition is brought in the district court.

4995 ~~[(c)]~~ (d) Any party to the action in ~~[district]~~ court may appeal from the final judgment,
4996 order, or decree of the ~~[district]~~ court.

4997 ~~[(d)]~~ (e) Time frames for appeals under Subsections (6)(a) through ~~[(c)]~~ (d) shall be
4998 consistent with applicable provisions in Section 63G-4-401.

4999 Section 75. Section **40-10-20** is amended to read:

5000 **40-10-20. Civil penalty for violation of chapter -- Informal conference -- Public**
5001 **hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties --**
5002 **Civil penalty for failure to correct violation.**

5003 (1) (a) Any permittee who violates any permit condition or other provision of this
5004 chapter may be assessed a civil penalty by the division. If the violation leads to the issuance of
5005 a cessation order under Section 40-10-22, the civil penalty shall be assessed.

5006 (b) (i) The penalty may not exceed \$5,000 for each violation.

5007 (ii) Each day of a continuing violation may be deemed a separate violation for purposes
5008 of the penalty assessments.

5009 (c) In determining the amount of the penalty, consideration shall be given to:

5010 (i) the permittee's history of previous violations at the particular surface coal mining
5011 operation;

5012 (ii) the seriousness of the violation, including any irreparable harm to the environment
5013 and any hazard to the health or safety of the public;

5014 (iii) whether the permittee was negligent; and

5015 (iv) the demonstrated good faith of the permittee in attempting to achieve rapid
5016 compliance after notification of the violation.

5017 (2) (a) Within 30 days after the issuance of a notice or order charging that a violation of
5018 this chapter has occurred, the division shall inform the permittee of the proposed assessment.

5019 (b) The person charged with the penalty shall then have 30 days to pay the proposed
5020 assessment in full, or request an informal conference before the division.

5021 (c) The informal conference held by the division may address either the amount of the
5022 proposed assessment or the fact of the violation, or both.

5023 (d) If the permittee who requested the informal conference and participated in the
5024 proceedings is not in agreement with the results of the informal conference, the permittee may,
5025 within 30 days of receipt of the decision made by the division in the informal conference,
5026 request a hearing before the board.

5027 (e) (i) Prior to any review of the proposed assessment or the fact of a violation by the
5028 board, and within 30 days of receipt of the decision made by the division in the informal
5029 conference, the permittee shall forward to the division the amount of the proposed assessment
5030 for placement in an escrow account.

5031 (ii) If the operator fails to forward the amount of the penalty to the division within 30
5032 days of receipt of the results of the informal conference, the operator waives any opportunity
5033 for further review of the fact of the violation or to contest the amount of the civil penalty
5034 assessed for the violation.

5035 (iii) If, through administrative or judicial review, it is determined that no violation
5036 occurred or that the amount of the penalty should be reduced, the division shall within 30 days
5037 remit the appropriate amount to the operator with interest accumulated.

5038 (3) (a) A civil penalty assessed by the division shall be final only after the person
5039 charged with a violation described under Subsection (1) has been given an opportunity for a
5040 public hearing.

5041 (b) If a public hearing is held, the board shall make findings of fact and shall issue a
5042 written decision as to the occurrence of the violation and the amount of the penalty which is
5043 warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

5044 (c) When appropriate, the board shall consolidate the hearings with other proceedings
5045 under Section [40-10-22](#).

5046 (d) Any hearing under this section shall be of record and shall be conducted pursuant to
5047 board rules governing the proceedings.

5048 (e) If the person charged with a violation fails to avail himself of the opportunity for a
5049 public hearing, a civil penalty shall be assessed by the division after the division:

5050 (i) has determined:

5051 (A) that a violation did occur; and

5052 (B) the amount of the penalty which is warranted; and

5053 (ii) has issued an order requiring that the penalty be paid.

5054 ~~[(4) Civil penalties owed under this chapter may be recovered in a civil action brought~~
5055 ~~by the attorney general of Utah at the request of the board in any appropriate district court of~~
5056 ~~the state.]~~

5057 (4) At the request of the board, the attorney general may bring a civil action in a court
5058 with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil
5059 penalty owed under this chapter.

5060 (5) Any person who willfully and knowingly violates a condition of a permit issued
5061 pursuant to this chapter or fails or refuses to comply with any order issued under Section
5062 40-10-22 or any order incorporated in a final decision issued by the board under this chapter,
5063 except an order incorporated in a decision under Subsection (3), shall, upon conviction, be
5064 punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or
5065 both.

5066 (6) Whenever a corporate permittee violates a condition of a permit issued pursuant to
5067 this chapter or fails or refuses to comply with any order incorporated in a final decision issued
5068 by the board under this chapter, except an order incorporated in a decision issued under
5069 Subsection (3), any director, officer, or agent of the corporation who willfully and knowingly
5070 authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same
5071 civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections
5072 (1) and (5).

5073 (7) Whoever knowingly makes any false statement, representation, or certification, or
5074 knowingly fails to make any statement, representation, or certification in any application,
5075 record, report, plan, or other document filed or required to be maintained pursuant to this
5076 chapter or any order or decision issued by the board under this chapter shall, upon conviction,
5077 be punished by a fine of not more than \$10,000, or by imprisonment for not more than one
5078 year, or both.

5079 (8) (a) Any operator who fails to correct a violation for which a notice or cessation
 5080 order has been issued under Subsection 40-10-22(1) within the period permitted for its
 5081 correction shall be assessed a civil penalty of not less than \$750 for each day during which the
 5082 failure or violation continues.

5083 (b) The period permitted for correction of a violation for which a notice of cessation
 5084 order has been issued under Subsection 40-10-22(1) may not end until:

5085 (i) the entry of a final order by the board, in the case of any review proceedings
 5086 initiated by the operator in which the board orders, after an expedited hearing, the suspension
 5087 of the abatement requirements of the citation after determining that the operator will suffer
 5088 irreparable loss or damage from the application of those requirements; or

5089 (ii) the entry of an order of the court, in the case of any review proceedings initiated by
 5090 the operator wherein the court orders the suspension of the abatement requirements of the
 5091 citation.

5092 Section 76. Section 40-10-21 is amended to read:

5093 **40-10-21. Civil action to compel compliance with chapter -- Venue -- Division**
 5094 **and board as parties -- Court costs -- Security when temporary restraining order or**
 5095 **injunction sought -- Other rights not affected -- Action for damages.**

5096 (1) ~~[(a)]~~ Except as provided in Subsection (2), any person having an interest ~~[which]~~
 5097 that is or may be adversely affected may [commence a civil action] bring an action on the
 5098 person's own behalf to compel compliance with this chapter against:

5099 ~~[(i)]~~ (a) the state or any other governmental instrumentality or agency to the extent
 5100 permitted by the 11th Amendment to the United States Constitution or Title 63G, Chapter 7,
 5101 Governmental Immunity Act of Utah, which is alleged to be in violation of the provisions of
 5102 this chapter or of any rule, order, or permit issued pursuant to it;

5103 ~~[(ii)]~~ (b) any person who is alleged to be in violation of any rule, order, or permit
 5104 issued pursuant to this chapter; or

5105 ~~[(iii)]~~ (c) the division or board where there is alleged a failure of the division or board
 5106 to perform any act or duty under this chapter which is not discretionary with the division or
 5107 with the board.

5108 ~~[(b) The district courts shall have jurisdiction without regard to the amount in~~
 5109 ~~controversy or the citizenship of the parties.]~~

5110 (2) ~~[No action may be commenced]~~ A person may not bring an action:

5111 (a) under Subsection ~~[(1)(a)(i) or (ii)]~~ (1)(a) or (b):

5112 (i) prior to 60 days after the ~~[plaintiff]~~ person has given notice in writing of the
5113 violation to the division and to any alleged violator; or

5114 (ii) if the attorney general has commenced and is diligently prosecuting a civil action in
5115 a court of the state to require compliance with the provisions of this chapter, or any rule, order,
5116 or permit issued pursuant to this chapter; or

5117 (b) under Subsection ~~[(1)(a)(iii)]~~ (1)(c) prior to 60 days after the ~~[plaintiff]~~ person has
5118 given notice in writing of the action to the board, in the manner as the board prescribes by rule,
5119 except that the ~~[action may be brought immediately]~~ person may bring the action immediately
5120 after the notification in the case where the violation or order complained of constitutes an
5121 imminent threat to the health or safety of the ~~[plaintiff]~~ person or would immediately affect a
5122 legal interest of the ~~[plaintiff]~~ person.

5123 ~~[(3) (a) Any action concerning a violation of this chapter or the rules promulgated~~
5124 ~~under it may be brought only in the judicial district in which the surface coal mining operation~~
5125 ~~complained of is located.]~~

5126 (3) (a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person
5127 shall bring an action under this section in the county in which the surface coal mining operation
5128 is located.

5129 (b) In the action, the division and board, if not a party, may intervene as a matter of
5130 right.

5131 (4) (a) The court, in issuing any final order in any action brought pursuant to
5132 Subsection (1), may award costs of litigation, including attorney and expert witness fees, to any
5133 party whenever the court determines that award is appropriate.

5134 (b) The court may, if a temporary restraining order or preliminary injunction is sought,
5135 require the filing of a bond or equivalent security in accordance with the Utah Rules of Civil
5136 Procedure.

5137 (5) Nothing in this section may restrict any right which any person, or class of persons,
5138 has under any statute or common law to seek enforcement of any of the provisions of this
5139 chapter and the rules promulgated under it, or to seek any other relief, including relief against
5140 the division and board.

5141 (6) (a) Any person who is injured in his person or property through the violation by an
5142 operator of any rule, order, or permit issued pursuant to this chapter may bring an action for
5143 damages, including reasonable attorney and expert witness fees, only in the judicial district in
5144 which the surface coal mining operation complained of is located.

5145 (b) Nothing in this Subsection (6) shall affect the rights established by or limits
5146 imposed under Utah workmen's compensation laws.

5147 Section 77. Section **40-10-22** is amended to read:

5148 **40-10-22. Violation of chapter or permit conditions -- Inspection -- Cessation**
5149 **order, abatement notice, or show cause order -- Suspension or revocation of permit --**
5150 **Review -- Costs assessed against either party.**

5151 (1) (a) Whenever, on the basis of any information available, including receipt of
5152 information from any person, the division has reason to believe that any person is in violation
5153 of any requirement of this chapter or any permit condition required by this chapter, the division
5154 shall immediately order inspection of the surface coal mining operation at which the alleged
5155 violation is occurring, unless the information available to the division is a result of a previous
5156 inspection of the surface coal mining operation. When the inspection results from information
5157 provided to the division by any person, the division shall notify that person when the inspection
5158 is proposed to be carried out, and that person shall be allowed to accompany the inspector
5159 during the inspection.

5160 (b) When, on the basis of any inspection, the division determines that any condition or
5161 practices exist, or that any permittee is in violation of any requirement of this chapter or any
5162 permit condition required by this chapter, which condition, practice, or violation also creates an
5163 imminent danger to the health or safety of the public, or is causing, or can reasonably be
5164 expected to cause significant, imminent environmental harm to land, air, or water resources,
5165 the division shall immediately order a cessation of surface coal mining and reclamation
5166 operations or the portion thereof relevant to the condition, practice, or violation. The cessation
5167 order shall remain in effect until the division determines that the condition, practice, or
5168 violation has been abated, or until modified, vacated, or terminated by the division pursuant to
5169 Subsection (1)(e). Where the division finds that the ordered cessation of surface coal mining
5170 and reclamation operations, or any portion of same, will not completely abate the imminent
5171 danger to health or safety of the public or the significant imminent environmental harm to land,

5172 air, or water resources, the division shall, in addition to the cessation order, impose affirmative
5173 obligations on the operator requiring him to take whatever steps the division deems necessary
5174 to abate the imminent danger or the significant environmental harm.

5175 (c) When, on the basis of an inspection, the division determines that any permittee is in
5176 violation of any requirement of this chapter or any permit condition required by this chapter,
5177 but the violation does not create an imminent danger to the health or safety of the public or
5178 cannot be reasonably expected to cause significant, imminent environmental harm to land, air,
5179 or water resources, the division shall issue a notice to the permittee or his agent fixing a
5180 reasonable time but not more than 90 days for the abatement of the violation and providing
5181 opportunity for conference before the division. If upon expiration of the period of time as
5182 originally fixed or subsequently extended, for good cause shown, and upon the written finding
5183 of the division, the division finds that the violation has not been abated, it shall immediately
5184 order a cessation of surface coal mining and reclamation operations or the portion of same
5185 relevant to the violation. The cessation order shall remain in effect until the division
5186 determines that the violation has been abated or until modified, vacated, or terminated by the
5187 division pursuant to Subsection (1)(e). In the order of cessation issued by the division under
5188 this subsection, the division shall determine the steps necessary to abate the violation in the
5189 most expeditious manner possible and shall include the necessary measures in the order.

5190 (d) When on the basis of an inspection the division determines that a pattern of
5191 violations of any requirements of this chapter or any permit conditions required by this chapter
5192 exists or has existed, and if the division also finds that these violations are caused by the
5193 unwarranted failure of the permittee to comply with any requirements of this chapter or any
5194 permit conditions or that these violations are willfully caused by the permittee, the division
5195 shall initiate agency action by requesting the board to issue an order to show cause to the
5196 permittee as to why the permit should not be suspended or revoked and shall provide
5197 opportunity for a public hearing. If a hearing is requested, the board shall give notice in
5198 accordance with the rules of practice and procedure of the board. Upon the permittee's failure
5199 to show cause as to why the permit should not be suspended or revoked, the board shall
5200 immediately enter an order to suspend or revoke the permit.

5201 (e) Notices and orders issued under this section shall set forth with reasonable
5202 specificity the nature of the violation and the remedial action required, the period of time

5203 established for abatement, and a reasonable description of the portion of the surface coal
 5204 mining and reclamation operation to which the notice or order applies. Each notice or order
 5205 issued under this section shall be given promptly to the permittee or his agent by the division,
 5206 and the notices and orders shall be in writing and shall be signed by the director, or his
 5207 authorized representative who issues such notice or order. Any notice or order issued under
 5208 this section may be modified, vacated, or terminated by the division, but any notice or order
 5209 issued under this section which requires cessation of mining by the operator shall expire within
 5210 30 days of actual notice to the operator unless a conference is held before the division.

5211 (2) (a) The division may request the attorney general to institute a civil action for relief,
 5212 including a permanent or temporary injunction, restraining order, or any other appropriate order
 5213 ~~[in the district court for the district in which the surface coal mining and reclamation operation~~
 5214 ~~is located or in which the permittee of the operation has his principal office, whenever such~~
 5215 ~~permittee or his agent]~~ in a court with jurisdiction under Title 78A, Judiciary and Judicial
 5216 Administration, whenever a permittee or the permittee's agent:

5217 (i) violates or fails or refuses to comply with any order or decision issued under this
 5218 chapter;

5219 (ii) interferes with, hinders, or delays the division or its authorized representatives in
 5220 carrying out the provisions of this chapter;

5221 (iii) refuses to admit the authorized representatives to the mine;

5222 (iv) refuses to permit inspection of the mine by the authorized representative;

5223 (v) refuses to furnish any information or report requested by the division in furtherance
 5224 of the provisions of this chapter; or

5225 (vi) refuses to permit access to and copying of such records as the division determines
 5226 necessary in carrying out the provisions of this chapter.

5227 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney
 5228 general brings the action described in Subsection (2)(a) in the district court, the attorney
 5229 general shall bring the action in the county in which:

5230 (i) the surface coal mining and reclamation operation is located; or

5231 (ii) the permittee of the operation has the permittee's principal office.

5232 ~~[(b)]~~ (c) (i) The ~~[district]~~ court shall have jurisdiction to provide such relief as may be
 5233 appropriate.

5234 (ii) Any relief granted by the [district] court to enforce an order under Subsection
5235 (2)(a)(i) shall continue in effect until the completion or final termination of all proceedings for
5236 review of that order under this chapter, unless, prior to this completion or termination, the Utah
5237 Supreme Court on review grants a stay of enforcement or sets aside or modifies the board's
5238 order which is being appealed.

5239 (3) (a) A permittee issued a notice or order by the division pursuant to the provisions of
5240 Subsections (1)(b) and (1)(c), or any person having an interest which may be adversely affected
5241 by the notice or order, may initiate board action by requesting a hearing for review of the notice
5242 or order within 30 days of receipt of it or within 30 days of its modification, vacation, or
5243 termination. Upon receipt of this application, the board shall cause such investigation to be
5244 made as it deems appropriate. The investigation shall provide an opportunity for a public
5245 hearing at the request of the applicant or the person having an interest which is or may be
5246 adversely affected to enable the applicant or that person to present information relating to the
5247 issuance and continuance of the notice or order or the modification, vacation, or termination of
5248 it. The filing of an application for review under this subsection shall not operate as a stay of
5249 any order or notice.

5250 (b) The permittee and other interested persons shall be given written notice of the time
5251 and place of the hearing in accordance with the rules of practice and procedure of the board,
5252 but the notice may not be less than five days prior to the hearing. This hearing shall be of
5253 record and shall be subject to judicial review.

5254 (c) Pending completion of the investigation and hearing required by this section, the
5255 applicant may file with the board a written request that the board grant temporary relief from
5256 any notice or order issued under this section, together with a detailed statement giving the
5257 reasons for granting this relief. The board shall issue an order or decision granting or denying
5258 this relief expeditiously; and where the applicant requests relief from an order for cessation of
5259 coal mining and reclamation operations issued pursuant to Subsections (1)(b) or (1)(c), the
5260 order or decision on this request shall be issued within five days of its receipt. The board may
5261 grant the relief under such conditions as it may prescribe, if a hearing has been held in the
5262 locality of the permit area on the request for temporary relief and the conditions of Subsections
5263 [40-10-14\(4\)\(a\)](#), [40-10-14\(4\)\(b\)](#), and [40-10-14\(4\)\(c\)](#) are met.

5264 (d) Following the issuance of an order to show cause as to why a permit should not be

5265 suspended or revoked pursuant to this section, the board shall hold a public hearing after giving
5266 notice in accordance with the rules of practice and procedure of the board. Within 60 days
5267 following the hearing, the board shall issue and furnish to the permittee and all other parties to
5268 the hearing an order containing the basis for its decision on the suspension or revocation of the
5269 permit. If the board revokes the permit, the permittee shall immediately cease surface coal
5270 mining operations on the permit area and shall complete reclamation within a period specified
5271 by the board, or the board shall declare as forfeited the performance bonds for the operation.

5272 (e) Whenever an order is entered under this section or as a result of any adjudicative
5273 proceeding under this chapter, at the request of any person, a sum equal to the aggregate
5274 amount of all costs and expenses (including attorney fees) as determined by the board to have
5275 been reasonably incurred by that person in connection with his participation in the proceedings,
5276 including any judicial review of agency actions, may be assessed against either party as the
5277 court, resulting from judicial review, or the board, resulting from adjudicative proceedings,
5278 deems proper.

5279 (f) Action by the board taken under this section or any other provision of the state
5280 program shall be subject to judicial review by the Utah Supreme Court as prescribed in Section
5281 [78A-3-102](#), but the availability of this review shall not be construed to limit the operation of
5282 the citizen suit in Section [40-10-21](#), except as provided in this latter section.

5283 Section 78. Section [41-6a-1622](#) is amended to read:

5284 **[41-6a-1622. Purchase and testing of equipment by department -- Prohibition](#)**
5285 **[against sale of substandard devices -- Injunction -- Review -- Appeal.](#)**

5286 (1) The department may purchase and test equipment described in Section [41-6a-1619](#)
5287 to determine whether it complies with the standards under this part.

5288 (2) Upon identification of unapproved or substandard devices being sold or offered for
5289 sale, the department shall give notice to the person selling them that the person is in violation
5290 of Section [41-6a-1619](#) and that selling or offering them for sale is prohibited.

5291 (3) (a) In order to enforce the prohibition against the sale or offer for sale of
5292 unapproved or substandard devices, the department may file a petition in [~~the district court of~~
5293 ~~the county in which the person maintains a place of business]~~ a court with jurisdiction under
5294 Title 78A, Judiciary and Judicial Administration, to enjoin any further sale or offer of sale of
5295 the unapproved or substandard part.

5296 (b) An injunction under Subsection (3)(a) shall be issued upon a prima facie showing
5297 that:

5298 (i) the part is of a type required to be approved by the department under this part;

5299 (ii) the part has not been approved; and

5300 (iii) the part is being sold or offered for sale.

5301 (4) (a) Any person enjoined under Subsection (3) may file a petition for a review of the
5302 court's order in the county in which the injunction was issued.

5303 (b) A copy of the petition shall be served on the department and the department shall
5304 have 30 days after the service to file an answer, but the petition shall not act as a stay of the
5305 injunction.

5306 (c) At the hearing on the petition, the judge shall sit without intervention of a jury and
5307 shall only receive evidence as to whether the parts in question:

5308 (i) are of a type for which approval by the department is required;

5309 (ii) have not been approved; and

5310 (iii) are being sold or offered for sale in violation of Section 41-6a-1619.

5311 (d) Following a hearing under Subsection (4)(c), the injunction shall be continued if
5312 the court finds that each condition under Subsection (4)(c) has been met.

5313 (5) Either party may appeal the decision of the court [~~in the same manner as in other~~
5314 ~~civil appeals from the district court~~].

5315 Section 79. Section **51-2a-401** is amended to read:

5316 **51-2a-401. Prohibiting access to and withholding funds from an entity that does**
5317 **not comply with the accounting report requirements.**

5318 (1) If a political subdivision, interlocal organization, or other local entity does not
5319 comply with the accounting report requirements of Section 51-2a-201, the state auditor may:

5320 (a) withhold allocated state funds to pay the cost of the accounting report, in
5321 accordance with Subsection (2); or

5322 (b) prohibit financial access, in accordance with Subsection (3).

5323 (2) (a) If the state auditor does not prohibit financial access in accordance with
5324 Subsection (3), the state auditor may withhold allocated state funds sufficient to pay the cost of
5325 the accounting report from any local entity described in Subsection (1).

5326 (b) If no allocated state funds are available for withholding, the local entity shall

5327 reimburse the state auditor for any cost incurred in completing the accounting reports required
5328 under Section 51-2a-402.

5329 (c) The state auditor shall release the withheld funds if the local entity meets the
5330 accounting report requirements either voluntarily or by action under Section 51-2a-402.

5331 (3) (a) If the state auditor does not withhold funds in accordance with Subsection (2),
5332 the state auditor may prohibit any local entity described in Subsection (1) from accessing:

5333 (i) money held by the state; and

5334 (ii) money held in an account of a financial institution by:

5335 (A) contacting the entity's financial institution and requesting that the institution
5336 prohibit access to the account; or

5337 (B) filing an action in [~~district court~~] a court with jurisdiction under Title 78A,
5338 Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial
5339 institution from providing the entity access to the account.

5340 (b) The state auditor shall remove the prohibition on accessing funds described in
5341 Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily
5342 or by action under Section 51-2a-402.

5343 Section 80. Section 51-7-22.5 is amended to read:

5344 **51-7-22.5. Enforcement.**

5345 (1) Whenever it appears to the council that any person has engaged, is engaging, or is
5346 about to engage in any act or practice constituting a violation of this chapter or any rule issued
5347 under authority of this chapter:

5348 (a) the council may bring an action in [~~the appropriate district court of this state or the~~
5349 ~~appropriate court of~~] a court with jurisdiction under Title 78A, Judiciary and Judicial
5350 Administration, or a court with jurisdiction in another state, to enjoin the acts or practices and
5351 to enforce compliance with this chapter or any rule under this chapter; and

5352 (b) upon a proper showing in an action brought under this section, the court may:

5353 (i) issue a permanent or temporary, prohibitory, or mandatory injunction;

5354 (ii) issue a restraining order or writ of mandamus or other extraordinary writ;

5355 (iii) enter a declaratory judgment;

5356 (iv) order disgorgement;

5357 (v) order rescission;

5358 (vi) impose a fine of not more than \$50,000 for each violation of the chapter; or
5359 (vii) provide any other relief that the court considers appropriate.

5360 (2) An indictment or information may not be returned nor may a civil complaint be
5361 filed under this chapter more than five years after discovery of the alleged violation.

5362 Section 81. Section **53-2d-605 (Effective 07/01/24)** is amended to read:

5363 **53-2d-605 (Effective 07/01/24). Service interruption or cessation -- Receivership --**
5364 **Default coverage -- Notice.**

5365 (1) (a) Acting in the public interest, the department may petition [~~the district court~~
5366 ~~where an ambulance or paramedic provider operates or the district court with jurisdiction in~~
5367 ~~Salt Lake County] a court with jurisdiction under Title 78A, Judiciary and Judicial
5368 Administration, to appoint the bureau or an independent receiver to continue the operations of
5369 a provider upon any one of the following conditions:~~

5370 [~~(a)~~] (i) the provider ceases or intends to cease operations;

5371 [~~(b)~~] (ii) the provider becomes insolvent;

5372 [~~(c)~~] (iii) the bureau has initiated proceedings to revoke the provider's license and has
5373 determined that the lives, health, safety, or welfare of the population served within the
5374 provider's exclusive geographic service area are endangered because of the provider's action or
5375 inaction pending a full hearing on the license revocation; or

5376 [~~(d)~~] (iv) the bureau has revoked the provider's license and has been unable to
5377 adequately arrange for another provider to take over the provider's exclusive geographic service
5378 area.

5379 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the department
5380 brings a petition described in Subsection (1)(a) in the district court, the department shall bring
5381 the petition in:

5382 (i) Salt Lake County; or

5383 (ii) the county in which the ambulance or paramedic provider operates.

5384 (2) If a licensed or designated provider ceases operations or is otherwise unable to
5385 provide services, the bureau may arrange for another licensed provider to provide services on a
5386 temporary basis until a license is issued.

5387 (3) A licensed provider shall give the department 30 days' notice of its intent to cease
5388 operations.

5389 Section 82. Section **53-7-406** is amended to read:

5390 **53-7-406. Penalties.**

5391 (1) (a) Except as provided in Subsection (1)(b), a manufacturer, wholesale dealer,
5392 agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than
5393 through retail sale, in violation of Section **53-7-403**:

5394 (i) for a first offense shall be liable for a civil penalty not to exceed \$10,000 per each
5395 sale of cigarettes; and

5396 (ii) for a subsequent offense shall be liable for a civil penalty not to exceed \$25,000 per
5397 each sale of such cigarettes.

5398 (b) A penalty imposed under Subsection (1)(a) may not exceed \$100,000 during any
5399 30-day period against any one entity described in Subsection (1).

5400 (2) (a) Except as provided in Subsection (2)(b), a retail dealer who knowingly sells
5401 cigarettes in violation of Section **53-7-403** shall:

5402 (i) for a first offense for each sale or offer for sale of cigarettes, if the total number of
5403 cigarettes sold or offered for sale:

5404 (A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$500
5405 for each sale or offer of sale; and

5406 (B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$1,000 for
5407 each sale or offer of sale; and

5408 (ii) for a subsequent offense, if the total number of cigarettes sold or offered for sale:

5409 (A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$2,000
5410 for each sale or offer of sale; and

5411 (B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$5,000 for
5412 each sale or offer of sale.

5413 (b) A penalty imposed under Subsection (2)(a) against any retail dealer shall not
5414 exceed \$25,000 during a 30-day period.

5415 (3) In addition to any penalty prescribed by law, any corporation, partnership, sole
5416 proprietor, limited partnership, or association engaged in the manufacture of cigarettes that
5417 knowingly makes a false certification pursuant to Section **53-7-404** shall, for each false
5418 certification:

5419 (a) for a first offense, be liable for a civil penalty of at least \$75,000; and

5420 (b) for a subsequent offense, be liable for a civil penalty not to exceed \$250,000.

5421 (4) Any person violating any other provision in this part shall be liable for a civil
5422 penalty for each violation:

5423 (a) for a first offense, not to exceed \$1,000; and

5424 (b) for a subsequent offense, not to exceed \$5,000.

5425 (5) (a) In addition to any other remedy provided by law, the state fire marshal or

5426 attorney general may ~~file an action in district court~~ bring an action in a court with jurisdiction

5427 under Title 78A, Judiciary and Judicial Administration, for a violation of this part, including

5428 petitioning for injunctive relief or to recover any costs or damages suffered by the state because

5429 of a violation of this part, including enforcement costs relating to the specific violation and

5430 attorney fees.

5431 (b) Each violation of this part or of rules or regulations adopted under this part

5432 constitutes a separate civil violation for which the state fire marshal or attorney general may

5433 obtain relief.

5434 Section 83. Section **53B-28-506** is amended to read:

5435 **53B-28-506. Penalties.**

5436 (1) A third-party contractor that knowingly or recklessly permits unauthorized
5437 collecting, sharing, or use of student data under this part:

5438 (a) except as provided in Subsection ~~[(1)(d)]~~ (2), may not enter into a future contract
5439 with an institution; ~~[and]~~

5440 (b) may be required by the board to pay a civil penalty of up to \$25,000~~[-];~~ and

5441 (c) may be required to pay:

5442 (i) an institution's cost of notifying parents and students of the unauthorized sharing or
5443 use of student data; and

5444 (ii) any expense incurred by the institution as result of the unauthorized sharing or use
5445 of student data.

5446 ~~[(d)]~~ (2) An education entity may enter into a contract with a third-party contractor that
5447 knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

5448 ~~[(i)]~~ (a) the education entity determines that the third-party contractor has corrected the
5449 errors that caused the unauthorized collecting, sharing, or use of student data; and

5450 ~~[(i)]~~ (b) the third-party contractor demonstrates:

5451 ~~[(A)]~~ (i) if the third-party contractor is under contract with the education entity, current
5452 compliance with this part; or

5453 ~~[(B)]~~ (ii) an ability to comply with the requirements of this part.

5454 ~~[(c)]~~

5455 (3) (a) ~~[The]~~ If necessary, the board may bring an action in [the district court of the
5456 county in which the office of the education entity is located, if necessary,] a court with
5457 jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce payment of the
5458 civil penalty described in Subsection (1)(b).

5459 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the board shall
5460 bring an action described in Subsection (3)(a) in the county in which the office of the education
5461 entity is located if the action is brought in the district court.

5462 ~~[(f)]~~ (4) An individual who knowingly or intentionally permits unauthorized collecting,
5463 sharing, or use of student data may be found guilty of a class A misdemeanor.

5464 ~~[(2)]~~ (5) (a) A student or a minor student's parent may bring an action against a
5465 third-party contractor in a court ~~[of competent jurisdiction]~~ with jurisdiction under Title 78A,
5466 Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation
5467 of Section 53B-28-505 by a third-party contractor.

5468 (b) If the court finds that a third-party contractor has violated Section 53B-28-505, the
5469 court may award to the parent or student:

5470 (i) damages; and

5471 (ii) costs.

5472 Section 84. Section 53E-9-310 is amended to read:

5473 **53E-9-310. Penalties.**

5474 (1) (a) A third-party contractor that knowingly or recklessly permits unauthorized
5475 collecting, sharing, or use of student data under this part:

5476 (i) except as provided in Subsection (1)(b), may not enter into a future contract with an
5477 education entity;

5478 (ii) may be required by the state board to pay a civil penalty of up to \$25,000; and

5479 (iii) may be required to pay:

5480 (A) the education entity's cost of notifying parents and students of the unauthorized
5481 sharing or use of student data; and

5482 (B) expenses incurred by the education entity as a result of the unauthorized sharing or
5483 use of student data.

5484 (b) An education entity may enter into a contract with a third-party contractor that
5485 knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

5486 (i) the state board or education entity determines that the third-party contractor has
5487 corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

5488 (ii) the third-party contractor demonstrates:

5489 (A) if the third-party contractor is under contract with an education entity, current
5490 compliance with this part; or

5491 (B) an ability to comply with the requirements of this part.

5492 (c) The state board may assess the civil penalty described in Subsection (1)(a)(ii) in
5493 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

5494 (d) (i) The state board may bring an action [~~in the district court of the county in which~~
5495 ~~the office of the state board is located]~~ in a court with jurisdiction under Title 78A, Judiciary
5496 and Judicial Administration, if necessary, to enforce payment of the civil penalty described in
5497 Subsection (1)(a)(ii).

5498 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state board
5499 shall bring an action described in Subsection (1)(d)(i) in the county in which the office of the
5500 state board is located if the action is brought in the district court.

5501 (e) An individual who knowingly or intentionally permits unauthorized collecting,
5502 sharing, or use of student data may be found guilty of a class A misdemeanor.

5503 (2) (a) A parent or adult student may bring an action in a court [~~of competent~~
5504 ~~jurisdiction]~~ with jurisdiction under Title 78A, Judiciary and Judicial Administration, for
5505 damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party
5506 contractor.

5507 (b) If the court finds that a third-party contractor has violated Section 53E-9-309, the
5508 court may award to the parent or student:

5509 (i) damages; and

5510 (ii) costs.

5511 Section 85. Section 53G-5-501 is amended to read:

5512 **53G-5-501. Noncompliance -- Rulemaking.**

5513 (1) If a charter school is found to be out of compliance with the requirements of
5514 Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify
5515 the following in writing that the charter school has a reasonable time to remedy the deficiency,
5516 except as otherwise provided in Subsection 53G-5-503(4):

5517 (a) the charter school governing board; and

5518 (b) if the charter school is a qualifying charter school with outstanding bonds issued in
5519 accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School
5520 Finance Authority.

5521 (2) (a) If the charter school does not remedy the deficiency within the established
5522 timeline, the authorizer may:

5523 (i) subject to the requirements of Subsection (4), take one or more of the following
5524 actions:

5525 (A) remove a charter school director or finance officer;

5526 (B) remove a charter school governing board member;

5527 (C) appoint an interim director, mentor, or finance officer to work with the charter
5528 school; or

5529 (D) appoint a governing board member;

5530 (ii) subject to the requirements of Section 53G-5-503, terminate the school's charter
5531 agreement; or

5532 (iii) transfer operation and control of the charter school to a high performing charter
5533 school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to
5534 effectuate the transfer.

5535 (b) The authorizer may prohibit the charter school governing board from removing an
5536 appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the
5537 appointment.

5538 (3) The costs of an interim director, mentor, or finance officer appointed under
5539 Subsection (2)(a) shall be paid from the funds of the charter school for which the interim
5540 director, mentor, or finance officer is working.

5541 (4) The authorizer shall notify the Utah Charter School Finance Authority before the
5542 authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying
5543 charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit

5544 Enhancement Program.

5545 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5546 state board shall make rules:

5547 (a) specifying the timeline for remedying deficiencies under Subsection (1); and

5548 (b) ensuring the compliance of a charter school with its approved charter agreement.

5549 (6) (a) (i) An authorizer may petition [~~the district court where a charter school is~~
5550 ~~located or incorporated to appoint a receiver, and the district court]~~ a court with jurisdiction
5551 under Title 78A, Judiciary and Judicial Administration, to appoint a receiver.

5552 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the authorizer
5553 shall bring a petition described in Subsection (6)(a)(i) in the county in which a charter school is
5554 located or incorporated if the action is brought in the district court.

5555 (b) The court may appoint a receiver if the authorizer establishes that the charter
5556 school:

5557 (i) is subject to closure under Section [53G-5-503](#); and

5558 (ii) (A) has disposed, or there is a demonstrated risk that the charter school will
5559 dispose, of the charter school's assets in violation of Subsection [53G-5-403\(4\)](#); or

5560 (B) cannot, or there is a demonstrated risk that the charter school will not, make
5561 repayment of amounts owed to the federal government or the state.

5562 [~~(b)~~] (c) The court shall describe the powers and duties of the receiver in the court's
5563 appointing order, and may amend the order from time to time.

5564 [~~(c)~~] (d) Among other duties ordered by the court, the receiver shall:

5565 (i) ensure the protection of the charter school's assets;

5566 (ii) preserve money owed to creditors; and

5567 (iii) if requested by the authorizer, carry out charter school closure procedures
5568 described in Section [53G-5-504](#), and state board rules, as directed by the authorizer.

5569 [~~(d)~~] (e) If the authorizer does not request, or the court does not appoint, a receiver:

5570 (i) the authorizer may reconstitute the governing board of a charter school; or

5571 (ii) if a new governing board cannot be reconstituted, the authorizer shall complete the
5572 closure procedures described in Section [53G-5-504](#), including liquidation and assignment of
5573 assets, and payment of liabilities and obligations in accordance with Subsection [53G-5-504\(7\)](#)
5574 and state board rule.

5575 ~~[(e)]~~ (f) For a qualifying charter school with outstanding bonds issued in accordance
 5576 with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the
 5577 consent of the Utah Charter School Finance Authority before the authorizer takes the following
 5578 actions:

5579 (i) petitions ~~[a district court]~~ a court to appoint a receiver, as described in Subsection
 5580 (6)(a);

5581 (ii) reconstitutes the governing board, as described in Subsection ~~[(6)(d)(i)]~~ (6)(e)(i); or

5582 (iii) carries out closure procedures, as described in Subsection ~~[(6)(d)(ii)]~~ (6)(e)(ii).

5583 Section 86. Section ~~54-4-27~~ is amended to read:

5584 **54-4-27. Payment of dividends -- Notice -- Restraint.**

5585 (1) No gas or electric corporation doing business in this state shall pay any dividend
 5586 upon its common stock prior to 30 days after the date of the declaration of such dividend by the
 5587 board of directors of such utility corporation.

5588 (2) Within five days after the declaration of such dividend the management of such
 5589 corporation shall:

5590 (a) notify the utilities commission in writing of the declaration of said dividend, the
 5591 amount thereof, the date fixed for payment of the same; and

5592 (b) publish a notice, including the information described in Subsection (2)(a):

5593 (i) in a newspaper having general circulation in the city or town where its principal
 5594 place of business is located; and

5595 (ii) as required in Section [45-1-101](#).

5596 (3) If the commission, after investigation, shall find that the capital of any such
 5597 corporation is being impaired or that its service to the public is likely to become impaired or is
 5598 in danger of impairment, it may issue an order directing such utility corporation to refrain from
 5599 the payment of said dividend until such impairment is made good or danger of impairment is
 5600 avoided.

5601 (4) ~~[The district court of any county in which said utility is doing business in this state~~
 5602 ~~is authorized upon a suit by the commission to]~~ A court may enforce the order of the
 5603 commission~~[- and empowered to]~~ and issue a restraining order pending final determination of
 5604 the action.

5605 Section 87. Section ~~54-5-3~~ is amended to read:

5606 **54-5-3. Default in payment of fee -- Procedure to collect -- Penalties.**

5607 (1) (a) If the public utility fee is due and the payment is in default, [~~a lien in the amount~~
5608 ~~of the fee may be filed against the property of the utility and may be foreclosed in an action~~
5609 ~~brought by the executive director of the Department of Commerce in the district court of any~~
5610 ~~county in which property of the delinquent utility is located.] the executive director of the
5611 Department of Commerce may:~~

5612 (i) file a lien in the amount of the property of the utility; and

5613 (ii) bring an action to foreclose the property in a court with jurisdiction under Title
5614 78A, Judiciary and Judicial Administration.

5615 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the executive
5616 director shall bring an action described in Subsection (1)(a)(ii) in the county in which the
5617 property of the delinquent utility is located if the action is brought in the district court.

5618 (2) (a) If the fee computed and imposed under this chapter is not paid within 60 days
5619 after it becomes due, the rights and privileges of the delinquent utility shall be suspended.

5620 (b) The executive director of the Department of Commerce shall transmit the name of
5621 the utility to the Public Service Commission, which may immediately enter an order
5622 suspending the operating rights of the utility.

5623 Section 88. Section **54-8a-12** is amended to read:

5624 **54-8a-12. Enforcement -- Attorney general.**

5625 (1) (a) (i) The attorney general may bring an action [~~in the district court located~~] in a
5626 court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this
5627 chapter.

5628 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the attorney
5629 general shall bring the action described in Subsection (1)(a)(i) in the county in which the
5630 excavation is located [~~to enforce this chapter~~] if the attorney general brings the action in the
5631 district court.

5632 (b) The right of any person to bring a civil action for damage arising from an
5633 excavator's or operator's actions or conduct relating to underground facilities is not affected by:

5634 (i) a proceeding commenced by the attorney general under this chapter; or

5635 (ii) the imposition of a civil penalty under this chapter.

5636 (c) If the attorney general does not bring an action under Subsection (1)(a), the operator

5637 or excavator may pursue any remedy, including a civil penalty.

5638 (2) Any civil penalty imposed and collected under this chapter shall be deposited into
5639 the General Fund.

5640 Section 89. Section **54-8b-13** is amended to read:

5641 **54-8b-13. Rules governing operator assisted services.**

5642 (1) The commission shall make rules to implement the following requirements
5643 pertaining to the provision of operator assisted services:

5644 (a) Rates, surcharges, terms, or conditions for operator assisted services shall be
5645 provided to customers upon request without charge.

5646 (b) A customer shall be made aware, prior to incurring any charges, of the identity of
5647 the operator service provider handling the operator assisted call by a form of signage placed on
5648 or near the telephone or by verbal identification by the operator service provider.

5649 (c) Any contract between an operator service provider and an aggregator shall contain
5650 language which assures that any person making a telephone call on any telephone owned or
5651 controlled by the aggregator or operator service provider can access:

5652 (i) where technically feasible, any other operator service provider operating in the
5653 relevant geographic area; and

5654 (ii) the public safety emergency telephone numbers for the jurisdiction where the
5655 aggregator's telephone service is geographically located.

5656 (d) No operator service provider shall transfer a call to another operator service
5657 provider unless that transfer is accomplished at, and billed from, the call's place of origin. If
5658 such a transfer is not technically possible, the operator service provider shall inform the caller
5659 that the call cannot be transferred as requested and that the caller should hang up and attempt to
5660 reach another operator service provider through the means provided by that other operator
5661 service provider.

5662 (2) (a) The Division of Public Utilities shall be responsible for enforcing any rule
5663 adopted by the commission under this section.

5664 (b) If the Division of Public Utilities determines that any person, or any officer or
5665 employee of any person, is violating any rule adopted under this section, the division shall
5666 serve written notice upon the alleged violator which:

5667 (i) specifies the violation;

5668 (ii) alleges the facts constituting the violation; and

5669 (iii) specifies the corrective action to be taken.

5670 (c) After serving notice as required in Subsection (2)(b), the division may request the
5671 commission to issue an order to show cause.

5672 (d) After a hearing, the commission may impose penalties and, if necessary, may
5673 request the attorney general to enforce the order in [~~district~~] a court.

5674 (3) (a) Any person who violates any rule made under this section or fails to comply
5675 with any order issued pursuant to this section is subject to a penalty not to exceed \$2,000 per
5676 violation.

5677 (b) In the case of a continuing violation, each day that the violation continues
5678 constitutes a separate and distinct offense.

5679 (4) A penalty assessment under this section does not relieve the person assessed from
5680 civil liability for claims arising out of any act which was a violation of any rule under this
5681 section.

5682 Section 90. Section **54-13-7** is amended to read:

5683 **54-13-7. Minimum distances for placement of structures and facilities near main**
5684 **and transmission lines.**

5685 (1) As used in this section:

5686 (a) "Main" has the meaning set forth in 49 C.F.R. Section 192.3.

5687 (b) "Minimum distance" means:

5688 (i) the width of a recorded easement when the width is described;

5689 (ii) 15 feet when the width of a recorded easement is undefined; or

5690 (iii) for any underground facility, it means an area measured one foot vertically and
5691 three feet horizontally from the outer surface of a main or transmission line.

5692 (c) "Transmission line" has the meaning set forth in 49 C.F.R. Section 192.3.

5693 (d) "Underground facility" has the meaning set forth in Section [54-8a-2](#).

5694 (2) (a) After April 30, 1995, a building or structure requiring slab support or footings,
5695 or an underground facility may not be placed within the minimum distance of a main or
5696 transmission line.

5697 (b) Subsection (2)(a) does not apply if:

5698 (i) the building or structure is used for public or railroad transportation, natural gas

5699 pipeline purposes, or by a public utility subject to the jurisdiction or regulation of the Public
5700 Service Commission;

5701 (ii) in order to receive natural gas service, the building or structure must be located
5702 within the minimum distance of the pipeline;

5703 (iii) the owner or operator of the main or transmission line has been notified prior to
5704 construction or placement pursuant to Section 54-8a-4 and has given written permission; or

5705 (iv) the commission by rule exempts such action from the provisions of Subsection
5706 (2)(a).

5707 (3) (a) An owner or operator of a main or transmission line may obtain a mandatory
5708 injunction from [~~the district court of the judicial district~~] a court with jurisdiction under Title
5709 78A, Judiciary and Judicial Administration, against any person who violates Subsection (2).

5710 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the owner or
5711 operator shall bring an action described in Subsection (3)(a) in the county in which the main or
5712 transmission line is located [~~against any person who violates Subsection (2)] if the action is~~
5713 brought in the district court.

5714 (4) The penalties specified in [~~Title 54, Chapter 7, Hearings, Practice, and Procedure~~]
5715 Chapter 7, Hearings, Practice, and Procedure, do not apply to a violation of this section.

5716 Section 91. Section 54-13-8 is amended to read:

5717 **54-13-8. Violation of chapter -- Penalty.**

5718 (1) Any person engaged in intrastate pipeline transportation who is determined by the
5719 commission, after notice and an opportunity for a hearing, to have violated any provision of
5720 this chapter or any rule or order issued under this chapter, is liable for a civil penalty of not
5721 more than \$100,000 for each violation for each day the violation persists.

5722 (2) The maximum civil penalty assessed under this section may not exceed \$1,000,000
5723 for any related series of violations.

5724 (3) The amount of the penalty shall be assessed by the commission by written notice.

5725 (4) In determining the amount of the penalty, the commission shall consider:

5726 (a) the nature, circumstances, and gravity of the violation; and

5727 (b) with respect to the person found to have committed the violation:

5728 (i) the degree of culpability;

5729 (ii) any history of prior violations;

5730 (iii) the effect on the person's ability to continue to do business;

5731 (iv) any good faith in attempting to achieve compliance;

5732 (v) the person's ability to pay the penalty; and

5733 (vi) any other matter, as justice may require.

5734 (5) (a) A civil penalty assessed under this section may be recovered in an action
5735 brought by the attorney general on behalf of the state in [~~the appropriate district court~~] a court
5736 with jurisdiction under Title 78A, Judiciary and Judicial Administration, or before referral to
5737 the attorney general, it may be compromised by the commission.

5738 (b) The amount of the penalty, when finally determined, or agreed upon in
5739 compromise, may be deducted from any sum owed by the state to the person charged.

5740 (6) Any penalty collected under this section shall be deposited in the General Fund.

5741 Section 92. Section **54-14-308** is amended to read:

5742 **54-14-308. Judicial review in formal adjudicative proceedings.**

5743 The Court of Appeals has jurisdiction to review any decision of the board in a formal
5744 adjudicative proceeding as described in Sections 63G-4-403 and 78A-4-103.

5745 Section 93. Section **54-22-205** is amended to read:

5746 **54-22-205. Disputes.**

5747 A dispute under this chapter involving an electric entity shall be resolved as follows:

5748 (1) if the electric entity is a public utility, in accordance with Section **54-7-9**; and

5749 (2) if the electric entity is not a public utility, by [~~filing an action with the district court~~]
5750 bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial
5751 Administration.

5752 Section 94. Section **57-11-11** is amended to read:

5753 **57-11-11. Rules of division -- Notice and hearing requirements -- Filing**
5754 **advertising material -- Injunctions -- Intervention by division in suits -- General powers**
5755 **of division.**

5756 (1) (a) The division shall prescribe reasonable rules which shall be adopted, amended,
5757 or repealed only after a public hearing.

5758 (b) The division shall:

5759 (i) publish notice of the public hearing described in Subsection (1)(a) for the state, as a
5760 class A notice under Section **63G-30-102**, for at least 20 days before the day of the hearing; and

5761 (ii) send a notice to a nonprofit organization which files a written request for notice
5762 with the division at least 20 days before the day of the hearing.

5763 (2) The rules shall include but need not be limited to:

5764 (a) provisions for advertising standards to assure full and fair disclosure; and

5765 (b) provisions for escrow or trust agreements, performance bonds, or other means
5766 reasonably necessary to assure that all improvements referred to in the application for
5767 registration and advertising will be completed and that purchasers will receive the interest in
5768 land contracted for.

5769 (3) These provisions, however, shall not be required if the city or county in which the
5770 subdivision is located requires similar means of assurance of a nature and in an amount no less
5771 adequate than is required under said rules:

5772 (a) provisions for operating procedures;

5773 (b) provisions for a shortened form of registration in cases where the division
5774 determines that the purposes of this act do not require a subdivision to be registered pursuant to
5775 an application containing all the information required by Section 57-11-6 or do not require that
5776 the public offering statement contain all the information required by Section 57-11-7; and

5777 (c) other rules necessary and proper to accomplish the purpose of this chapter.

5778 (4) The division by rule or order, after reasonable notice, may require the filing of
5779 advertising material relating to subdivided lands prior to its distribution, provided that the
5780 division must approve or reject any advertising material within 15 days from the receipt thereof
5781 or the material shall be considered approved.

5782 (5) (a) If it appears that a person has engaged or is about to engage in an act or practice
5783 constituting a violation of a provision of this chapter or a rule or order hereunder, the agency,
5784 with or without prior administrative proceedings, may bring an action in [~~the district court of~~
5785 ~~the district where said person maintains his residence or a place of business or where said act or~~
5786 ~~practice has occurred or is about to occur,] a court with jurisdiction under Title 78A, Judiciary
5787 and Judicial Administration, to enjoin the acts or practices and to enforce compliance with this
5788 chapter or any rule or order hereunder.~~

5789 (b) Upon proper showing, a court may grant injunctive relief or temporary restraining
5790 orders [~~shall be granted, and~~] or appoint a receiver or conservator [~~may be appointed~~].

5791 (c) The division shall not be required to post a bond in any court proceedings.

5792 (6) The division shall be allowed to intervene in a suit involving subdivided lands,
5793 either as a party or as an amicus curiae, where it appears that the interpretation or
5794 constitutionality of any provision of law will be called into question. In any suit by or against a
5795 subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice
5796 of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division,
5797 constitute grounds for the division withholding any approval required by this chapter.

5798 (7) The division may:

5799 (a) accept registrations filed in other states or with the federal government;

5800 (b) contract with public agencies or qualified private persons in this state or other
5801 jurisdictions to perform investigative functions; and

5802 (c) accept grants-in-aid from any source.

5803 (8) The division shall cooperate with similar agencies in other jurisdictions to establish
5804 uniform filing procedures and forms, uniform public offering statements, advertising standards,
5805 rules, and common administrative practices.

5806 Section 95. Section **57-11-13** is amended to read:

5807 **57-11-13. Enforcement powers of division -- Cease and desist orders.**

5808 (1) (a) If the director has reason to believe that any person has been or is engaging in
5809 conduct violating this chapter, or has violated any lawful order or rule of the division, the
5810 director shall issue and serve upon the person a cease and desist order and may also order the
5811 person to take such affirmative actions the director determines will carry out the purposes of
5812 this chapter.

5813 (b) The person served may request an adjudicative proceeding within 10 days after
5814 receiving the order.

5815 (c) The cease and desist order remains in effect pending the hearing.

5816 (d) The division shall follow the procedures and requirements of Title 63G, Chapter 4,
5817 Administrative Procedures Act, if the person served requests a hearing.

5818 (2) (a) After the hearing the director may issue an order making the cease and desist
5819 order permanent if the director finds there has been a violation of this chapter.

5820 (b) If no hearing is requested and the person served does not obey the director's order,
5821 the director shall ~~file suit~~ bring an action in a court with jurisdiction under Title 78A,
5822 Judiciary and Judicial Administration, in the name of the Department of Commerce and the

5823 Division of Real Estate to enjoin the person from violating this chapter. [~~The action shall be~~
 5824 ~~filed in the district court in the county in which the conduct occurred or where the person~~
 5825 ~~resides or carries on business.~~]

5826 (3) The remedies and action provided in this section may not interfere with or prevent
 5827 the prosecution of any other remedies or actions including criminal prosecutions.

5828 Section 96. Section **57-11-18** is amended to read:

5829 **57-11-18. Dispositions subject to chapter -- Jurisdiction of courts.**

5830 (1) Dispositions of subdivided lands are subject to this [~~act, and the district courts of~~
 5831 ~~this state have jurisdiction in claims or causes of action arising under this act,~~] chapter.

5832 (2) A court of this state has jurisdiction in a claim or action arising under this chapter
 5833 if:

5834 [(1)] (a) [~~The~~] the subdivided lands offered for disposition are located in this state;

5835 [(2)] (b) [~~The~~] the subdivider's principal office is located in this state; or

5836 [(3)] (c) [~~Any~~] any offer or disposition of subdivided lands is made in this state,
 5837 whether or not the offeror or offeree is then present in this state, if the offer originates within
 5838 this state or is directed by the offeror to a person or place in this state and received by the
 5839 person or at the place to which it is directed.

5840 Section 97. Section **58-37-11** is amended to read:

5841 **58-37-11. Court action to enjoin violations -- Jury trial.**

5842 (1) [~~The district courts of this state shall have jurisdiction in proceedings in accordance~~
 5843 ~~with the rules of those courts to~~] A court may enjoin violations of this act.

5844 (2) If an alleged violation of an injunction or restraining order issued under this section
 5845 occurs, the accused may demand a jury trial in accordance with [~~the rules of the district courts~~]
 5846 the Utah Rules of Civil Procedure.

5847 Section 98. Section **63A-3-507** is amended to read:

5848 **63A-3-507. Administrative garnishment order.**

5849 (1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may
 5850 issue an administrative garnishment order against the debtor's personal property, including
 5851 wages, in the possession of a party other than the debtor in the same manner and with the same
 5852 effect as if the order was a writ of garnishment issued by a court with jurisdiction.

5853 (2) The office may issue the administrative garnishment order if:

- 5854 (a) the order is signed by the director or the director's designee; and
5855 (b) the underlying debt is for:
5856 (i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or
5857 (ii) nonpayment of a judgment, or abstract of judgment or award filed with a court,
5858 based on an administrative order for payment issued by an agency of the state.
- 5859 (3) An administrative garnishment order issued in accordance with this section is
5860 subject to the procedures and due process protections provided by Rule 64D, Utah Rules of
5861 Civil Procedure, except as provided by Section [70C-7-103](#).
- 5862 (4) An administrative garnishment order issued by the office shall:
5863 (a) contain a statement that includes:
5864 (i) if known:
5865 (A) the nature, location, account number, and estimated value of the property; and
5866 (B) the name, address, and phone number of the person holding the property;
5867 (ii) whether any of the property consists of earnings;
5868 (iii) the amount of the judgment and the amount due on the judgment; and
5869 (iv) the name, address, and phone number of any person known to the plaintiff to claim
5870 an interest in the property;
5871 (b) identify the defendant, including the defendant's name and last known address;
5872 (c) notify the defendant of the defendant's right to reply to answers and request a
5873 hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and
5874 (d) state where the garnishee may deliver property.
- 5875 (5) The office may, in the office's discretion, include in an administrative garnishment
5876 order:
5877 (a) the last four digits of the defendant's Social Security number;
5878 (b) the last four digits of the defendant's driver license number;
5879 (c) the state in which the defendant's driver license was issued;
5880 (d) one or more interrogatories inquiring:
5881 (i) whether the garnishee is indebted to the defendant and, if so, the nature of the
5882 indebtedness;
5883 (ii) whether the garnishee possesses or controls any property of the defendant and, if
5884 so, the nature, location, and estimated value of the property;

5885 (iii) whether the garnishee knows of any property of the defendant in the possession or
5886 under the control of another and, if so:

5887 (A) the nature, location, and estimated value of the property; and

5888 (B) the name, address, and telephone number of the person who has possession or
5889 control of the property;

5890 (iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim
5891 against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant,
5892 and the amount deducted;

5893 (v) the date and manner of the garnishee's service of papers upon the defendant and any
5894 third party;

5895 (vi) the dates on which any previously served writs of continuing garnishment were
5896 served; and

5897 (vii) any other relevant information, including the defendant's position, rate of pay,
5898 method of compensation, pay period, and computation of the amount of the defendant's
5899 disposable earnings.

5900 (6) (a) A garnishee who acts in accordance with this section and the administrative
5901 garnishment issued by the office is released from liability unless an answer to an interrogatory
5902 is successfully controverted.

5903 (b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an
5904 administrative garnishment issued by the office without a court or final administrative order
5905 directing otherwise, the garnishee is liable to the office for an amount determined by the court.

5906 (c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

5907 (i) (A) the value of the judgment; or

5908 (B) the value of the property, if the garnishee shows that the value of the property is
5909 less than the value of the judgment;

5910 (ii) reasonable costs; and

5911 (iii) attorney fees incurred by the parties as a result of the garnishee's failure.

5912 (d) If the garnishee shows that the steps taken to secure the property were reasonable,
5913 the court may excuse the garnishee's liability in whole or in part.

5914 (7) (a) If the office has reason to believe that a garnishee has failed to comply with the
5915 requirements of this section in the garnishee's response to a garnishment order issued under this

5916 section, the office may submit a motion to the court requesting the court to issue an order
5917 against the garnishee requiring the garnishee to appear and show cause why the garnishee
5918 should not be held liable under this section.

5919 (b) The office shall attach to a motion under Subsection (7)(a) a statement that the
5920 office has in good faith conferred or attempted to confer with the garnishee in an effort to settle
5921 the issue without court action.

5922 (8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a
5923 negotiable instrument if the instrument is not in the possession or control of the garnishee at
5924 the time of service of the administrative garnishment order.

5925 (9) (a) A person indebted to the defendant may pay to the office the amount of the debt
5926 or an amount to satisfy the administrative garnishment.

5927 (b) The office's receipt of an amount described in Subsection (9)(a) discharges the
5928 debtor for the amount paid.

5929 (10) A garnishee may deduct from the property any liquidated claim against the
5930 defendant.

5931 (11) (a) If a debt to the garnishee is secured by property, the office:

5932 (i) is not required to apply the property to the debt when the office issues the
5933 administrative garnishment order; and

5934 (ii) may obtain a court order authorizing the office to buy the debt and requiring the
5935 garnishee to deliver the property.

5936 (b) Notwithstanding Subsection (11)(a)(i):

5937 (i) the administrative garnishment order remains in effect; and

5938 (ii) the office may apply the property to the debt.

5939 (c) The office or a third party may perform an obligation of the defendant and require
5940 the garnishee to deliver the property upon completion of performance or, if performance is
5941 refused, upon tender of performance if:

5942 (i) the obligation is secured by property; and

5943 (ii) (A) the obligation does not require the personal performance of the defendant; and

5944 (B) a third party may perform the obligation.

5945 (12) (a) The office may issue a continuing garnishment order against a nonexempt
5946 periodic payment.

- 5947 (b) This section is subject to the Utah Exemptions Act.
- 5948 (c) A continuing garnishment order issued in accordance with this section applies to
5949 payments to the defendant from the date of service upon the garnishee until the earliest of the
5950 following:
- 5951 (i) the last periodic payment;
- 5952 (ii) the judgment upon which the administrative garnishment order is issued is stayed,
5953 vacated, or satisfied in full; or
- 5954 (iii) the office releases the order.
- 5955 (d) No later than seven days after the last day of each payment period, the garnishee
5956 shall with respect to that period:
- 5957 (i) answer each interrogatory;
- 5958 (ii) serve an answer to each interrogatory on the office, the defendant, and any other
5959 person who has a recorded interest in the property; and
- 5960 (iii) deliver the property to the office.
- 5961 (e) If the office issues a continuing garnishment order during the term of a writ of
5962 continuing garnishment issued by ~~[the district]~~ a court, the order issued by the office:
- 5963 (i) is tolled when a writ of garnishment or other income withholding is already in effect
5964 and is withholding greater than or equal to the maximum portion of disposable earnings
5965 described in Subsection (13);
- 5966 (ii) is collected in the amount of the difference between the maximum portion of
5967 disposable earnings described in Subsection (13) and the amount being garnished by an
5968 existing writ of continuing garnishment if the maximum portion of disposable earnings exceed
5969 the existing writ of garnishment or other income withholding; and
- 5970 (iii) shall take priority upon the termination of the current term of existing writs.
- 5971 (13) The maximum portion of disposable earnings of an individual subject to seizure in
5972 accordance with this section is the lesser of:
- 5973 (a) 25% of the defendant's disposable earnings for any other judgment; or
- 5974 (b) the amount by which the defendant's disposable earnings for a pay period exceeds
5975 the number of weeks in that pay period multiplied by 30 times the federal minimum wage as
5976 provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.
- 5977 (14) (a) In accordance with the requirements of this Subsection (14), the office may, at

5978 its discretion, determine a dollar amount that a garnishee is to withhold from earnings and
5979 deliver to the office in a continuing administrative garnishment order issued under this section.

5980 (b) The office may determine the dollar amount that a garnishee is to withhold from
5981 earnings under Subsection (14)(a) if the dollar amount determined by the office:

- 5982 (i) does not exceed the maximum amount allowed under Subsection (13); and
- 5983 (ii) is based on:

5984 (A) earnings information received by the office directly from the [~~Utah~~] Department of
5985 Workforce Services; or

5986 (B) previous garnishments issued to the garnishee by the office where payments were
5987 received at a consistent dollar amount.

5988 (c) The earnings information or previous garnishments relied on by the office under
5989 Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

- 5990 (i) for one debtor;
- 5991 (ii) from the same employer;
- 5992 (iii) for two or more consecutive quarters; and
- 5993 (iv) received within the last six months.

5994 (15) (a) A garnishee who provides the calculation for withholdings on a defendant's
5995 wages in the garnishee's initial response to an interrogatory in an administrative garnishment
5996 order under this section is not required to provide the calculation for withholdings after the
5997 garnishee's initial response if:

- 5998 (i) the garnishee's accounting system automates the amount of defendant's wages to be
5999 paid under the garnishment; and
- 6000 (ii) the defendant's wages do not vary by more than five percent from the amount
6001 disclosed in the garnishee's initial response.

6002 (b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a
6003 garnishee shall provide, for the last pay period or other pay period specified by the office or
6004 defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

6005 (16) (a) A garnishee under an administrative garnishment order under this section is
6006 entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

- 6007 (i) \$10 per garnishment order, for a noncontinuing garnishment order; and
- 6008 (ii) \$25, as a one-time fee, for a continuing garnishment order.

6009 (b) A garnishee may deduct the amount of the garnishee fee from the amount to be
6010 remitted to the office under the administrative garnishment order, if the amount to be remitted
6011 exceeds the amount of the fee.

6012 (c) If the amount to be remitted to the office under an administrative garnishment order
6013 does not exceed the amount of the garnishee fee:

6014 (i) the garnishee shall notify the office that the amount to be remitted does not exceed
6015 the amount of the garnishee fee; and

6016 (ii) (A) the garnishee under a noncontinuing garnishment order shall return the
6017 administrative garnishment order to the office, and the office shall pay the garnishee the
6018 garnishee fee; or

6019 (B) the garnishee under a continuing garnishment order shall delay remitting to the
6020 office until the amount to be remitted exceeds the garnishee fee.

6021 (d) If, upon receiving the administrative garnishment order, the garnishee does not
6022 possess or control any property, including money or wages, in which the defendant has an
6023 interest:

6024 (i) the garnishee under a continuing or noncontinuing garnishment order shall, except
6025 as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office,
6026 and the office shall pay the garnishee the applicable garnishee fee; or

6027 (ii) if the garnishee under a continuing garnishment order believes that the garnishee
6028 will, within 90 days after issuance of the continuing garnishment order, come into possession
6029 or control of property in which the defendant owns an interest, the garnishee may retain the
6030 garnishment order and deduct the garnishee fee for a continuing garnishment once the amount
6031 to be remitted exceeds the garnishee fee.

6032 (17) Section [78A-2-216](#) does not apply to an administrative garnishment order issued
6033 under this section.

6034 (18) An administrative garnishment instituted in accordance with this section shall
6035 continue to operate and require that a person withhold the nonexempt portion of earnings at
6036 each succeeding earning disbursement interval until the total amount due in the garnishment is
6037 withheld or the garnishment is released in writing by the court or office.

6038 (19) If the office issues an administrative garnishment order under this section to
6039 collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the

6040 administrative garnishment order shall be construed as a continuation of the criminal action for
6041 which the civil accounts receivable or civil judgment of restitution arises if the amount owed is
6042 from a fine, fee, or restitution for the criminal action.

6043 Section 99. Section **63G-4-403** is amended to read:

6044 **63G-4-403. Judicial review -- Formal adjudicative proceedings.**

6045 (1) As provided by statute, the Supreme Court or the Court of Appeals has jurisdiction
6046 to review all final agency action resulting from formal adjudicative proceedings as described in
6047 Sections [78A-3-102](#) and [78A-4-103](#).

6048 (2) (a) To seek judicial review of final agency action resulting from formal adjudicative
6049 proceedings, the petitioner shall file a petition for review of agency action with the appropriate
6050 appellate court in the form required by the appellate rules of the appropriate appellate court.

6051 (b) The appellate rules of the appropriate appellate court shall govern all additional
6052 filings and proceedings in the appellate court.

6053 (3) The contents, transmittal, and filing of the agency's record for judicial review of
6054 formal adjudicative proceedings are governed by the Utah Rules of Appellate Procedure,
6055 except that:

6056 (a) all parties to the review proceedings may stipulate to shorten, summarize, or
6057 organize the record; and

6058 (b) the appellate court may tax the cost of preparing transcripts and copies for the
6059 record:

6060 (i) against a party who unreasonably refuses to stipulate to shorten, summarize, or
6061 organize the record; or

6062 (ii) according to any other provision of law.

6063 (4) The appellate court shall grant relief only if, on the basis of the agency's record, it
6064 determines that a person seeking judicial review has been substantially prejudiced by any of the
6065 following:

6066 (a) the agency action, or the statute or rule on which the agency action is based, is
6067 unconstitutional on its face or as applied;

6068 (b) the agency has acted beyond the jurisdiction conferred by any statute;

6069 (c) the agency has not decided all of the issues requiring resolution;

6070 (d) the agency has erroneously interpreted or applied the law;

6071 (e) the agency has engaged in an unlawful procedure or decision-making process, or
6072 has failed to follow prescribed procedure;

6073 (f) the persons taking the agency action were illegally constituted as a decision-making
6074 body or were subject to disqualification;

6075 (g) the agency action is based upon a determination of fact, made or implied by the
6076 agency, that is not supported by substantial evidence when viewed in light of the whole record
6077 before the court; or

6078 (h) the agency action is:

6079 (i) an abuse of the discretion delegated to the agency by statute;

6080 (ii) contrary to a rule of the agency;

6081 (iii) contrary to the agency's prior practice, unless the agency justifies the inconsistency
6082 by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency; or

6083 (iv) otherwise arbitrary or capricious.

6084 Section 100. Section **63G-7-501** is amended to read:

6085 **63G-7-501. Actions brought under this chapter.**

6086 [~~(1) The district courts have exclusive, original jurisdiction over any action brought~~
6087 ~~under this chapter. (2)] An action brought under this chapter may not be tried as a small claims
6088 action.~~

6089 Section 101. Section **63G-7-502** is amended to read:

6090 **63G-7-502. Venue of actions.**

6091 (1) [~~Actions against the state may be brought in the county in which the claim arose or~~
6092 ~~in Salt Lake County.] Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a
6093 person shall bring an action described in this chapter in:~~

6094 (a) Salt Lake County; or

6095 (b) the county in which the claim arose.

6096 (2) [~~(a) Actions against a county may be brought in the county in which the claim~~
6097 ~~arose, or in the defendant county.]~~

6098 (a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
6099 bring an action against a county in:

6100 (i) the county in which the claim arose; or

6101 (ii) the defendant county.

6102 (b) (i) A district court judge of the defendant county may transfer venue to any county
6103 contiguous to the defendant county.

6104 (ii) A motion to transfer may be filed ex parte.

6105 (3) ~~[Actions against all other political subdivisions, including cities and towns, shall be~~
6106 ~~brought in the county in which the political subdivision is located or in the county in which the~~
6107 ~~claim arose.]~~ Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
6108 bring an action against any other political subdivision, including a city or a town, in the county
6109 in which:

6110 (a) the political subdivision is located; or

6111 (b) the claim arose.

6112 Section 102. Section **63G-20-204** is amended to read:

6113 **63G-20-204. Remedies -- Attorney fees and costs.**

6114 (1) (a) A person aggrieved by a violation of this part may:

6115 (i) seek injunctive or other civil relief to require a state or local government or a state
6116 or local government official to comply with the requirements of this part; or

6117 (ii) seek removal of the local government official for malfeasance in office according
6118 to the procedures and requirements of Title 77, Chapter 6, Removal by Judicial Proceedings.

6119 (b) The court may award reasonable attorney fees and costs to the prevailing party.

6120 (2) (a) A person aggrieved by a violation of this part may bring a civil action in [~~district~~
6121 ~~court]~~ a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

6122 (b) If the plaintiff establishes one or more violations of this part by a preponderance of
6123 the evidence, the court:

6124 (i) shall grant the plaintiff appropriate legal or equitable relief; and

6125 (ii) may award reasonable attorney fees and costs to the prevailing party.

6126 Section 103. Section **63G-20-302** is amended to read:

6127 **63G-20-302. Remedies -- Civil action -- Attorney fees and costs.**

6128 (1) A person aggrieved by a violation of this part may bring a civil action in [~~district~~
6129 ~~court]~~ a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

6130 (2) If the plaintiff establishes one or more violations of this part by a preponderance of
6131 the evidence, the court:

6132 (a) shall grant the plaintiff appropriate legal or equitable relief; and

6133 (b) may award reasonable attorney fees and costs to the prevailing party.

6134 Section 104. Section **63G-23-102** is amended to read:

6135 **63G-23-102. Definitions.**

6136 As used in this chapter:

6137 (1) "Public official" means, except as provided in Subsection (3), the same as that term
6138 is defined in Section [36-11-102](#).

6139 (2) "Public official" includes a judge or justice of:

6140 (a) the Utah Supreme Court;

6141 (b) the Utah Court of Appeals; [or]

6142 (c) a district court[-];

6143 (d) a juvenile court; or

6144 (e) the Business and Chancery Court.

6145 (3) "Public official" does not include a local official or an education official as defined
6146 in Section [36-11-102](#).

6147 Section 105. Section **63H-1-601** is amended to read:

6148 **63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics**
6149 **of bonds.**

6150 (1) The authority may not issue bonds under this part unless the authority board first:

6151 (a) adopts a parameters resolution that sets forth:

6152 (i) the maximum:

6153 (A) amount of the bonds;

6154 (B) term; and

6155 (C) interest rate; and

6156 (ii) the expected security for the bonds; and

6157 (b) submits the parameters resolution for review and recommendation to the State
6158 Finance Review Commission created in Section [63C-25-201](#).

6159 (2) (a) As provided in the authority resolution authorizing the issuance of bonds under
6160 this part or the trust indenture under which the bonds are issued, bonds issued under this part
6161 may be issued in one or more series and may be sold at public or private sale and in the manner
6162 provided in the resolution or indenture.

6163 (b) Bonds issued under this part shall bear the date, be payable at the time, bear interest

6164 at the rate, be in the denomination and in the form, carry the conversion or registration
6165 privileges, have the rank or priority, be executed in the manner, be subject to the terms of
6166 redemption or tender, with or without premium, be payable in the medium of payment and at
6167 the place, and have other characteristics as provided in the authority resolution authorizing
6168 their issuance or the trust indenture under which they are issued.

6169 (3) Upon the board's adoption of a resolution providing for the issuance of bonds, the
6170 board may provide for the publication of the resolution:

6171 (a) in a newspaper having general circulation in the authority's boundaries; and

6172 (b) as required in Section 45-1-101.

6173 (4) In lieu of publishing the entire resolution, the board may publish notice of bonds
6174 that contains the information described in Subsection 11-14-316(2).

6175 (5) For a period of 30 days after the publication, any person in interest may contest:

6176 (a) the legality of the resolution or proceeding;

6177 (b) any bonds that may be authorized by the resolution or proceeding; or

6178 (c) any provisions made for the security and payment of the bonds.

6179 (6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified
6180 written complaint, within 30 days of the publication under Subsection (5), in [~~the district court~~
6181 ~~of the county in which the person resides~~] a court with jurisdiction under Title 78A, Judiciary
6182 and Judicial Administration.

6183 (b) A person may not contest the matters set forth in Subsection (5), or the regularity,
6184 formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for
6185 contesting provided in Subsection (6)(a).

6186 (7) No later than 60 days after the closing day of any bonds, the authority shall report
6187 the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

6188 (a) the Executive Appropriations Committee; and

6189 (b) the State Finance Review Commission created in Section 63C-25-201.

6190 Section 106. Section 63L-5-301 is amended to read:

6191 **63L-5-301. Remedies.**

6192 (1) (a) A person whose free exercise of religion has been substantially burdened by a
6193 government entity in violation of Section 63L-5-201 may bring an action in [~~the district court~~
6194 ~~of~~] a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

6195 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall
6196 bring an action described in Subsection (1)(a) in the county where the largest portion of the
6197 property subject to the land use regulation is located if the action is brought in the district court.

6198 (2) Any person who asserts a claim or defense against a government entity under this
6199 chapter may request:

6200 (a) declaratory relief;

6201 (b) temporary or permanent injunctive relief to prevent the threatened or continued
6202 violation; or

6203 (c) a combination of declaratory and injunctive relief.

6204 (3) A person may not bring an action under this chapter against an individual, other
6205 than an action against an individual acting in the individual's official capacity as an officer of a
6206 government entity.

6207 Section 107. Section **63L-8-304** is amended to read:

6208 **63L-8-304. Enforcement authority.**

6209 (1) The director shall issue rules as necessary to implement the provisions of this
6210 chapter with respect to the management, use, and protection of the public land and property
6211 located on the public land.

6212 (2) At the request of the director, the attorney general may [~~institute a civil action in a~~
6213 ~~district court~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and
6214 Judicial Administration, for an injunction or other appropriate remedy to prevent any person
6215 from utilizing public land in violation of this chapter or rules issued by the director under this
6216 chapter.

6217 (3) The use, occupancy, or development of any portion of the public land contrary to
6218 any rule issued by the DLM in accordance with this chapter, and without proper authorization,
6219 is unlawful and prohibited.

6220 (4) (a) The locally elected county sheriff is the primary law enforcement authority with
6221 jurisdiction on public land to enforce:

6222 (i) all the laws of this state; and

6223 (ii) this chapter and rules issued by the director pursuant to Subsection (1).

6224 (b) The governor may utilize the Department of Public Safety for the purposes of
6225 assisting the county sheriff in enforcing:

6226 (i) all the laws of this state and this chapter; and
6227 (ii) rules issued by the director pursuant to Subsection (1).
6228 (c) Conservation officers employed by the Division of Wildlife Resources have
6229 authority to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the
6230 sake of any protected wildlife.

6231 (d) A conservation officer shall work cooperatively with the locally elected county
6232 sheriff to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the
6233 sake of protected wildlife.

6234 (e) Nothing herein shall be construed as enlarging or diminishing the responsibility or
6235 authority of a state certified peace officer in performing the officer's duties on public land.

6236 Section 108. Section **65A-8a-104** is amended to read:

6237 **65A-8a-104. Notification of intent to conduct forest practices.**

6238 (1) No later than 30 days before an operator commences forest practices, the operator
6239 shall notify the division of the operator's intent to conduct forest practices.

6240 (2) The notification shall include:

6241 (a) the name and address of the operator;

6242 (b) the name, address, and other current contact information of the landowner;

6243 (c) a legal description of the area in which the forest practices are to be conducted;

6244 (d) a description of the proposed forest practices to be conducted, including the number
6245 of acres with timber to be harvested; and

6246 (e) an agreement granting the state forestry personnel permission to enter the area in
6247 which the forest practices are to be conducted to conduct an inspection, when the state forestry
6248 personnel reasonably consider an inspection necessary to ensure compliance with this chapter.

6249 (3) Upon the receipt of notification, the division shall, within 10 days, mail to the
6250 landowner and the operator:

6251 (a) an acknowledgment of notification;

6252 (b) information on Forest Water Quality Guidelines; and

6253 (c) any other information the division believes would assist the landowner and operator
6254 in conducting forest practices.

6255 (4) (a) Failure to notify the division in accordance with this section is a class B
6256 misdemeanor.

6257 (b) (i) The division may [~~file an action in the district court of any county in which the~~
6258 ~~area in which the forest practices are to be conducted is located~~] bring an action in a court with
6259 jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin an operator
6260 engaged in conduct violating this chapter from operating until the operator complies with this
6261 chapter.

6262 (ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the division shall
6263 bring an action described in Subsection (4)(b)(i) in the county in which the forest practices are
6264 to be conducted is located if the division brings the action in the district court.

6265 (c) In an action by the division in accordance with Subsection (4)(b), the operator shall
6266 pay reasonable attorney fees and all court costs incurred by the division because of the action.

6267 Section 109. Section **67-3-1** is amended to read:

6268 **67-3-1. Functions and duties.**

6269 (1) (a) The state auditor is the auditor of public accounts and is independent of any
6270 executive or administrative officers of the state.

6271 (b) The state auditor is not limited in the selection of personnel or in the determination
6272 of the reasonable and necessary expenses of the state auditor's office.

6273 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
6274 financial statements showing:

6275 (a) the condition of the state's finances;

6276 (b) the revenues received or accrued;

6277 (c) expenditures paid or accrued;

6278 (d) the amount of unexpended or unencumbered balances of the appropriations to the
6279 agencies, departments, divisions, commissions, and institutions; and

6280 (e) the cash balances of the funds in the custody of the state treasurer.

6281 (3) (a) The state auditor shall:

6282 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
6283 any department of state government or any independent agency or public corporation as the law
6284 requires, as the auditor determines is necessary, or upon request of the governor or the
6285 Legislature;

6286 (ii) perform the audits in accordance with generally accepted auditing standards and
6287 other auditing procedures as promulgated by recognized authoritative bodies; and

- 6288 (iii) as the auditor determines is necessary, conduct the audits to determine:
- 6289 (A) honesty and integrity in fiscal affairs;
- 6290 (B) accuracy and reliability of financial statements;
- 6291 (C) effectiveness and adequacy of financial controls; and
- 6292 (D) compliance with the law.
- 6293 (b) If any state entity receives federal funding, the state auditor shall ensure that the
- 6294 audit is performed in accordance with federal audit requirements.
- 6295 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
- 6296 appropriation to the state auditor from the General Fund.
- 6297 (ii) If an appropriation is not provided, or if the federal government does not
- 6298 specifically provide for payment of audit costs, the costs of the federal compliance portions of
- 6299 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
- 6300 bears to the total federal funds received by the state.
- 6301 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
- 6302 funds passed through the state to local governments and to reflect any reduction in audit time
- 6303 obtained through the use of internal auditors working under the direction of the state auditor.
- 6304 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
- 6305 financial audits, and as the auditor determines is necessary, conduct performance and special
- 6306 purpose audits, examinations, and reviews of any entity that receives public funds, including a
- 6307 determination of any or all of the following:
- 6308 (i) the honesty and integrity of all the entity's fiscal affairs;
- 6309 (ii) whether the entity's administrators have faithfully complied with legislative intent;
- 6310 (iii) whether the entity's operations have been conducted in an efficient, effective, and
- 6311 cost-efficient manner;
- 6312 (iv) whether the entity's programs have been effective in accomplishing the intended
- 6313 objectives; and
- 6314 (v) whether the entity's management, control, and information systems are adequate,
- 6315 effective, and secure.
- 6316 (b) The auditor may not conduct performance and special purpose audits,
- 6317 examinations, and reviews of any entity that receives public funds if the entity:
- 6318 (i) has an elected auditor; and

- 6319 (ii) has, within the entity's last budget year, had the entity's financial statements or
6320 performance formally reviewed by another outside auditor.
- 6321 (5) The state auditor:
- 6322 (a) shall administer any oath or affirmation necessary to the performance of the duties
6323 of the auditor's office; and
- 6324 (b) may:
- 6325 (i) subpoena witnesses and documents, whether electronic or otherwise; and
6326 (ii) examine into any matter that the auditor considers necessary.
- 6327 (6) The state auditor may require all persons who have had the disposition or
6328 management of any property of this state or its political subdivisions to submit statements
6329 regarding the property at the time and in the form that the auditor requires.
- 6330 (7) The state auditor shall:
- 6331 (a) except where otherwise provided by law, institute suits in Salt Lake County in
6332 relation to the assessment, collection, and payment of revenues against:
- 6333 (i) persons who by any means have become entrusted with public money or property
6334 and have failed to pay over or deliver the money or property; and
- 6335 (ii) all debtors of the state;
- 6336 (b) collect and pay into the state treasury all fees received by the state auditor;
- 6337 (c) perform the duties of a member of all boards of which the state auditor is a member
6338 by the constitution or laws of the state, and any other duties that are prescribed by the
6339 constitution and by law;
- 6340 (d) stop the payment of the salary of any state official or state employee who:
- 6341 (i) refuses to settle accounts or provide required statements about the custody and
6342 disposition of public funds or other state property;
- 6343 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
6344 board or department head with respect to the manner of keeping prescribed accounts or funds;
6345 or
- 6346 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
6347 official's or employee's attention;
- 6348 (e) establish accounting systems, methods, and forms for public accounts in all taxing
6349 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

- 6350 (f) superintend the contractual auditing of all state accounts;
- 6351 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
6352 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
6353 officials and employees in those taxing units comply with state laws and procedures in the
6354 budgeting, expenditures, and financial reporting of public funds;
- 6355 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
6356 if necessary, to ensure that officials and employees in the county comply with Section
6357 [59-2-303.1](#); and
- 6358 (i) withhold state allocated funds or the disbursement of property taxes from a local
6359 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
6360 the state auditor finds the withholding necessary to ensure that the entity registers and
6361 maintains the entity's registration with the lieutenant governor, in accordance with Section
6362 [67-1a-15](#).
- 6363 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
6364 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
6365 written notice of noncompliance from the auditor and has been given 60 days to make the
6366 specified corrections.
- 6367 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
6368 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
6369 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
6370 state auditor:
- 6371 (i) shall provide a recommended timeline for corrective actions;
- 6372 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
6373 state; and
- 6374 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
6375 account of a financial institution by filing an action in [~~district court~~] a court with jurisdiction
6376 under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to
6377 prohibit a financial institution from providing the fee-assessing unit access to an account.
- 6378 (c) The state auditor shall remove a limitation on accessing funds under Subsection
6379 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
6380 financial reporting of public funds.

6381 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
6382 state law, the state auditor:

6383 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
6384 comply;

6385 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
6386 state; and

6387 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
6388 account of a financial institution by:

6389 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
6390 the institution prohibit access to the account; or

6391 (B) filing an action in [~~district court~~] a court with jurisdiction under Title 78A,
6392 Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial
6393 institution from providing the taxing or fee-assessing unit access to an account.

6394 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
6395 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
6396 (8)(d).

6397 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
6398 received formal written notice of noncompliance from the auditor and has been given 60 days
6399 to make the specified corrections.

6400 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
6401 auditor receives a notice of non-registration, as that term is defined in Section [67-1a-15](#).

6402 (b) If the state auditor receives a notice of non-registration, the state auditor may
6403 prohibit the local government entity or limited purpose entity, as those terms are defined in
6404 Section [67-1a-15](#), from accessing:

6405 (i) money held by the state; and

6406 (ii) money held in an account of a financial institution by:

6407 (A) contacting the entity's financial institution and requesting that the institution
6408 prohibit access to the account; or

6409 (B) filing an action in [~~district court~~] a court with jurisdiction under Title 78A,
6410 Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial
6411 institution from providing the entity access to an account.

6412 (c) The state auditor shall remove the prohibition on accessing funds described in
6413 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
6414 Section 67-1a-15, from the lieutenant governor.

6415 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
6416 state auditor:

6417 (a) shall authorize a disbursement by a local government entity or limited purpose
6418 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
6419 unit if the disbursement is necessary to:

6420 (i) avoid a major disruption in the operations of the local government entity, limited
6421 purpose entity, or state or local taxing or fee-assessing unit; or

6422 (ii) meet debt service obligations; and

6423 (b) may authorize a disbursement by a local government entity, limited purpose entity,
6424 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

6425 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
6426 take temporary custody of public funds if an action is necessary to protect public funds from
6427 being improperly diverted from their intended public purpose.

6428 (b) If the state auditor seeks relief under Subsection (12)(a):

6429 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
6430 and

6431 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
6432 court orders the public funds to be protected from improper diversion from their public
6433 purpose.

6434 (13) The state auditor shall:

6435 (a) establish audit guidelines and procedures for audits of local mental health and
6436 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
6437 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
6438 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental
6439 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
6440 Organizations, and Other Local Entities Act; and

6441 (b) ensure that those guidelines and procedures provide assurances to the state that:

6442 (i) state and federal funds appropriated to local mental health authorities are used for

6443 mental health purposes;

6444 (ii) a private provider under an annual or otherwise ongoing contract to provide
6445 comprehensive mental health programs or services for a local mental health authority is in
6446 compliance with state and local contract requirements and state and federal law;

6447 (iii) state and federal funds appropriated to local substance abuse authorities are used
6448 for substance abuse programs and services; and

6449 (iv) a private provider under an annual or otherwise ongoing contract to provide
6450 comprehensive substance abuse programs or services for a local substance abuse authority is in
6451 compliance with state and local contract requirements, and state and federal law.

6452 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
6453 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
6454 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
6455 investigations of any political subdivision that are necessary to determine honesty and integrity
6456 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
6457 financial controls and compliance with the law.

6458 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
6459 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
6460 initiate an audit or investigation of the public entity subject to the notice to determine
6461 compliance with Section 11-41-103.

6462 (15) (a) The state auditor may not audit work that the state auditor performed before
6463 becoming state auditor.

6464 (b) If the state auditor has previously been a responsible official in state government
6465 whose work has not yet been audited, the Legislature shall:

6466 (i) designate how that work shall be audited; and

6467 (ii) provide additional funding for those audits, if necessary.

6468 (16) The state auditor shall:

6469 (a) with the assistance, advice, and recommendations of an advisory committee
6470 appointed by the state auditor from among special district boards of trustees, officers, and
6471 employees and special service district boards, officers, and employees:

6472 (i) prepare a Uniform Accounting Manual for Special Districts that:

6473 (A) prescribes a uniform system of accounting and uniform budgeting and reporting

6474 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -
6475 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
6476 District Act;

6477 (B) conforms with generally accepted accounting principles; and

6478 (C) prescribes reasonable exceptions and modifications for smaller districts to the
6479 uniform system of accounting, budgeting, and reporting;

6480 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
6481 reflect generally accepted accounting principles;

6482 (iii) conduct a continuing review and modification of procedures in order to improve
6483 them;

6484 (iv) prepare and supply each district with suitable budget and reporting forms; and

6485 (v) (A) prepare instructional materials, conduct training programs, and render other
6486 services considered necessary to assist special districts and special service districts in
6487 implementing the uniform accounting, budgeting, and reporting procedures; and

6488 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
6489 63G, Chapter 22, State Training and Certification Requirements; and

6490 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
6491 and experiences of specific special districts and special service districts selected by the state
6492 auditor and make the information available to all districts.

6493 (17) (a) The following records in the custody or control of the state auditor are
6494 protected records under Title 63G, Chapter 2, Government Records Access and Management
6495 Act:

6496 (i) records that would disclose information relating to allegations of personal
6497 misconduct, gross mismanagement, or illegal activity of a past or present governmental
6498 employee if the information or allegation cannot be corroborated by the state auditor through
6499 other documents or evidence, and the records relating to the allegation are not relied upon by
6500 the state auditor in preparing a final audit report;

6501 (ii) records and audit workpapers to the extent the workpapers would disclose the
6502 identity of an individual who during the course of an audit, communicated the existence of any
6503 waste of public funds, property, or manpower, or a violation or suspected violation of a law,
6504 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or

6505 any recognized entity of the United States, if the information was disclosed on the condition
6506 that the identity of the individual be protected;

6507 (iii) before an audit is completed and the final audit report is released, records or drafts
6508 circulated to an individual who is not an employee or head of a governmental entity for the
6509 individual's response or information;

6510 (iv) records that would disclose an outline or part of any audit survey plans or audit
6511 program; and

6512 (v) requests for audits, if disclosure would risk circumvention of an audit.

6513 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
6514 of records or information that relate to a violation of the law by a governmental entity or
6515 employee to a government prosecutor or peace officer.

6516 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
6517 the state auditor to classify a document as public, private, controlled, or protected under Title
6518 63G, Chapter 2, Government Records Access and Management Act.

6519 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
6520 state auditor and the subject of an audit performed by the state auditor as to whether the state
6521 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
6522 auditor gained access to in the course of the state auditor's audit but which the subject of the
6523 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
6524 Access and Management Act.

6525 (ii) The state auditor may submit a record dispute to the State Records Committee,
6526 created in Section 63G-2-501, for a determination of whether the state auditor may, in
6527 conjunction with the state auditor's release of an audit report, release to the public the record
6528 that is the subject of the record dispute.

6529 (iii) The state auditor or the subject of the audit may seek judicial review of a State
6530 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
6531 63G-2-404.

6532 (18) If the state auditor conducts an audit of an entity that the state auditor has
6533 previously audited and finds that the entity has not implemented a recommendation made by
6534 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
6535 Committee through the Legislative Management Committee's audit subcommittee that the

6536 entity has not implemented that recommendation.

6537 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
6538 privacy officer described in Section [67-3-13](#).

6539 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
6540 another government entity reports, on the financial, operational, and performance metrics for
6541 the state system of higher education and the state system of public education, including metrics
6542 in relation to students, programs, and schools within those systems.

6543 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits
6544 of:

6545 (i) the scholarship granting organization for the Special Needs Opportunity Scholarship
6546 Program, created in Section [53E-7-402](#);

6547 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in
6548 Section [53F-4-302](#); and

6549 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,
6550 created in Section [53F-6-402](#).

6551 (b) Nothing in this subsection limits or impairs the authority of the State Board of
6552 Education to administer the programs described in Subsection (21)(a).

6553 (22) The state auditor shall, based on the information posted by the Office of
6554 Legislative Research and General Counsel under Subsection [36-12-12.1\(2\)](#), for each policy,
6555 track and post the following information on the state auditor's website:

6556 (a) the information posted under Subsections [36-12-12.1\(2\)\(a\)](#) through (e);

6557 (b) an indication regarding whether the policy is timely adopted, adopted late, or not
6558 adopted;

6559 (c) an indication regarding whether the policy complies with the requirements
6560 established by law for the policy; and

6561 (d) a link to the policy.

6562 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine
6563 whether a government entity, government official, or government employee has complied with
6564 a legal obligation directly imposed, by statute, on the government entity, government official,
6565 or government employee.

6566 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct

6567 the inquiry requested.

6568 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
6569 auditor shall post the results of the inquiry on the state auditor's website.

6570 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple
6571 determination, without conducting an audit, regarding whether the obligation was fulfilled.

6572 Section 110. Section **67-3-3** is amended to read:

6573 **67-3-3. Disbursements of public funds -- Suspension of disbursements --**
6574 **Procedure upon suspension.**

6575 (1) The state auditor may suspend any disbursement of public funds whenever, in the
6576 state auditor's opinion, the disbursement is contrary to law.

6577 (2) (a) If the validity of a disbursement described in Subsection (1) is not established
6578 within six months from the date of original suspension, the state auditor shall refer the matter
6579 to the attorney general for appropriate action.

6580 (b) If, in the attorney general's opinion, the suspension described in Subsection (2)(a)
6581 was justified, the attorney general shall immediately notify the state auditor, who shall
6582 immediately make demand upon the surety of the disbursing or certifying officer.

6583 (c) If the state auditor makes a demand under Subsection (2)(b), the surety shall
6584 immediately meet the demand and pay into the state treasury by certified check or legal tender
6585 any amount or amounts disbursed and involved in the suspension.

6586 (3) (a) The state auditor shall ensure that each suspension is in writing.

6587 (b) The state auditor shall:

6588 (i) prepare a form to be known as the notice of suspension;

6589 (ii) ensure that the form contains complete information as to:

6590 (A) the payment suspended;

6591 (B) the reason for the suspension;

6592 (C) the amount of money involved; and

6593 (D) any other information that will clearly establish identification of the payment;

6594 (iii) retain the original of the suspension notice;

6595 (iv) serve one copy of the suspension notice upon:

6596 (A) the disbursing or certifying officer;

6597 (B) any member of the finance commission; and

6598 (C) the surety of the disbursing or certifying officer, except that mailing the copy to the
6599 surety company constitutes legal service;

6600 (v) attach one copy of the suspension notice to the document under suspension; and

6601 (vi) take receipts entered upon the original suspension notice held by the state auditor
6602 from the disbursing or certifying officer, the finance commission, and the surety.

6603 (4) (a) Immediately upon any suspension becoming final, the finance commission
6604 shall:

6605 (i) cause an entry to be made debiting the disbursing or certifying officer with the
6606 amount of money involved in any suspension notice; and

6607 (ii) credit the account originally charged by the payment.

6608 (b) Upon release of final suspension by the state auditor, the finance commission shall
6609 make a reversing entry, crediting the disbursing or certifying officer, and like credit shall be
6610 given in all recoveries from the surety.

6611 (5) (a) In accordance with this Subsection (5), the state auditor may prohibit the access
6612 of a state or local taxing or fee-assessing unit to money held by the state or in an account of a
6613 financial institution, if the state auditor determines that the local taxing or fee-assessing unit is
6614 not in compliance with state law regarding budgeting, expenditures, financial reporting of
6615 public funds, and transparency.

6616 (b) The state auditor may not withhold funds under Subsection (5)(a) until the state
6617 auditor:

6618 (i) sends formal notice of noncompliance to the state or local taxing or fee-assessing
6619 unit; and

6620 (ii) allows the state or local taxing or fee-assessing unit 60 calendar days to:

6621 (A) make the specified corrections; or

6622 (B) demonstrate to the state auditor that the specified corrections are not legally
6623 required.

6624 (c) If, after receiving notice under Subsection (5)(b), the state or local fee-assessing
6625 unit does not make the specified corrections and the state auditor does not agree with any
6626 demonstration under Subsection (5)(b)(ii)(B), the state auditor:

6627 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
6628 comply;

- 6629 (ii) shall provide a recommended timeline for corrective actions;
- 6630 (iii) may prohibit the taxing or fee-assessing unit from accessing money held by the
6631 state; and
- 6632 (iv) may prohibit the taxing or fee-assessing unit from accessing money held in an
6633 account of a financial institution by:
- 6634 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
6635 the institution prohibit access to the account; or
- 6636 (B) filing an action in [~~district court~~] a court with jurisdiction under Title 78A,
6637 Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial
6638 institution from providing the taxing or fee-assessing unit access to an account.
- 6639 (d) The state auditor shall remove the prohibition on accessing funds described in
6640 Subsections (5)(c)(iii) and (iv) if:
- 6641 (i) the state or local taxing or fee-assessing unit makes the specified corrections
6642 described in Subsection (5)(b); or
- 6643 (ii) the state auditor agrees with a demonstration under Subsection (5)(b)(ii)(B).
6644 Section 111. Section **70A-2-807** is amended to read:
- 6645 **70A-2-807. Consumer may not waive rights under chapter -- Enforcement --**
6646 **Remedies not exclusive.**
- 6647 (1) Any waiver by a consumer of rights under this chapter is void.
- 6648 (2) (a) A consumer may bring an action in [~~district court~~] a court with jurisdiction
6649 under Title 78A, Judiciary and Judicial Administration, to enforce the consumer's rights under
6650 this chapter.
- 6651 (b) The court shall award a consumer who prevails in an action under this chapter
6652 twice the amount of any pecuniary loss, together with costs, disbursements, reasonable
6653 attorney's fees, and any equitable relief that the court determines is appropriate.
- 6654 (3) (a) The attorney general may file an action in [~~district court~~] a court with
6655 jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this chapter on
6656 behalf of any consumer or in its own behalf.
- 6657 (b) In addition to the other remedies provided in this chapter, the attorney general is
6658 also entitled to an award for reasonable attorney's fees, court costs, and investigative expenses.
- 6659 (4) This chapter shall not be construed as imposing any liability on an authorized

6660 dealer or lessor or as creating a cause of action by a consumer against a dealer or lessor, except
6661 regarding any express warranties made by the dealer or lessor apart from the manufacturer's
6662 warranties.

6663 (5) Nothing in this chapter shall limit or impair the rights or remedies which are
6664 otherwise available to a consumer under any other provision of law.

6665 Section 112. Section **70C-8-105** is amended to read:

6666 **70C-8-105. Judicial review.**

6667 (1) (a) Any party aggrieved by any rule, order, temporary order, decision, ruling, or
6668 other act or failure to act by the department under this title is entitled to judicial review.

6669 (b) Within 30 days after receiving notice of a rule, order, temporary order, decision, or
6670 other ruling, or within 120 days after the department has failed to act upon a request or
6671 application, the aggrieved party may file an application for judicial review with [~~a court of~~
6672 ~~competent jurisdiction~~] a court with jurisdiction under Title 78A, Judiciary and Judicial
6673 Administration.

6674 (c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the aggrieved
6675 party shall file an application in the county in which the applicant is located or in the Third
6676 District Court if the application is brought in the district court.

6677 (d) The court may void any rule, order, temporary order, decision, ruling, or other act
6678 of the department it finds to be arbitrary, capricious, an abuse of discretion, in excess of the
6679 department's authority, or otherwise contrary to law.

6680 (2) (a) Any party upon showing that it may be subject to potential irreparable injury by
6681 any proposed rule or order of the department may, without exhausting its administrative
6682 remedies, apply for a declaratory judgment as to any question of law arising out of the rule or
6683 order.

6684 (b) The applications shall be filed in the Third District Court.

6685 (3) Any action for judicial review of acts or failures to act of the department shall be
6686 heard by the court and shall be based on the record made before the department unless the court
6687 finds good cause to admit additional and otherwise proper evidence.

6688 (4) (a) Filing an application for judicial review does not stay the adoption or
6689 enforcement of any rule, order, temporary order, decision, or ruling of the department.

6690 (b) The court may expressly stay any rule, order, decision, or ruling of the department

6691 during the pendency of judicial proceedings challenging them upon terms and conditions it
6692 deems appropriate after finding that the possible harm to all interested parties is, on balance,
6693 likely to be less if the stay is imposed, or if the applicant and the department stipulate to the
6694 imposition of a stay.

6695 Section 113. Section **70D-2-504** is amended to read:

6696 **70D-2-504. Orders.**

6697 (1) If the commissioner determines that a person engaging in business as a lender,
6698 broker, or servicer is violating, has violated, or the commissioner has reasonable cause to
6699 believe is about to violate this chapter or a rule of the commissioner made under this chapter,
6700 the commissioner may:

6701 (a) order the person to cease and desist from committing a further violation; and

6702 (b) in the most serious instances may prohibit the person from continuing to engage in
6703 business as a lender, broker, or servicer.

6704 (2) (a) If the commissioner determines that a practice that the commissioner alleges is
6705 unlawful should be enjoined during the pendency of a proceeding incident to an allegation, the
6706 commissioner may issue a temporary order in accordance with Section [63G-4-502](#):

6707 (i) at the commencement of the proceedings; or

6708 (ii) at any time after the proceeding commences.

6709 (b) For purposes of Section [63G-4-502](#), an immediate and significant danger to the
6710 public health, safety, or welfare exists if the commissioner finds from specific facts supported
6711 by sworn statement or the records of a person subject to the order that loan applicants or
6712 mortgagors are otherwise likely to suffer immediate and irreparable injury, loss, or damage
6713 before a proceeding incident to a final order can be completed.

6714 (3) The commissioner may not award damages or penalties under this chapter against a
6715 lender, broker, or servicer.

6716 (4) (a) An order issued by the commissioner under this chapter shall:

6717 (i) be in writing;

6718 (ii) be delivered to or served upon the person affected; and

6719 (iii) specify the order's effective date, which may be immediate or at a later date.

6720 (b) An order remains in effect until:

6721 (i) withdrawn by the commissioner; or

6722 (ii) terminated by a court order.

6723 (c) ~~[An order of the commissioner, upon]~~ Upon an application made on or after the
6724 order's effective date [to the Third District Court, or in any other district court, may be
6725 enforced] to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration,
6726 the court may enforce an order of the commissioner ex parte and without notice by an order to
6727 comply entered by the court.

6728 Section 114. Section **72-10-106** is amended to read:

6729 **72-10-106. Enforcement of chapter -- Fees for services by department.**

6730 (1) (a) The department and every county and municipal officer required to enforce state
6731 laws shall enforce and assist in the enforcement of this chapter.

6732 (b) The department may enforce this chapter by ~~[injunction in the district courts of this~~
6733 ~~state]~~ seeking an injunction in a court with jurisdiction under Title 78A, Judiciary and Judicial
6734 Administration.

6735 (c) Other departments and political subdivisions of this state may cooperate with the
6736 department in the development of aeronautics within this state.

6737 (2) (a) Unless otherwise provided by statute, the department may adopt a schedule of
6738 fees assessed for services provided by the department.

6739 (b) Each fee shall be reasonable and fair, and shall reflect the cost of the service
6740 provided.

6741 (c) Each fee established in this manner shall be submitted to and approved by the
6742 Legislature as part of the department's annual appropriations request.

6743 (d) The department may not charge or collect any fee proposed in this manner without
6744 approval by the Legislature.

6745 Section 115. Section **72-16-401** is amended to read:

6746 **72-16-401. Penalty for violation.**

6747 (1) If an owner-operator or operator violates a provision of this chapter with respect to
6748 an amusement ride, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,
6749 the director may:

6750 (a) deny, suspend, or revoke, in whole or in part, the owner-operator's annual
6751 amusement ride permit or multi-ride permit for the amusement ride; or

6752 (b) impose fines or administrative penalties in accordance with rules made by the

6753 committee.

6754 (2) Upon a violation of a provision of this chapter, the director may [~~file an action in~~
6755 ~~district court~~] bring an action in a court with jurisdiction under Title 78A, Judiciary and
6756 Judicial Administration, to enjoin the operation of an amusement ride.

6757 Section 116. Section **75-2-105** is amended to read:

6758 **75-2-105. No taker -- Minerals and mineral proceeds.**

6759 (1) As used in this section:

6760 (a) "Mineral" means the same as that term is defined in Section 67-4a-102.

6761 (b) "Mineral proceeds" means the same as that term is defined in Section 67-4a-102.

6762 (c) "Operator" means the same as that term is defined in Section 40-6-2, 40-8-4, or
6763 40-10-3, and includes any other person holding mineral proceeds of an owner.

6764 (d) "Owner" means the same as that term is defined in Section 38-10-101, 40-6-2, or
6765 40-8-4.

6766 (e) "Payor" means the same as that term is defined in Section 40-6-2, and includes a
6767 person who undertakes or has a legal obligation to distribute any mineral proceeds.

6768 (2) If there is no taker under this chapter, the intestate estate passes upon the decedent's
6769 death to the state for the benefit of the permanent state school fund.

6770 (3) When minerals or mineral proceeds pass to the state pursuant to Subsection (2), the
6771 Utah School and Institutional Trust Lands Administration shall administer the interests in the
6772 minerals or mineral proceeds for the support of the common schools pursuant to Sections
6773 53C-1-102 and 53C-1-302, but may exercise its discretion to abandon or decline to administer
6774 property of no value or of insufficient value to justify its collection or continued administration.

6775 (4) (a) If a probate or other proceeding has not adjudicated the state's rights under
6776 Subsection (2), the state, and the Utah School and Institutional Trust Lands Administration
6777 with respect to any minerals or mineral proceeds referenced in Subsection (3), may bring an
6778 action [~~in district court in any district in which part of the property related to the minerals or~~
6779 ~~mineral proceeds is located~~] in a court with jurisdiction under Title 78A, Judiciary and Judicial
6780 Administration, to quiet title the minerals, mineral proceeds, or property.

6781 (b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state or the
6782 Utah School and Institutional Trust Lands Administration, shall bring an action described in
6783 Subsection (4)(a) in the county in which the property related to the minerals or mineral process

6784 is located if the action is brought in the district court.

6785 (5) In an action brought under Subsection (4), the [district] court shall quiet title to the
6786 minerals, mineral proceeds, or property in the state if:

6787 (a) no interested person appears in the action and demonstrates entitlement to the
6788 minerals, mineral proceeds, or property after notice has been given pursuant to Section
6789 78B-6-1303 and in the manner described in Section 75-1-401; and

6790 (b) the requirements of Section 78B-6-1315 are met.

6791 (6) (a) If an operator, owner, or payor determines that minerals or mineral proceeds
6792 form part of a decedent's intestate estate, and has not located an heir of the decedent, the
6793 operator, owner, or payor shall submit to the Utah School and Institutional Trust Lands
6794 Administration the information in the operator's, owner's, or payor's possession concerning the
6795 identity of the decedent, the results of a good faith search for heirs specified in Section
6796 75-2-103, the property interest from which the minerals or mineral proceeds derive, and any
6797 potential heir.

6798 (b) The operator, owner, or payor shall submit the information described in Subsection
6799 (6)(a) within 180 days of acquiring the information.

6800 Section 117. Section 75-2-801 is amended to read:

6801 **75-2-801. Disclaimer of property interests -- Time -- Form -- Effect -- Waiver and**
6802 **bar -- Remedy not exclusive -- Application.**

6803 (1) A person, or the representative of a person, to whom an interest in or with respect
6804 to property or an interest therein devolves by whatever means may disclaim it in whole or in
6805 part by delivering or filing a written disclaimer under this section. The right to disclaim exists
6806 notwithstanding:

6807 (a) any limitation on the interest of the disclaimant in the nature of a spendthrift
6808 provision or similar restriction; or

6809 (b) any restriction or limitation on the right to disclaim contained in the governing
6810 instrument. For purposes of this subsection, the "representative of a person" includes a
6811 personal representative of a decedent, a conservator of a person with a disability, a guardian of
6812 a minor or incapacitated person, and an agent acting on behalf of the person within the
6813 authority of a power of attorney.

6814 (2) The following rules govern the time when a disclaimer shall be filed or delivered:

6815 (a) (i) If the property or interest has devolved to the disclaimant under a testamentary
6816 instrument or by the laws of intestacy, the disclaimer shall be filed, if of a present interest, not
6817 later than nine months after the death of the deceased owner or deceased donee of a power of
6818 appointment and, if of a future interest, not later than nine months after the event determining
6819 that the taker of the property or interest is finally ascertained and his interest is indefeasibly
6820 vested.

6821 (ii) The disclaimer shall be filed in [~~the district court of the county~~] a court with
6822 jurisdiction under Title 78A, Judiciary and Judicial Administration.

6823 (iii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall
6824 bring an action described in Subsection (2)(a) in the county in which proceedings for the
6825 administration of the estate of the deceased owner or deceased donee of the power have been
6826 commenced if the action is brought in the district court.

6827 (iv) A copy of the disclaimer shall be delivered in person or mailed by registered or
6828 certified mail, return receipt requested, to any personal representative or other fiduciary of the
6829 decedent or donee of the power.

6830 (b) If a property or interest has devolved to the disclaimant under a nontestamentary
6831 instrument or contract, the disclaimer shall be delivered or filed, if of a present interest, not
6832 later than nine months after the effective date of the nontestamentary instrument or contract
6833 and, if of a future interest, not later than nine months after the event determining that the taker
6834 of the property or interest is finally ascertained and his interest is indefeasibly vested. If the
6835 person entitled to disclaim does not know of the existence of the interest, the disclaimer shall
6836 be delivered or filed not later than nine months after the person learns of the existence of the
6837 interest. The effective date of a revocable instrument or contract is the date on which the
6838 maker no longer has power to revoke it or to transfer to the maker or another the entire legal
6839 and equitable ownership of the interest. The disclaimer or a copy thereof shall be delivered in
6840 person or mailed by registered or certified mail, return receipt requested, to the person who has
6841 legal title to or possession of the interest disclaimed.

6842 (c) A surviving joint tenant or tenant by the entireties may disclaim as a separate
6843 interest any property or interest therein devolving to him by right of survivorship. A surviving
6844 joint tenant or tenant by the entireties may disclaim the entire interest in any property or interest
6845 therein that is the subject of a joint tenancy or tenancy by the entireties devolving to the

6846 surviving joint tenant or tenant by the entireties, if the joint tenancy or tenancy by the entireties
6847 was created by act of a deceased joint tenant or tenant by the entireties, the survivor did not
6848 join in creating the joint tenancy or tenancy by the entireties, and has not accepted a benefit
6849 under it.

6850 (d) If real property or an interest therein is disclaimed, a copy of the disclaimer may be
6851 recorded in the office of the county recorder of the county in which the property or interest
6852 disclaimed is located.

6853 (3) The disclaimer shall:

6854 (a) describe the property or interest disclaimed;

6855 (b) declare the disclaimer and extent thereof; and

6856 (c) be signed by the disclaimant.

6857 (4) The effects of a disclaimer are:

6858 (a) If property or an interest therein devolves to a disclaimant under a testamentary
6859 instrument, under a power of appointment exercised by a testamentary instrument, or under the
6860 laws of intestacy, and the decedent has not provided for another disposition of that interest,
6861 should it be disclaimed, or of disclaimed, or failed interests in general, the disclaimed interest
6862 devolves as if the disclaimant had predeceased the decedent, but if by law or under the
6863 testamentary instrument the descendants of the disclaimant would share in the disclaimed
6864 interest per capita at each generation or otherwise were the disclaimant to predecease the
6865 decedent, then the disclaimed interest passes per capita at each generation, or passes as directed
6866 by the governing instrument, to the descendants of the disclaimant who survive the decedent.
6867 A future interest that takes effect in possession or enjoyment after the termination of the estate
6868 or interest disclaimed takes effect as if the disclaimant had predeceased the decedent. A
6869 disclaimer relates back for all purposes to the date of death of the decedent.

6870 (b) If property or an interest therein devolves to a disclaimant under a nontestamentary
6871 instrument or contract and the instrument or contract does not provide for another disposition
6872 of that interest, should it be disclaimed, or of disclaimed or failed interests in general, the
6873 disclaimed interest devolves as if the disclaimant has predeceased the effective date of the
6874 instrument or contract, but if by law or under the nontestamentary instrument or contract the
6875 descendants of the disclaimant would share in the disclaimed interest per capita at each
6876 generation or otherwise were the disclaimant to predecease the effective date of the instrument,

6877 then the disclaimed interest passes per capita at each generation, or passes as directed by the
6878 governing instrument, to the descendants of the disclaimant who survive the effective date of
6879 the instrument. A disclaimer relates back for all purposes to that date. A future interest that
6880 takes effect in possession or enjoyment at or after the termination of the disclaimed interest
6881 takes effect as if the disclaimant had died before the effective date of the instrument or contract
6882 that transferred the disclaimed interest.

6883 (c) The disclaimer or the written waiver of the right to disclaim is binding upon the
6884 disclaimant or person waiving and all persons claiming through or under either of them.

6885 (5) The right to disclaim property or an interest therein is barred by:

6886 (a) an assignment, conveyance, encumbrance, pledge, or transfer of the property or
6887 interest, or a contract therefor;

6888 (b) a written waiver of the right to disclaim;

6889 (c) an acceptance of the property or interest or a benefit under it; or

6890 (d) a sale of the property or interest under judicial sale made before the disclaimer is
6891 made.

6892 (6) This section does not abridge the right of a person to waive, release, disclaim, or
6893 renounce property or an interest therein under any other statute.

6894 (7) An interest in property that exists on July 1, 1998, as to which, if a present interest,
6895 the time for filing a disclaimer under this section has not expired or, if a future interest, the
6896 interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed
6897 within nine months after July 1, 1998.

6898 Section 118. Section **75-2a-120** is amended to read:

6899 **75-2a-120. Judicial relief.**

6900 A [district] court may enjoin or direct a health care decision, or order other equitable
6901 relief based on a petition filed by:

6902 (1) a patient;

6903 (2) an agent of a patient;

6904 (3) a guardian of a patient;

6905 (4) a default surrogate of a patient;

6906 (5) a health care provider of a patient;

6907 (6) a health care facility providing care for a patient; or

6908 (7) an individual who meets the requirements of Section 75-2a-108.

6909 Section 119. Section 75-5a-102 is amended to read:

6910 **75-5a-102. Definitions.**

6911 As used in this part:

6912 (1) "Adult" means an individual who is 21 years [~~of age~~] old or older.

6913 (2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

6914 (3) "Broker" means a person lawfully engaged in the business of effecting transactions
6915 in securities or commodities for the person's own account or for the accounts of others.

6916 (4) "Conservator" means a person appointed or qualified by a court to act as general,
6917 limited, or temporary guardian of a minor's property or a person legally authorized to perform
6918 substantially the same functions.

6919 [~~(5) "Court" means the probate division of the district court for the county in which the~~
6920 ~~custodian resides.]~~

6921 (5) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial
6922 Administration.

6923 (6) "Custodial property" means:

6924 (a) any interest in property transferred to a custodian under this part; and

6925 (b) the income from and proceeds of that interest in property.

6926 (7) "Custodian" means a person so designated under Section 75-5a-110 or a successor
6927 or substitute custodian designated under Section 75-5a-119.

6928 (8) "Financial institution" means a bank, trust company, savings institution, or credit
6929 union, chartered and supervised under state or federal law.

6930 (9) "Legal representative" means an individual's personal representative or conservator.

6931 (10) "Member of the minor's family" means the minor's parent, stepparent, spouse,
6932 grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

6933 (11) "Minor" means an individual who is [~~not yet 21 years of age~~] under 21 years old.

6934 (12) "Person" means an individual, corporation, organization, or other legal entity.

6935 (13) "Personal representative" means an executor, administrator, successor personal
6936 representative, or special administrator of a decedent's estate or a person legally authorized to
6937 perform substantially the same functions.

6938 (14) "State" includes any state of the United States, the district of Columbia, the

6939 Commonwealth of Puerto Rico, and any territory or possession subject to the legislative
6940 authority of the United States.

6941 (15) "Transfer" means a transaction that creates custodial property under Section
6942 [75-5a-110](#).

6943 (16) "Transferor" means a person who makes a transfer under this part.

6944 (17) "Trust company" means a financial institution, corporation, or other legal entity,
6945 authorized to exercise general trust powers.

6946 Section 120. Section **75-7-105** is amended to read:

6947 **75-7-105. Default and mandatory rules.**

6948 (1) Except as otherwise provided in the terms of the trust, this chapter governs the
6949 duties and powers of a trustee, relations among trustees, and the rights and interests of a
6950 beneficiary.

6951 (2) Except as specifically provided in this chapter, the terms of a trust prevail over any
6952 provision of this chapter except:

6953 (a) the requirements for creating a trust;

6954 (b) subject to Sections [75-12-109](#), [75-12-111](#), and [75-12-112](#), the duty of a trustee to
6955 act in good faith and in accordance with the purposes of the trust;

6956 (c) the requirement that a trust and the terms of the trust be for the benefit of the trust's
6957 beneficiaries;

6958 (d) the power of the court to modify or terminate a trust under Sections [75-7-410](#)
6959 through [75-7-416](#);

6960 (e) the effect of a spendthrift provision, Section [25-6-502](#), and the rights of certain
6961 creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift
6962 and Discretionary Trusts;

6963 (f) the power of the court under Section [75-7-702](#) to require, dispense with, or modify
6964 or terminate a bond;

6965 (g) the effect of an exculpatory term under Section [75-7-1008](#);

6966 (h) the rights under Sections [75-7-1010](#) through [75-7-1013](#) of a person other than a
6967 trustee or beneficiary;

6968 (i) periods of limitation for commencing a judicial proceeding; and

6969 (j) the ~~subject-matter jurisdiction of the court and venue for commencing a proceeding~~

6970 ~~as provided]~~ jurisdiction and venue requirements for an action involving the trust as described
6971 in Sections 75-7-203 and 75-7-205.

6972 Section 121. Section 75-7-203 is amended to read:

6973 **75-7-203. Jurisdiction over an action involving a trust.**

6974 ~~[(1) The district court has exclusive jurisdiction of proceedings in this state brought by~~
6975 ~~a trustee or beneficiary concerning the administration of a trust.]~~

6976 ~~[(2) The district court has concurrent jurisdiction with other courts of this state of other~~
6977 ~~proceedings involving a trust.]~~

6978 (1) A court of this state has jurisdiction as described in Title 78A, Judiciary and
6979 Judicial Administration, over an action involving a trust.

6980 ~~[(3)]~~ (2) This section does not preclude judicial or nonjudicial alternative dispute
6981 resolution.

6982 Section 122. Section 75-7-205 is amended to read:

6983 **75-7-205. Venue.**

6984 ~~[(1) Except as otherwise provided in Subsection (2), venue for a judicial proceeding~~
6985 ~~involving a trust is in the county in which the trust's principal place of administration is or will~~
6986 ~~be located and, if the trust is created by will and the estate is not yet closed, in the county in~~
6987 ~~which the decedent's estate is being administered.]~~

6988 ~~[(2) If a trust has no trustee, venue for a judicial proceeding for the appointment of a~~
6989 ~~trustee is in any county of this state in which a beneficiary resides, in any county in which any~~
6990 ~~trust property is located, and if the trust is created by will, in the county in which the decedent's~~
6991 ~~estate was or is being administered.]~~

6992 (1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and except as
6993 provided in Subsection (2), a person shall bring an action involving a trust, if the action is
6994 brought in the district court, in:

6995 (a) the county in which the trust's principal place of administration is or will be located;

6996 or

6997 (b) if the trust is created by a will and the estate is not yet closed, the county in which
6998 the decedent's estate is being administered.

6999 (2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and if a trust has
7000 no trustee, a person shall bring an action for the appointment of a trustee, if the action is

7001 brought in the district court, in:

7002 (a) a county of this state in which a beneficiary resides;

7003 (b) a county in which any trust property is located; or

7004 (c) if the trust is created by a will, the county in which the decedent's estate was or is

7005 being administered.

7006 Section 123. Section **75-11-102** is amended to read:

7007 **75-11-102. Definitions.**

7008 As used in this chapter:

7009 (1) "Account" means an arrangement under a terms of service agreement in which a
7010 custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides
7011 goods or services to the user.

7012 (2) "Agent" means an attorney in fact granted authority under a durable or nondurable
7013 power of attorney.

7014 (3) "Carries" means engages in the transmission of an electronic communication.

7015 (4) "Catalogue of electronic communications" means information that identifies each
7016 person with which a user has had an electronic communication, the time and date of the
7017 communication, and the electronic address of the person.

7018 (5) (a) "Conservator" means a person appointed by a court to manage the estate of a
7019 living individual.

7020 (b) "Conservator" includes a limited conservator.

7021 (6) "Content of an electronic communication" means information concerning the
7022 substance or meaning of the communication that:

7023 (a) has been sent or received by a user;

7024 (b) is in electronic storage by a custodian providing an electronic communication
7025 service to the public or is carried or maintained by a custodian providing a remote computing
7026 service to the public; and

7027 (c) is not readily accessible to the public.

7028 (7) "Court" means [~~the district court~~] a court with jurisdiction under [Title 78A,](#)

7029 Judiciary and Judicial Administration.

7030 (8) "Custodian" means a person that carries, maintains, processes, receives, or stores a
7031 digital asset of a user.

7032 (9) "Designated recipient" means a person chosen by a user using an online tool to
7033 administer digital assets of the user.

7034 (10) (a) "Digital asset" means an electronic record in which an individual has a right or
7035 interest.

7036 (b) "Digital asset" does not include an underlying asset or liability unless the asset or
7037 liability is itself an electronic record.

7038 (11) "Electronic" means relating to technology having electrical, digital, magnetic,
7039 wireless, optical, electromagnetic, or similar capabilities.

7040 (12) "Electronic communication" has the same meaning as the definition in 18 U.S.C.
7041 Sec. 2510(12).

7042 (13) "Electronic communication service" means a custodian that provides to a user the
7043 ability to send or receive an electronic communication.

7044 (14) "Fiduciary" means an original, additional, or successor personal representative,
7045 conservator, guardian, agent, or trustee.

7046 (15) (a) "Guardian" means a person appointed by a court to manage the affairs of a
7047 living individual.

7048 (b) "Guardian" includes a limited guardian.

7049 (16) "Information" means data, text, images, videos, sounds, codes, computer
7050 programs, software, databases, or the like.

7051 (17) "Online tool" means an electronic service provided by a custodian that allows the
7052 user, in an agreement distinct from the terms of service agreement between the custodian and
7053 user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

7054 (18) "Person" means an individual, estate, business or nonprofit entity, public
7055 corporation, government or governmental subdivision, agency, instrumentality, or other legal
7056 entity.

7057 (19) "Personal representative" means an executor, administrator, special administrator,
7058 or person that performs substantially the same function under the law of this state other than
7059 this chapter.

7060 (20) "Power of attorney" means a record that grants an agent authority to act in the
7061 place of a principal.

7062 (21) "Principal" means an individual who grants authority to an agent in a power of

7063 attorney.

7064 (22) (a) "Protected person" means an individual for whom a conservator or guardian
7065 has been appointed.

7066 (b) "Protected person" includes an individual for whom an application for the
7067 appointment of a conservator or guardian is pending.

7068 (23) "Record" means information that is inscribed on a tangible medium or that is
7069 stored in an electronic or other medium and is retrievable in perceivable form.

7070 (24) "Remote computing service" means a custodian that provides to a user computer
7071 processing services or the storage of digital assets by means of an electronic communications
7072 system, as defined in 18 U.S.C. Sec. 2510(14).

7073 (25) "Terms of service agreement" means an agreement that controls the relationship
7074 between a user and a custodian.

7075 (26) (a) "Trustee" means a fiduciary with legal title to property pursuant to an
7076 agreement or declaration that creates a beneficial interest in another.

7077 (b) "Trustee" includes a successor trustee.

7078 (27) "User" means a person that has an account with a custodian.

7079 (28) "Will" includes a codicil, a testamentary instrument that only appoints an
7080 executor, and an instrument that revokes or revises a testamentary instrument.

7081 Section 124. Section **76-10-1605** is amended to read:

7082 **76-10-1605. Remedies of person injured by a pattern of unlawful activity --**
7083 **Double damages -- Costs, including attorney fees -- Arbitration -- Agency -- Burden of**
7084 **proof -- Actions by attorney general or county attorney -- Dismissal -- Statute of**
7085 **limitations -- Authorized orders of a court.**

7086 (1) A person injured in his person, business, or property by a person engaged in
7087 conduct forbidden by any provision of Section **76-10-1603** may [~~sue in an appropriate district~~
7088 ~~court and recover twice the damages he sustains~~] bring an action in a court with jurisdiction
7089 under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the
7090 person sustains, regardless of whether:

7091 (a) the injury is separate or distinct from the injury suffered as a result of the acts or
7092 conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or

7093 (b) the conduct has been adjudged criminal by any court of the state or of the United

7094 States.

7095 (2) A party who prevails on a cause of action brought under this section recovers the
7096 cost of the suit, including reasonable attorney fees.

7097 (3) All actions arising under this section which are grounded in fraud are subject to
7098 arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

7099 (4) In all actions under this section, a principal is liable for actual damages for harm
7100 caused by an agent acting within the scope of either his employment or apparent authority. A
7101 principal is liable for double damages only if the pattern of unlawful activity alleged and
7102 proven as part of the cause of action was authorized, solicited, requested, commanded,
7103 undertaken, performed, or recklessly tolerated by the board of directors or a high managerial
7104 agent acting within the scope of his employment.

7105 (5) In all actions arising under this section, the burden of proof is clear and convincing
7106 evidence.

7107 (6) The attorney general, county attorney, or, if within a prosecution district, the district
7108 attorney may maintain actions under this section on behalf of the state, the county, or any
7109 person injured by a person engaged in conduct forbidden by any provision of Section
7110 76-10-1603, to prevent, restrain, or remedy injury as defined in this section and may recover
7111 the damages and costs allowed by this section.

7112 (7) In all actions under this section, the elements of each claim or cause of action shall
7113 be stated with particularity against each defendant.

7114 (8) If an action, claim, or counterclaim brought or asserted by a private party under this
7115 section is dismissed prior to trial or disposed of on summary judgment, or if it is determined at
7116 trial that there is no liability, the prevailing party shall recover from the party who brought the
7117 action or asserted the claim or counterclaim the amount of its reasonable expenses incurred
7118 because of the defense against the action, claim, or counterclaim, including a reasonable
7119 attorney's fee.

7120 (9) An action or proceeding brought under this section shall be commenced within
7121 three years after the conduct prohibited by Section 76-10-1603 terminates or the cause of action
7122 accrues, whichever is later. This provision supersedes any limitation to the contrary.

7123 (10) (a) In any action brought under this section, [~~the district court has jurisdiction to~~]
7124 the court may prevent, restrain, or remedy injury as defined by this section by issuing

7125 appropriate orders after making provisions for the rights of innocent persons.

7126 (b) Before liability is determined in any action brought under this section, the [district]
7127 court may:

7128 (i) issue restraining orders and injunctions;

7129 (ii) require satisfactory performance bonds or any other bond it considers appropriate
7130 and necessary in connection with any property or any requirement imposed upon a party by the
7131 court; and

7132 (iii) enter any other order the court considers necessary and proper.

7133 (c) After a determination of liability, the [district] court may, in addition to granting the
7134 relief allowed in Subsection (1), do any one or all of the following:

7135 (i) order any person to divest himself of any interest in or any control, direct or indirect,
7136 of any enterprise;

7137 (ii) impose reasonable restrictions on the future activities or investments of any person,
7138 including prohibiting any person from engaging in the same type of endeavor as the enterprise
7139 engaged in, to the extent the Utah Constitution and the Constitution of the United States
7140 permit; or

7141 (iii) order the dissolution or reorganization of any enterprise.

7142 (d) However, if an action is brought to obtain any relief provided by this section, and if
7143 the conduct prohibited by Section 76-10-1603 has for its pattern of unlawful activity acts or
7144 conduct illegal under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court
7145 may not enter any order that would amount to a prior restraint on the exercise of an affected
7146 party's rights under the First Amendment to the Constitution of the United States, or Article I,
7147 Sec. 15 of the Utah Constitution. The court shall, upon the request of any affected party, and
7148 upon the notice to all parties, prior to the issuance of any order provided for in this subsection,
7149 and at any later time, hold hearings as necessary to determine whether any materials at issue are
7150 obscene or pornographic and to determine if there is probable cause to believe that any act or
7151 conduct alleged violates Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222. In
7152 making its findings the court shall be guided by the same considerations required of a court
7153 making similar findings in criminal cases brought under Section 76-10-1204, 76-10-1205,
7154 76-10-1206, or 76-10-1222, including, but not limited to, the definitions in Sections
7155 76-10-1201, 76-10-1203, and 76-10-1216, and the exemptions in Section 76-10-1226.

7156 Section 125. Section **78A-1-103.5 (Effective 07/01/24)** is amended to read:

7157 **78A-1-103.5 (Effective 07/01/24). Number of Business and Chancery Court**
7158 **judges -- Disqualification or recusal of a Business and Chancery Court judge.**

7159 (1) The Business and Chancery Court shall consist of one judge.

7160 (2) If there are fewer than three judges for the Business and Chancery Court under
7161 Subsection (1), the presiding officer of the Judicial Council shall designate a pool of two
7162 district court judges to preside over actions in the Business and Chancery Court.

7163 (3) A district court judge designated under Subsection (2) may preside over an action
7164 when each Business and Chancery Court judge is unable to preside over an action due to
7165 recusal or disqualification.

7166 Section 126. Section **78A-5-102** is amended to read:

7167 **78A-5-102. Jurisdiction of the district court -- Appeals.**

7168 (1) Except as otherwise provided by the Utah Constitution or by statute, the district
7169 court has original jurisdiction in all matters civil and criminal.

7170 (2) A district court judge may:

7171 (a) issue all extraordinary writs and other writs necessary to carry into effect the district
7172 court judge's orders, judgments, and decrees[-]; and

7173 (b) preside over an action for which the Business and Chancery Court has jurisdiction
7174 if:

7175 (i) the district court judge is designated by the presiding officer of the Judicial Council
7176 to preside over an action in the Business and Chancery Court as described in Section
7177 78A-1-103.5; and

7178 (ii) a Business and Chancery Court judge is unable to preside over the action due to
7179 recusal or disqualification.

7180 (3) The district court has jurisdiction:

7181 (a) over matters of lawyer discipline consistent with the rules of the Supreme Court[-];

7182 ~~(4)~~ (b) ~~[The district court has jurisdiction]~~ over all matters properly filed in the circuit
7183 court prior to July 1, 1996[-];

7184 (c) to enforce foreign protective orders as described in Subsection [78B-7-303\(8\)](#);

7185 (d) to enjoin a violation of Title 58, Chapter 37, Utah Controlled Substances Act;

7186 (e) over a petition seeking to terminate parental rights as described in Section

7187 [78B-6-112](#);

7188 (f) except as provided in Subsection [78A-6-103\(2\)\(a\)\(xiv\)](#), an adoption proceeding;

7189 and

7190 (g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4,

7191 Declaratory Judgments;

7192 ~~[(5)]~~ (4) The district court has appellate jurisdiction over judgments and orders of the
7193 justice court as outlined in Section [78A-7-118](#) and small claims appeals filed in accordance
7194 with Section [78A-8-106](#).

7195 ~~[(6) Jurisdiction over appeals from the final orders, judgments, and decrees of the
7196 district court is described in Sections [78A-3-102](#) and [78A-4-103](#).]~~

7197 ~~[(7)]~~ (5) The district court has jurisdiction to review:

7198 ~~[(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,~~

7199 ~~Administrative Procedures Act, and shall comply with the requirements of that chapter in the
7200 district court's review of agency adjudicative proceedings; and]~~

7201 ~~[(b) municipal administrative proceedings in accordance with Section [10-3-703.7](#).]~~

7202 (a) a municipal administrative proceeding as described in Section [10-3-703.7](#);

7203 (b) a decision resulting from a formal adjudicative proceeding by the State Tax

7204 Commission as described in Section [59-1-601](#);

7205 (c) except as provided in Section [63G-4-402](#), a final agency action resulting from an
7206 informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative

7207 Procedures Act; and

7208 (d) by trial de novo, a final order of the Department of Transportation resulting from

7209 formal and informal adjudicative proceedings under Title 72, Chapter 7, Part 2, Junkyard

7210 Control Act.

7211 (6) The district court has original and exclusive jurisdiction over an action brought
7212 under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

7213 ~~[(8)]~~ (7) Notwithstanding Section [78A-7-106](#), the district court has original jurisdiction
7214 over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an
7215 ordinance for which a justice court has original jurisdiction under Section [78A-7-106](#) if:

7216 (a) there is no justice court with territorial jurisdiction;

7217 (b) the offense occurred within the boundaries of the municipality in which the district

7218 courthouse is located and that municipality has not formed, or has not formed and then
7219 dissolved, a justice court; or

7220 (c) the offense is included in an indictment or information covering a single criminal
7221 episode alleging the commission of a felony or a class A misdemeanor by an individual who is
7222 18 years old or older [-].

7223 [~~(9)~~] (8) If a district court has jurisdiction in accordance with Subsection [~~(5), (8)(a), or~~
7224 ~~(8)(b)~~] (4), (7)(a), or (7)(b), the district court has jurisdiction over an offense listed in
7225 Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17
7226 years old.

7227 [~~(10)~~] (9) The district court has subject matter jurisdiction over an action under Title
7228 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the
7229 district court.

7230 [~~(11)~~] (10) (a) The district court has subject matter jurisdiction over a criminal action
7231 that the justice court transfers to the district court.

7232 (b) Notwithstanding Subsection 78A-7-106(1), the district court has original
7233 jurisdiction over any refiled case of a criminal action transferred to the district court if the
7234 district court dismissed the transferred case without prejudice.

7235 (11) The Supreme Court and Court of Appeals have jurisdiction over an appeal from a
7236 final order, judgment, and decree of the district court as described in Sections 78A-3-102 and
7237 78A-4-103.

7238 Section 127. Section 78A-5a-101 (Effective 07/01/24) is amended to read:
7239 78A-5a-101 (Effective 07/01/24). **Definitions.**

7240 (1) "Action" means a lawsuit or case commenced in a court.

7241 (2) (a) "Asset" means property of all kinds, real or personal and tangible or intangible.

7242 (b) "Asset" includes:

7243 (i) cash, except for any reasonable compensation or salary for services rendered;

7244 (ii) stock or other investments;

7245 (iii) goodwill;

7246 (iv) an ownership interest;

7247 (v) a license;

7248 (vi) a cause of action; and

7249 (vii) any similar property.

7250 (3) "Beneficial shareholder" means the same as that term is defined in Section

7251 [16-10a-1301](#).

7252 (4) "Blockchain" means [~~a cryptographically secured, chronological, and decentralized~~
7253 ~~consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other~~
7254 ~~interaction~~] the same as that term is defined in Section [63A-16-108](#).

7255 (5) "Blockchain technology" means computer software or hardware or collections of
7256 computer software or hardware, or both, that utilize or enable a blockchain.

7257 (6) "Board" means the board of directors or trustees of a corporation.

7258 (7) "Business" means any enterprise carried on for the purpose of gain or economic
7259 profit.

7260 (8) (a) "Business organization" means an organization in any form that is primarily
7261 engaged in business.

7262 (b) "Business organization" includes:

7263 (i) an association;

7264 (ii) a corporation;

7265 (iii) a joint stock company;

7266 (iv) a joint venture;

7267 (v) a limited liability company;

7268 (vi) a mutual fund trust;

7269 (vii) a partnership; or

7270 (viii) any other similar form of an organization described in Subsections (8)(b)(i)

7271 through (vii).

7272 (c) "Business organization" does not include a governmental entity as defined in
7273 Section [63G-7-102](#).

7274 (9) "Claim" means a written demand or assertion in an action.

7275 (10) "Commercial tenant" means the same as that term is defined in Section
7276 [78B-6-801](#).

7277 ~~[(H)]~~ (11) "Consumer contract" means a contract entered into by a consumer for the
7278 purchase of goods or services for personal, family, or household purposes.

7279 ~~[(H)]~~ (12) "Court" means the Business and Chancery Court established in Section

7280 [78A-5a-102.](#)

7281 ~~[(12)]~~ (13) "Decentralized autonomous organization" means ~~[an organization that is~~
7282 ~~created by a smart contract deployed on a permissionless blockchain that implements specific~~
7283 ~~decision-making or governance rules enabling individuals to coordinate themselves in a~~
7284 ~~decentralized fashion]~~ the same as that term is defined in Section [48-5-101](#).

7285 ~~[(13)]~~ (14) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec.
7286 436.1.

7287 ~~[(14)]~~ (15) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec.
7288 436.1.

7289 (16) "Governmental entity" means the same as that term is defined in Section
7290 [63G-7-102](#).

7291 ~~[(15)]~~ (17) "Health care" means the same as that term is defined in Section [78B-3-403](#).

7292 ~~[(16)]~~ (18) "Health care provider" means the same as that term is defined in Section
7293 [78B-3-403](#).

7294 ~~[(17)]~~ (19) "Monetary damages" does not include:

7295 (a) punitive or exemplary damages;

7296 (b) prejudgment or postjudgment interest; or

7297 (c) attorney fees or costs.

7298 ~~[(18)]~~ (20) "Officer" means an individual designated by a board, or other governing
7299 body of a business organization, to act on behalf of the business organization.

7300 ~~[(19)]~~ (21) "Owner" means a person who, directly or indirectly, owns or controls an
7301 ownership interest in a business organization regardless of whether the person owns or controls
7302 the ownership interest through another person, a power of attorney, or another business
7303 organization.

7304 ~~[(20)]~~ (22) "Ownership interest" means an interest owned in a business organization,
7305 including any shares, membership interest, partnership interest, or governance or transferable
7306 interest.

7307 ~~[(21)]~~ "Permissionless blockchain" means a public distributed ledger that allows an
7308 individual to transact and produce blocks in accordance with the blockchain protocol, whereby
7309 the validity of the block is not determined by the identity of the producer.]

7310 ~~[(22)]~~ (23) "Personal injury" means a physical or mental injury, including wrongful

7311 death.

7312 ~~[(23)]~~ (24) "Professional" means an individual whose profession requires a license,
7313 registration, or certification on the basis of experience, education, testing, or training.

7314 (25) (a) "Provisional remedy" means a temporary order by a court while an action is
7315 pending.

7316 (b) "Provisional remedy" includes a preliminary injunction, a temporary restraining
7317 order, a prejudgment writ, or an appointment of a receiver.

7318 ~~[(24)]~~ (26) "Security" means the same as that term is defined in Section 61-1-13.

7319 ~~[(25)]~~ (27) "Shareholder" means the record shareholder or the beneficial shareholder.

7320 ~~[(26) "Smart contract" means code deployed on a permissionless blockchain that~~
7321 ~~consists of a set of predefined instructions executed in a distributed manner by the nodes of an~~
7322 ~~underlying blockchain network that produces a change on the blockchain network.]~~

7323 ~~[(27)]~~ (28) "Record shareholder" means the same as that term is defined in Section
7324 16-10a-1301.

7325 ~~[(28)]~~ (29) "Trustee" means a person that holds or administers an ownership interest on
7326 behalf of a third party.

7327 Section 128. Section 78A-5a-103 (Effective 10/01/24) is amended to read:

7328 **78A-5a-103 (Effective 10/01/24). Concurrent jurisdiction of the Business and**
7329 **Chancery Court -- Exceptions.**

7330 (1) The Business and Chancery Court has jurisdiction, concurrent with the district
7331 court, over an action:

7332 (a) seeking monetary damages of at least \$300,000 or seeking solely equitable relief;
7333 and

7334 (b) (i) with a claim arising from:

7335 (A) a breach of a contract;

7336 (B) a breach of a fiduciary duty;

7337 (C) a dispute over the internal affairs or governance of a business organization;

7338 (D) the sale, merger, or dissolution of a business organization;

7339 (E) the sale of substantially all of the assets of a business organization;

7340 (F) the receivership or liquidation of a business organization;

7341 (G) a dispute over liability or indemnity between or among owners of the same

7342 business organization;

7343 (H) a dispute over liability or indemnity of an officer or owner of a business

7344 organization;

7345 (I) a tortious or unlawful act committed against a business organization, including an

7346 act of unfair competition, tortious interference, or misrepresentation or fraud;

7347 (J) a dispute between a business organization and an insurer regarding a commercial

7348 insurance policy;

7349 (K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

7350 (L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade

7351 Secrets Act;

7352 (M) the misappropriation of intellectual property;

7353 (N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or

7354 confidentiality agreement, regardless of whether the agreement is oral or written;

7355 (O) a relationship between a franchisor and a franchisee;

7356 (P) the purchase or sale of a security or an allegation of security fraud;

7357 (Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous

7358 organization;

7359 (R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

7360 (S) a contract with a forum selection clause for a chancery, business, or commercial

7361 court of this state or any other state;

7362 (ii) with a malpractice claim concerning services that a professional provided to a

7363 business organization; [or]

7364 (iii) that is a shareholder derivative action[-]; or

7365 (iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4,

7366 Declaratory Judgments.

7367 [~~(2) The Business and Chancery Court may exercise supplemental jurisdiction over all~~

7368 ~~claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1),~~

7369 ~~except that the Business and Chancery Court may not exercise jurisdiction over:]~~

7370 (2) Except as provided in Subsection (3), the Business and Chancery Court may

7371 exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of

7372 the Business and Chancery Court under Subsection (1) if the claim arises from the same set of

7373 facts or circumstances as the action.

7374 (3) The Business and Chancery Court may not exercise supplemental jurisdiction over:

7375 (a) any claim arising from:

7376 (i) a consumer contract;

7377 (ii) a personal injury, including ~~any~~ a personal injury relating to or arising out of

7378 health care rendered or which should have been rendered by the health care provider;

7379 ~~[(iii) a wrongful termination of employment or a prohibited or discriminatory~~

7380 ~~employment practice;]~~

7381 ~~[(iv)] (iii)~~ a violation of Title 13, Chapter 7, Civil Rights;

7382 (iv) Title 20A, Election Code;

7383 (v) Title 30, Husband and Wife;

7384 (vi) Title 63G, Chapter 4, Administrative Procedures Act;

7385 (vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

7386 (viii) Title 78B, Chapter 6, Part 5, Eminent Domain;

7387 (ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is

7388 brought against a commercial tenant;

7389 (x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

7390 (xi) Title 78B, Chapter 12, Utah Child Support Act;

7391 (xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement

7392 Act;

7393 (xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

7394 (xiv) Title 78B, Chapter 15, Utah Uniform Parentage Act;

7395 (xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or

7396 (xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and

7397 Visitation Act; ~~or~~

7398 (b) any action in which a governmental entity is a party; or

7399 ~~[(b)] (c)~~ any criminal matter, unless the criminal matter is an act or omission of

7400 contempt that occurs in an action before the Business and Chancery Court.

7401 (4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise

7402 supplemental jurisdiction over a claim that is barred under Subsection (3):

7403 (a) if the claim is a compulsory counterclaim;

7404 (b) if there would be a material risk of inconsistent outcomes if the claim were tried in
7405 a separate action; or

7406 (c) solely to resolve a request for a provisional remedy related to the claim before the
7407 Business and Chancery Court transfers the claim as described in Subsection (5).

7408 (5) If an action contains a claim for which the Business and Chancery Court may not
7409 exercise supplemental jurisdiction under this section, the Business and Chancery Court shall
7410 bifurcate the action and transfer any claim for which the Business and Chancery Court does not
7411 have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial
7412 Administration.

7413 (6) Before the Business and Chancery Court transfers a claim as described in
7414 Subsection (5), the Business and Chancery Court may resolve:

7415 (a) all claims for which the Business and Chancery Court has jurisdiction; and

7416 (b) any request for a provisional remedy related to a claim that is being transferred.

7417 Section 129. Section **78A-5a-104 (Effective 07/01/24)** is amended to read:

7418 **78A-5a-104 (Effective 07/01/24). Trier of fact and law -- Demand for jury trial.**

7419 (1) The Business and Chancery Court is the trier of fact and law in an action before the
7420 Business and Chancery Court.

7421 (2) ~~[The]~~ Notwithstanding Section [78A-5a-103](#), the Business and Chancery Court shall
7422 transfer an action, or any claim in an action, to the district court if:

7423 (a) a party to the action demands a trial by jury in accordance with the Utah Rules of
7424 ~~[Civil Procedure]~~ Business and Chancery Procedure; and

7425 (b) the Business and Chancery Court finds the party that made the demand has the right
7426 to a trial by jury on a claim in the action.

7427 (3) Before the Business and Chancery Court transfers an action or a claim under
7428 Subsection (2), the Business and Chancery Court may:

7429 (a) bifurcate the action and resolve all claims in which the party does not have a right
7430 to a trial by jury; and

7431 (b) administrate and adjudicate the action or claim being transferred prior to a trial by
7432 jury, including any pleading, provisional remedy, discovery, or motion.

7433 Section 130. Section **78A-5a-204 (Effective 07/01/24)** is amended to read:

7434 **78A-5a-204 (Effective 07/01/24). Location of the Business and Chancery Court --**

7435 **Court facilities -- Costs.**7436 [~~(1)~~] ~~The Business and Chancery Court is located in Salt Lake City.~~7437 [~~(2)~~] (1) The Business and Chancery Court may perform any of the Business and
7438 Chancery Court's functions in any location within the state.7439 [~~(3)~~] (2) The Judicial Council shall provide, from appropriations made by the
7440 Legislature, court space suitable for the conduct of court business for the Business and
7441 Chancery Court.7442 [~~(4)~~] (3) The Judicial Council may, in order to carry out the Judicial Council's
7443 obligation to provide facilities for the Business and Chancery Court, lease space to be used by
7444 the Business and Chancery Court.7445 [~~(5)~~] (4) A lease or reimbursement for the Business and Chancery Court must comply
7446 with the standards of the Division of Facilities Construction and Management that are
7447 applicable to state agencies.7448 [~~(6)~~] (5) The cost of salaries, travel, and training required for the discharge of the
7449 duties of judges, secretaries of judges or court executives, court executives, and court reporters
7450 for the Business and Chancery Court are paid from appropriations made by the Legislature.7451 Section 131. Section **78A-6-103** is amended to read:7452 **78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions --**7453 **Findings -- Transfer of a case from another court.**7454 (1) Except as otherwise provided by Sections [78A-5-102.5](#) and [78A-7-106](#), the juvenile
7455 court has original jurisdiction over:7456 (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
7457 state, or federal law, that was committed by a child;7458 (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
7459 state, or federal law, that was committed by an individual:

7460 (i) who is under 21 years old at the time of all court proceedings; and

7461 (ii) who was under 18 years old at the time the offense was committed; and

7462 (c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state
7463 law, that was committed:

7464 (i) by an individual:

7465 (A) who was 18 years old and enrolled in high school at the time of the offense; and

- 7466 (B) who is under 21 years old at the time of all court proceedings; and
7467 (ii) on school property where the individual was enrolled:
7468 (A) when school was in session; or
7469 (B) during a school-sponsored activity, as defined in ~~[Subsection]~~ Section 53G-8-211.
7470 (2) The juvenile court has original jurisdiction over:
7471 (a) any proceeding concerning:
7472 (i) a child who is an abused child, neglected child, or dependent child;
7473 (ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child
7474 Protective Orders;
7475 (iii) the appointment of a guardian of the individual or other guardian of a minor who
7476 comes within the court's jurisdiction under other provisions of this section;
7477 (iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;
7478 (v) the termination of parental rights in accordance with Title 80, Chapter 4,
7479 Termination and Restoration of Parental Rights, including termination of residual parental
7480 rights and duties;
7481 (vi) the treatment or commitment of a minor who has an intellectual disability;
7482 (vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in
7483 accordance with Section 30-1-9;
7484 (viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);
7485 (ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;
7486 (x) the treatment or commitment of a child with a mental illness;
7487 (xi) the commitment of a child to a secure drug or alcohol facility in accordance with
7488 Section 26B-5-204;
7489 (xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6,
7490 Part 4, Competency;
7491 (xiii) de novo review of final agency actions resulting from an informal adjudicative
7492 proceeding as provided in Section 63G-4-402;
7493 (xiv) adoptions conducted in accordance with the procedures described in Title 78B,
7494 Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order
7495 terminating the rights of a parent and finds that adoption is in the best interest of the child;
7496 (xv) an ungovernable or runaway child who is referred to the juvenile court by the

7497 Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the
7498 Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

7499 (A) is beyond the control of the child's parent, guardian, or custodian to the extent that
7500 the child's behavior or condition endangers the child's own welfare or the welfare of others; or

7501 (B) has run away from home; and

7502 (xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an
7503 adult alleged to have committed an offense under Subsection [78A-6-352\(4\)\(b\)](#) for failure to
7504 comply with a promise to appear and bring a child to the juvenile court;

7505 (b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and
7506 Expungement; and

7507 (c) the extension of a nonjudicial adjustment under Section [80-6-304](#).

7508 (3) The juvenile court has original jurisdiction over a petition for special findings under
7509 Section [80-3-505](#).

7510 (4) It is not necessary for a minor to be adjudicated for an offense or violation of the
7511 law under Section [80-6-701](#) for the juvenile court to exercise jurisdiction under Subsection
7512 (2)(a)(xvi), (b), or (c).

7513 (5) This section does not restrict the right of access to the juvenile court by private
7514 agencies or other persons.

7515 (6) The juvenile court has jurisdiction of all magistrate functions relative to cases
7516 arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

7517 (7) The juvenile court has jurisdiction to make a finding of substantiated,
7518 unsubstantiated, or without merit, in accordance with Section [80-3-404](#).

7519 (8) The juvenile court has jurisdiction over matters transferred to the juvenile court by
7520 another trial court in accordance with Subsection [78A-7-106\(4\)](#) and Section [80-6-303](#).

7521 (9) The juvenile court has jurisdiction to enforce foreign protection orders as described
7522 in Subsection [78B-7-303\(8\)](#).

7523 Section 132. Section **78A-7-106** is amended to read:

7524 **78A-7-106. Jurisdiction.**

7525 (1) (a) Except for an offense for which the district court has original jurisdiction under
7526 Subsection [~~[78A-5-102\(8\)](#)~~ [78A-5-102\(7\)](#)] or an offense for which the juvenile court has
7527 original jurisdiction under Subsection [78A-6-103\(1\)\(c\)](#), a justice court has original jurisdiction

7528 over class B and C misdemeanors, violation of ordinances, and infractions committed within
7529 the justice court's territorial jurisdiction by an individual who is 18 years old or older.

7530 (b) A justice court has original jurisdiction over the following offenses committed
7531 within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

7532 (i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
7533 Licensing Act; and

7534 (ii) class B and C misdemeanor and infraction violations of:

7535 (A) Title 23A, Wildlife Resources Act;

7536 (B) Title 41, Chapter 1a, Motor Vehicle Act;

7537 (C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
7538 Under the Influence and Reckless Driving;

7539 (D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
7540 Operators Act;

7541 (E) Title 41, Chapter 22, Off-highway Vehicles;

7542 (F) Title 73, Chapter 18, State Boating Act, except Section [73-18-12](#);

7543 (G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

7544 (H) Title 73, Chapter 18b, Water Safety; and

7545 (I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators
7546 Act.

7547 (2) Except for an offense for which the district court has exclusive jurisdiction under
7548 Section [78A-5-102.5](#) or an offense for which the juvenile court has exclusive jurisdiction under
7549 Section [78A-6-103.5](#), a justice court has original jurisdiction over the following offenses
7550 committed within the justice court's territorial jurisdiction by an individual who is 16 or 17
7551 years old:

7552 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
7553 Licensing Act; and

7554 (b) class B and C misdemeanor and infraction violations of:

7555 (i) Title 23A, Wildlife Resources Act;

7556 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

7557 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
7558 Under the Influence and Reckless Driving;

7559 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
7560 Operators Act;

7561 (v) Title 41, Chapter 22, Off-highway Vehicles;

7562 (vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section
7563 73-18-12;

7564 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

7565 (viii) Title 73, Chapter 18b, Water Safety; and

7566 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
7567 Operators Act.

7568 (3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake,
7569 or reservoir, whether natural or man-made.

7570 (b) An offense is committed within the territorial jurisdiction of a justice court if:

7571 (i) conduct constituting an element of the offense or a result constituting an element of
7572 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
7573 itself unlawful;

7574 (ii) either an individual committing an offense or a victim of an offense is located
7575 within the court's jurisdiction at the time the offense is committed;

7576 (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs
7577 within the court's jurisdiction;

7578 (iv) an individual commits any act constituting an element of an inchoate offense
7579 within the court's jurisdiction, including an agreement in a conspiracy;

7580 (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another
7581 individual in the planning or commission of an offense within the court's jurisdiction;

7582 (vi) the investigation of the offense does not readily indicate in which court's
7583 jurisdiction the offense occurred, and:

7584 (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
7585 passing within the court's jurisdiction;

7586 (B) the offense is committed on or in any body of water bordering on or within this
7587 state if the territorial limits of the justice court are adjacent to the body of water;

7588 (C) an individual who commits theft exercises control over the affected property within
7589 the court's jurisdiction; or

7590 (D) the offense is committed on or near the boundary of the court's jurisdiction;
7591 (vii) the offense consists of an unlawful communication that was initiated or received
7592 within the court's jurisdiction; or
7593 (viii) jurisdiction is otherwise specifically provided by law.

7594 (4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may
7595 transfer the case to the juvenile court for further proceedings if the justice court judge
7596 determines and the juvenile court concurs that the best interests of the defendant would be
7597 served by the continuing jurisdiction of the juvenile court.

7598 (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,
7599 Small Claims Courts, if a defendant resides in or the debt arose within the territorial
7600 jurisdiction of the justice court.

7601 (6) (a) As used in this Subsection (6), "domestic violence offense" means the same as
7602 that term is defined in Section 77-36-1.

7603 (b) If a justice court has jurisdiction over a criminal action involving a domestic
7604 violence offense and the criminal action is set for trial, the prosecuting attorney or the
7605 defendant may file a notice of transfer in the justice court to transfer the criminal action from
7606 the justice court to the district court.

7607 (c) If a justice court receives a notice of transfer from the prosecuting attorney or the
7608 defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action
7609 to the district court.

7610 Section 133. Section 78B-6-105 is amended to read:

7611 **78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction**
7612 **over nonresidents -- Time for filing.**

7613 (1) ~~[An adoption proceeding shall be commenced by filing a petition in]~~
7614 Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an
7615 adoption proceeding in a court with jurisdiction under Title 78A, Judiciary and Judicial
7616 Administration:

7617 (a) ~~[the district court in the district]~~ in the county where the prospective adoptive
7618 parent resides;

7619 (b) if the prospective adoptive parent is not a resident of this state, ~~[the district court in~~
7620 ~~the district]~~ in the county where:

- 7621 (i) the adoptee was born;
- 7622 (ii) the adoptee resides on the day on which the petition is filed; or
- 7623 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

7624 or

7625 (c) [~~the juvenile court as provided in Subsection 78A-6-103(2)(a)(xiv) and~~] if the
7626 adoption proceeding is brought in the juvenile court as described in Subsection
7627 78A-6-103(2)(a)(xiv), in accordance with Section 78A-6-350.

7628 (2) All orders, decrees, agreements, and notices in an adoption proceeding shall be
7629 filed with the clerk of the court where the adoption proceeding is commenced under Subsection
7630 (1).

7631 (3) A petition for adoption:

7632 (a) may be filed before the birth of a child;

7633 (b) may be filed before or after the adoptee is placed in the home of the petitioner for
7634 the purpose of adoption; and

7635 (c) shall be filed no later than 30 days after the day on which the adoptee is placed in
7636 the home of the petitioners for the purpose of adoption, unless:

7637 (i) the time for filing has been extended by the court; or

7638 (ii) the adoption is arranged by a child-placing agency in which case the agency may
7639 extend the filing time.

7640 (4) (a) If a person whose consent for the adoption is required under Section 78B-6-120
7641 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state
7642 shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,
7643 provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

7644 (b) The notice may not include the name of:

7645 (i) a prospective adoptive parent; or

7646 (ii) an unmarried mother without her consent.

7647 (5) Service of notice described in Subsection (6) shall vest the court with jurisdiction
7648 over the person served in the same manner and to the same extent as if the person served was
7649 served personally within the state.

7650 (6) In the case of service outside the state, service completed not less than five days
7651 before the time set in the notice for appearance of the person served is sufficient to confer

7652 jurisdiction.

7653 (7) Computation of periods of time not otherwise set forth in this section shall be made
7654 in accordance with the Utah Rules of Civil Procedure.

7655 Section 134. Section **78B-6-112** is amended to read:

7656 **78B-6-112. District court jurisdiction over termination of parental rights**
7657 **proceedings.**

7658 (1) A [~~district court has jurisdiction to terminate parental rights in a child if the party~~
7659 ~~that filed the petition is~~] party may bring a petition seeking to terminate parental rights in the
7660 child for the purpose of facilitating the adoption of the child in a court with jurisdiction under
7661 Title 78A, Judiciary and Judicial Administration.

7662 (2) A petition to terminate parental rights under this section may be:

7663 (a) joined with a proceeding on an adoption petition; or

7664 (b) filed as a separate proceeding before or after a petition to adopt the child is filed.

7665 (3) A court may enter a final order terminating parental rights before a final decree of
7666 adoption is entered.

7667 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to
7668 proceedings to terminate parental rights as described in Section **78A-6-103**.

7669 (b) [~~This section does not grant jurisdiction to a district court to~~] A court may not
7670 terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a
7671 pending abuse, neglect, dependency, or termination of parental rights proceeding.

7672 (5) The [~~district~~] court may terminate an individual's parental rights in a child if:

7673 (a) the individual executes a voluntary consent to adoption, or relinquishment for
7674 adoption, of the child, in accordance with:

7675 (i) the requirements of this chapter; or

7676 (ii) the laws of another state or country, if the consent is valid and irrevocable;

7677 (b) the individual is an unmarried biological father who is not entitled to consent to
7678 adoption, or relinquishment for adoption, under Section **78B-6-120** or **78B-6-121**;

7679 (c) the individual:

7680 (i) received notice of the adoption proceeding relating to the child under Section
7681 **78B-6-110**; and

7682 (ii) failed to file a motion for relief, under Subsection **78B-6-110(6)**, within 30 days

7683 after the day on which the individual was served with notice of the adoption proceeding;

7684 (d) the court finds, under Section 78B-15-607, that the individual is not a parent of the
7685 child; or

7686 (e) the individual's parental rights are terminated on grounds described in Title 80,
7687 Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best
7688 interests of the child.

7689 (6) The court shall appoint an indigent defense service provider in accordance with
7690 Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action
7691 initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental
7692 Rights, or whose parental rights are subject to termination under this section.

7693 (7) If a county incurs expenses in providing indigent defense services to an indigent
7694 individual facing any action initiated by a private party under Title 80, Chapter 4, Termination
7695 and Restoration of Parental Rights, or termination of parental rights under this section, the
7696 county may apply for reimbursement from the Utah Indigent Defense Commission in
7697 accordance with Section 78B-22-406.

7698 (8) A petition filed under this section is subject to the procedural requirements of this
7699 chapter.

7700 Section 135. Section 78B-6-401 is amended to read:

7701 **78B-6-401. Power to issue declaratory judgment -- Form -- Effect.**

7702 [~~(1) Each district court~~]

7703 (1) (a) A court with jurisdiction under Title 78A, Judiciary and Judicial
7704 Administration, has the power to issue declaratory judgments determining rights, status, and
7705 other legal relations within its respective jurisdiction.

7706 (b) An action or proceeding may not be open to objection on the ground that a
7707 declaratory judgment or decree is prayed for.

7708 (2) The declaration may be either affirmative or negative in form and effect and shall
7709 have the force and effect of a final judgment or decree.

7710 Section 136. Section 78B-6-408 is amended to read:

7711 **78B-6-408. Rights, status, legal relations under instruments, or statutes may be**
7712 **determined.**

7713 A person with an interest in a deed, will, or written contract, or whose rights, status, or

7714 other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may
7715 request the [district] court to determine any question of construction or validity arising under
7716 the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights,
7717 status, or other legal relations.

7718 Section 137. Section **78B-6-1238** is amended to read:

7719 **78B-6-1238. Clerk of court to be custodian.**

7720 (1) If the security of the proceeds of the sale is taken, or when an investment of any
7721 proceeds is made, it shall be done, except as otherwise provided, in the name of the clerk of the
7722 [district] court.

7723 (2) The clerk of the court shall hold the security for the use and benefit of the parties
7724 interested, subject to an order of the court.

7725 Section 138. **Repealer.**

7726 This bill repeals:

7727 Section **17D-3-104, District court jurisdiction.**

7728 *The following section is affected by a coordination clause at the end of this bill.*

7729 Section **78B-12-103, District court jurisdiction.**

7730 Section 139. **Effective date.**

7731 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

7732 (2) The actions affecting Section **78A-5a-103** (Effective 10/01/24 take effect on
7733 October 1, 2024.

7734 Section 140. **Coordinating H.B. 300 with H.B. 342 -- Technical amendment.**

7735 If H.B. 300, Court Amendments, and H.B. 342, Electronic Information Privacy
7736 Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the
7737 changes to Section **13-63-301** in H.B. 342 supersede the changes to Section **13-63-301** in H.B.
7738 300.

7739 Section 141. **Coordinating H.B. 300 with S.B. 95 -- Technical amendment.**

7740 If H.B. 300, Court Amendments, and S.B. 95, Domestic Relations Recodification, both
7741 pass and become law, the Legislature intends that, on September 1, 2024, the amendments to
7742 Section **78B-12-103** in S.B. 95 supersede the amendments to Section **78B-12-103** in H.B. 300.