

GOVERNMENTAL ACCOUNTING AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Ron Bigelow

LONG TITLE

General Description:

This bill modifies the name of certain funds in the Utah Code for governmental accounting purposes.

Highlighted Provisions:

This bill:

- ▶ changes the name of certain funds to reflect the fact that they are actually restricted accounts within the General Fund;

- ▶ clarifies that money in a restricted account or fund does not lapse to another account or fund unless otherwise specified;

- ▶ addresses the disposition of money deposited into the Rural Health Care Facilities Account;

- ▶ provides that certain highway special revenue funds are within the Transportation Fund;

- ▶ provides that certain highway special revenue funds are within the Transportation Investment Fund of 2005;

- ▶ establishes the Transportation Investment Fund of 2005 as a major fund type in the Utah Code;

- ▶ provides that the Uniform School Fund is a special revenue fund within the Education Fund;

- ▶ deletes obsolete accounts; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:

30 None

31 **Other Special Clauses:**

32 This bill provides effective dates.

33 This bill coordinates with S.B. 123 by providing technical amendments.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **4-2-8.6**, as enacted by Laws of Utah 2008, Chapter 245

37 **4-2-8.7**, as last amended by Laws of Utah 2009, Chapter 368

38 **4-20-1**, as last amended by Laws of Utah 2006, Chapter 294

39 **4-20-1.5**, as last amended by Laws of Utah 2008, Chapters 360 and 382

40 **4-20-1.6**, as last amended by Laws of Utah 2008, Chapter 156

41 **4-20-2**, as last amended by Laws of Utah 2009, Chapters 285 and 368

42 **4-20-3**, as last amended by Laws of Utah 2006, Chapter 294

43 **9-4-802**, as last amended by Laws of Utah 2008, Chapter 389

44 **9-4-803**, as last amended by Laws of Utah 2008, Chapter 389

45 **13-1-2**, as last amended by Laws of Utah 2009, Chapter 183

46 **13-14-105**, as last amended by Laws of Utah 2009, Chapter 183

47 **13-15-3**, as last amended by Laws of Utah 1995, Chapter 85

48 **13-34-107**, as last amended by Laws of Utah 2009, Chapter 183

49 **13-35-105**, as last amended by Laws of Utah 2009, Chapter 183

50 **15-9-117**, as enacted by Laws of Utah 2001, Chapter 237

51 **16-10a-1703**, as enacted by Laws of Utah 1992, Chapter 277

52 **19-1-307**, as enacted by Laws of Utah 2005, Chapter 10

53 **19-3-106.2**, as last amended by Laws of Utah 2005, Chapter 10

54 **23-14-13**, as last amended by Laws of Utah 2008, Chapter 389

55 **26-2-12.5**, as last amended by Laws of Utah 1995, Chapter 202

56 **26-9-4**, as last amended by Laws of Utah 2009, Chapter 368

57 **26-18a-1**, as last amended by Laws of Utah 1997, Chapter 1

- 58 **26-18a-3**, as last amended by Laws of Utah 2008, Chapter 389
- 59 **26-18a-4**, as last amended by Laws of Utah 2008, Chapters 382 and 389
- 60 **35A-3-115**, as renumbered and amended by Laws of Utah 1998, Chapter 1
- 61 **35A-4-201**, as last amended by Laws of Utah 2005, Chapter 81
- 62 **35A-4-305**, as last amended by Laws of Utah 2008, Chapter 3
- 63 **35A-4-306**, as last amended by Laws of Utah 1997, Chapter 375
- 64 **35A-4-501**, as last amended by Laws of Utah 2006, Chapter 22
- 65 **35A-4-505**, as last amended by Laws of Utah 1998, Chapter 1
- 66 **35A-4-506**, as last amended by Laws of Utah 1997, Chapter 375
- 67 **35A-4-507**, as renumbered and amended by Laws of Utah 1996, Chapter 240
- 68 **51-5-4**, as last amended by Laws of Utah 2008, Chapter 213
- 69 **51-9-407**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 70 **53-10-602**, as last amended by Laws of Utah 2009, Chapter 64
- 71 **53-10-603**, as last amended by Laws of Utah 2007, Chapter 241
- 72 **53-10-604**, as enacted by Laws of Utah 2004, Chapter 313
- 73 **53-10-605**, as last amended by Laws of Utah 2008, Chapter 384
- 74 **53-10-606**, as enacted by Laws of Utah 2004, Chapter 313
- 75 **53A-16-101**, as last amended by Laws of Utah 2007, Chapters 122 and 180
- 76 **58-31b-103**, as last amended by Laws of Utah 2008, Chapter 214
- 77 **58-31b-503**, as last amended by Laws of Utah 2008, Chapter 214
- 78 **58-37-7.5**, as last amended by Laws of Utah 2009, Chapter 41
- 79 **58-44a-103**, as enacted by Laws of Utah 1998, Chapter 288
- 80 **58-55-503**, as last amended by Laws of Utah 2008, Chapter 382
- 81 **58-56-9.5**, as last amended by Laws of Utah 2008, Chapter 382
- 82 **58-76-103**, as last amended by Laws of Utah 2009, Chapter 183
- 83 **59-1-210**, as last amended by Laws of Utah 2008, Chapters 187 and 382
- 84 **59-7-614.5**, as enacted by Laws of Utah 2009, Chapter 135
- 85 **59-10-1108**, as enacted by Laws of Utah 2009, Chapter 135

- 86 **59-10-1306**, as renumbered and amended by Laws of Utah 2008, Chapter 389
- 87 **59-10-1308**, as renumbered and amended by Laws of Utah 2008, Chapter 389
- 88 **59-21-2**, as last amended by Laws of Utah 2008, Chapters 360 and 382
- 89 **62A-4a-309**, as last amended by Laws of Utah 2009, Chapter 75
- 90 **62A-4a-310**, as renumbered and amended by Laws of Utah 1994, Chapter 260
- 91 **62A-4a-311**, as last amended by Laws of Utah 2009, Chapter 75
- 92 **62A-15-503**, as renumbered and amended by Laws of Utah 2002, Fifth Special
- 93 Session, Chapter 8
- 94 **63A-5-220**, as last amended by Laws of Utah 2009, Chapter 75
- 95 **63B-10-401**, as last amended by Laws of Utah 2002, Chapter 252
- 96 **63J-1-104**, as renumbered and amended by Laws of Utah 2009, Chapters 183 and 368
- 97 **63J-1-602**, as enacted by Laws of Utah 2009, Chapter 368
- 98 **63J-6-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 99 **63M-1-902**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 100 **63M-1-903**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 101 **63M-1-904**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 102 **63M-1-905**, as last amended by Laws of Utah 2009, Chapter 183
- 103 **63M-1-906**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 104 **63M-1-908**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 105 **63M-1-909**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 106 **63M-1-1211**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 107 **63M-1-1802**, as last amended by Laws of Utah 2009, Chapter 135
- 108 **63M-1-1803**, as last amended by Laws of Utah 2009, Chapter 135
- 109 **63M-1-1804**, as repealed and reenacted by Laws of Utah 2009, Chapter 135
- 110 **63M-1-2301**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 111 **63M-1-2302**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 112 **63M-1-2303**, as last amended by Laws of Utah 2008, Chapter 216 and renumbered
- 113 and amended by Laws of Utah 2008, Chapter 382

- 114 **63M-1-2304**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 115 **63M-1-2305**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 116 **67-5-25**, as last amended by Laws of Utah 2009, Chapter 368
- 117 **70-3a-203**, as last amended by Laws of Utah 2009, Chapters 183 and 368
- 118 **72-2-106**, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 119 **72-2-120**, as last amended by Laws of Utah 2006, Chapter 36
- 120 **72-2-121**, as last amended by Laws of Utah 2009, Chapter 275
- 121 **72-2-121.1**, as last amended by Laws of Utah 2007, Chapter 10
- 122 **72-2-125**, as last amended by Laws of Utah 2009, Chapter 364
- 123 **72-6-118**, as last amended by Laws of Utah 2008, Chapter 382
- 124 **76-7-317.1**, as last amended by Laws of Utah 2009, Chapter 43
- 125 **78A-2-301**, as last amended by Laws of Utah 2009, Chapters 147 and 149
- 126 **78B-6-209**, as renumbered and amended by Laws of Utah 2008, Chapter 3

127 ENACTS:

128 **62A-15-502.5**, Utah Code Annotated 1953

129 REPEALS:

130 **63M-5-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382

131 **Utah Code Sections Affected by Coordination Clause:**

132 **63M-1-1803**, as last amended by Laws of Utah 2009, Chapter 135



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

135 Section 1. Section **4-2-8.6** is amended to read:

136 **4-2-8.6. Cooperative agreements and grants to prevent wildland fire.**

137 After consulting with the Department of Natural Resources and the Conservation
138 Commission, the department may:

- 139 (1) enter into a cooperative agreement with a state agency, a federal agency, or a
- 140 federal, state, tribal, or private landowner to prevent catastrophic wildland fire through land
- 141 restoration in a watershed that:

142 (a) is impacted by cheatgrass or other invasive species; or
143 (b) has a fuel load that may contribute to a catastrophic wildland fire;
144 (2) expend monies from the Invasive Species Mitigation [~~Fund~~] Account created in
145 Section 4-2-8.7; and

146 (3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
147 make rules to:

148 (a) administer this section; and
149 (b) give grants from the Invasive Species Mitigation [~~Fund~~] Account.

150 Section 2. Section **4-2-8.7** is amended to read:

151 **4-2-8.7. Invasive Species Mitigation Account created.**

152 (1) As used in this section, "project" means an undertaking that prevents catastrophic
153 wildland fire through land restoration in a watershed that:

154 (a) is impacted by cheatgrass or other invasive species; or
155 (b) has a fuel load that may contribute to a catastrophic wildland fire.

156 (2) (a) There is created a [~~general fund~~] restricted account within the General Fund
157 known as the "Invasive Species Mitigation [~~Fund~~] Account."

158 (b) The [~~fund~~] restricted account shall consist of:

159 (i) money appropriated by the Legislature;
160 (ii) grants from the federal government; and
161 (iii) grants or donations from a person.

162 (3) Any unallocated balance in the [~~fund~~] restricted account at the end of the year is
163 nonlapsing.

164 (4) (a) After consulting with the Department of Natural Resources and the
165 Conservation Commission, the department may expend [~~fund monies~~] money in the restricted
166 account:

167 (i) on a project implemented by:
168 (A) the department; or
169 (B) the Conservation Commission; or

170 (ii) by giving a grant for a project to:

171 (A) a state agency;

172 (B) a federal agency; or

173 (C) a federal, state, tribal, or private landowner.

174 (b) A grant to a federal landowner must be matched with at least an equal amount of
175 money by the federal landowner.

176 (c) In expending the [~~fund monies~~] money authorized by Subsection (4)(a)(i), the
177 department shall use existing infrastructure and employees to plan and implement the project.

178 (5) In giving a grant, the department shall consider the effectiveness of a project in
179 preventing:

180 (a) first, the risk to public safety and health from:

181 (i) air pollution;

182 (ii) flooding; and

183 (iii) reduced visibility on a highway;

184 (b) second, damage to the environment, including:

185 (i) soil erosion;

186 (ii) degraded water quality; and

187 (iii) release of carbon; and

188 (c) third, damage to:

189 (i) a local economy; and

190 (ii) habitat for wildlife or livestock.

191 Section 3. Section **4-20-1** is amended to read:

192 **4-20-1. Title -- Definitions.**

193 (1) This chapter is known as the "Rangeland Improvement Act."

194 (2) As used in this chapter:

195 (a) "Cooperative weed management association" means a multigovernmental

196 association cooperating together to control noxious weeds in a geographic area that includes
197 some portion of Utah.

198 (b) "Fees" mean the revenue collected by the United States Secretary of Interior from
199 assessments on livestock using public lands.

200 [~~(d)~~] (c) "Grazing district" means an administrative unit of land:

201 (i) designated by the commissioner as being valuable for grazing and for raising forage
202 crops; and

203 (ii) which consists of any combination of the following:

204 (A) public land;

205 (B) private land;

206 (C) state land; and

207 (D) school and institutional trust land as defined in Section 53C-1-103.

208 [~~(e)~~] (d) "Public lands" mean vacant, unappropriated, reserved, and unreserved federal
209 lands.

210 [~~(f)~~] (e) "Regional board" means a regional grazing advisory board whose members
211 are appointed under Section 4-20-1.6.

212 [~~(g)~~] (f) [~~"Fund"~~] "Restricted account" means the Rangeland Improvement [~~Fund~~]
213 Account created in Section 4-20-2.

214 (g) "Sales" or "leases" mean the sale or lease, respectively, of isolated or disconnected
215 tracts of public lands by the United States Secretary of Interior.

216 (h) "State board" means the State Grazing Advisory Board created under Section
217 4-20-1.5.

218 Section 4. Section **4-20-1.5** is amended to read:

219 **4-20-1.5. State Grazing Advisory Board -- Duties.**

220 (1) (a) There is created within the department the State Grazing Advisory Board.

221 (b) The commissioner shall appoint the following members:

222 (i) one member from each regional board;

223 (ii) one member from the Conservation Commission created in Section 4-18-4;

224 (iii) one representative of the Department of Natural Resources;

225 (iv) two livestock producers at-large; and

- 226 (v) one representative of the oil, gas, or mining industry.
- 227 (2) The term of office for a state board member is four years.
- 228 (3) Members of the state board shall elect a chair, who shall serve for two years.
- 229 (4) (a) (i) A member who is not a government employee may not receive compensation
230 or benefits for the member's service, but may receive per diem and expenses incurred in the
231 performance of the member's official duties at the rates established by the Division of Finance
232 under Sections 63A-3-106 and 63A-3-107.
- 233 (ii) A member may decline to receive per diem and expenses for the member's service.
- 234 (b) (i) A state government officer and employee member who does not receive salary,
235 per diem, or expenses from the agency the member represents for the member's service may
236 receive per diem and expenses incurred in the performance of the member's official duties at
237 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 238 (ii) A state government officer and employee member may decline to receive per diem
239 and expenses for the member's service.
- 240 (c) (i) A local government member who does not receive salary, per diem, or expenses
241 from the entity that the member represents for the member's service may receive per diem and
242 expenses incurred in the performance of the member's official duties at the rates established by
243 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 244 (ii) A local government member may decline to receive per diem and expenses for the
245 member's service.
- 246 (5) The state board shall:
- 247 (a) receive:
- 248 (i) advice and recommendations from a regional board concerning:
- 249 (A) management plans for public lands, state lands, and school and institutional trust
250 lands as defined in Section 53C-1-103, within the regional board's region; and
- 251 (B) any issue that impacts grazing on private lands, public lands, state lands, or school
252 and institutional trust lands as defined in Section 53C-1-103, in its region; and
- 253 (ii) requests for [~~fund monies~~] restricted account money from the entities described in

254 Subsections (5)(c)(i) through (iv);

255 (b) recommend state policy positions and cooperative agency participation in federal
256 and state land management plans to the department and to the Public Lands Policy

257 Coordinating Office created under Section 63J-4-602; and

258 (c) advise the department on the requests and recommendations of:

259 (i) regional boards;

260 (ii) county weed control boards created under Section 4-17-4;

261 (iii) cooperative weed management associations; and

262 (iv) conservation districts created under the authority of Title 17D, Chapter 3,

263 Conservation District Act.

264 Section 5. Section **4-20-1.6** is amended to read:

265 **4-20-1.6. Regional Grazing Advisory Boards -- Duties.**

266 (1) The commissioner shall appoint members to a regional board for each grazing
267 district from nominations submitted by:

268 (a) the Utah Cattlemen's Association;

269 (b) the Utah Woolgrower's Association;

270 (c) the Utah Farm Bureau Federation; and

271 (d) a conservation district, if the conservation district's boundaries include some
272 portion of the grazing district.

273 (2) Regional boards:

274 (a) shall provide advice and recommendations to the state board; and

275 (b) may receive monies from the Rangeland Improvement [~~Fund~~] Account created in
276 Section 4-20-2.

277 (3) If a regional board receives monies as authorized by Subsection (2)(b), the regional
278 board shall elect a treasurer to expend the monies:

279 (a) as directed by the regional board; and

280 (b) in accordance with Section 4-20-3.

281 (4) (a) A treasurer elected in accordance with Subsection (3) shall, for the faithful

282 performance of the treasurer's official duties, file with the department:

283 (i) a \$5,000 corporate surety bond; or

284 (ii) a \$10,000 personal surety bond.

285 (b) The regional board shall pay the premium for the bond required by Subsection

286 (4)(a) from the monies received under Subsection (2)(b).

287 Section 6. Section **4-20-2** is amended to read:

288 **4-20-2. Rangeland Improvement Account -- Administered by department.**

289 (1) (a) There is created a [~~general fund restricted account~~] restricted account within
290 the General Fund known as the "Rangeland Improvement [~~Fund~~] Account."

291 (b) The [~~fund~~] restricted account shall consist of:

292 (i) [~~all monies~~] money received by the state from the United States Secretary of
293 Interior under the Taylor Grazing Act, 43 U.S.C. Section 315 et seq., for sales, leases, and
294 fees;

295 (ii) grants or appropriations from the state or federal government; and

296 (iii) grants from private foundations.

297 (c) [~~Any interest~~] Interest earned on the [~~fund~~] restricted account shall be deposited
298 into the General Fund.

299 (2) Any unallocated balance in the [~~fund~~] restricted account at the end of a fiscal year
300 is nonlapsing.

301 (3) The department shall:

302 (a) administer the [~~fund~~] restricted account;

303 (b) obtain from the United States Department of Interior the receipts collected from:

304 (i) fees in each grazing district; and

305 (ii) the receipts collected from the sale or lease of public lands; and

306 (c) distribute [~~fund monies~~] restricted account money in accordance with Section

307 4-20-3.

308 Section 7. Section **4-20-3** is amended to read:

309 **4-20-3. Rangeland Improvement Account distribution.**

310 (1) The department shall distribute [~~fund monies~~] restricted account money as
311 provided in this section.

312 (a) The department shall:

313 (i) distribute pro rata to each school district the monies received by the state under
314 Subsection 4-20-2(1)(b)(i) from the sale or lease of public lands based upon the amount of
315 revenue generated from the sale or lease of public lands within the district; and

316 (ii) ensure that all monies generated from the sale or lease of public lands within a
317 school district are credited and deposited to the general school fund of that school district.

318 (b) (i) After the commissioner approves a request from a regional board, the
319 department shall distribute pro rata to each regional board monies received by the state under
320 Subsection 4-20-2(1)(b)(i) from fees based upon the amount of revenue generated from the
321 imposition of fees within that grazing district.

322 (ii) The regional board shall expend monies received in accordance with Subsection
323 (2).

324 (c) (i) The department shall distribute or expend monies received by the state under
325 Subsections 4-20-2(1)(b)(ii) through (iv) for the purposes outlined in Subsection (2).

326 (ii) The department may require entities seeking funding from sources outlined in
327 Subsections 4-20-2(1)(b)(ii) through (iv) to provide matching funds.

328 (2) The department shall ensure that [~~fund~~] restricted account distributions or
329 expenditures under Subsections (1)(b) and (c) are used for:

330 (a) range improvement and maintenance;

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

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

334 (d) the purchase or lease of lands for the benefit of a grazing district;

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

336 (f) the general welfare of livestock grazing within a grazing district.

337 Section 8. Section **9-4-802** is amended to read:

338 **9-4-802. Purposes of Homeless Coordinating Committee -- Uses of Pamela**
339 **Atkinson Homeless Account.**

340 (1) (a) The Homeless Coordinating Committee shall work to ensure that services
341 provided to the homeless by state agencies, local governments, and private organizations are
342 provided in a cost-effective manner.

343 (b) Programs funded by the committee shall emphasize emergency housing and
344 self-sufficiency, including placement in meaningful employment or occupational training
345 activities and, where needed, special services to meet the unique needs of the homeless who
346 have families with children, or who are mentally ill, disabled, or suffer from other serious
347 challenges to employment and self-sufficiency.

348 (c) The committee may also fund treatment programs to ameliorate the effects of
349 substance abuse or a disability.

350 (2) The committee members designated in Subsection 9-4-801(2) shall:

351 (a) award contracts funded by the Pamela Atkinson Homeless [Trust] Account with
352 the advice and input of those designated in Subsection 9-4-801(3);

353 (b) consider need, diversity of geographic location, coordination with or enhancement
354 of existing services, and the extensive use of volunteers; and

355 (c) give priority for funding to programs that serve the homeless who are mentally ill
356 and who are in families with children.

357 (3) (a) In any fiscal year, no more than 80% of the funds in the Pamela Atkinson
358 Homeless [Trust] Account may be allocated to organizations that provide services only in Salt
359 Lake, Davis, Weber, and Utah Counties.

360 (b) The committee may:

361 (i) expend up to 3% of its annual appropriation for administrative costs associated
362 with the allocation of funds from the Pamela Atkinson Homeless [Trust] Account, and up to
363 2% of its annual appropriation for marketing the account and soliciting donations to the
364 account; and

365 (ii) pay for the initial costs of the State Tax Commission in implementing Section

366 59-10-1306 from the account.

367 (4) (a) The committee may not expend, except as provided in Subsection (4)(b), an
368 amount equal to the greater of \$50,000 or 20% of the amount donated to the Pamela Atkinson
369 Homeless [~~Trust~~] Account during fiscal year 1988-89.

370 (b) If there are decreases in contributions to the account, the committee may expend
371 funds held in [~~reserve~~] the account to provide program stability, but the committee shall
372 reimburse the amounts of those expenditures to the [~~reserve fund~~] account.

373 (5) The committee shall make an annual report to the Economic Development and
374 Human Resources Appropriations Subcommittee regarding the programs and services funded
375 by contributions to the Pamela Atkinson Homeless [~~Trust~~] Account.

376 (6) The moneys in the Pamela Atkinson Homeless [~~Trust~~] Account shall be invested
377 by the state treasurer according to the procedures and requirements of Title 51, Chapter 7,
378 State Money Management Act, except that all interest or other earnings derived from the [~~fund~~
379 ~~moneys~~] restricted account shall be deposited in the [~~fund~~] restricted account.

380 Section 9. Section **9-4-803** is amended to read:

381 **9-4-803. Creation of Pamela Atkinson Homeless Account.**

382 (1) There is created a restricted account within the General Fund [~~to be~~] known as the
383 "Pamela Atkinson Homeless [~~Trust~~] Account."

384 (2) Private contributions received under this section and Section 59-10-1306 shall be
385 deposited into the restricted account to be used only for programs described in Section
386 9-4-802.

387 (3) Money shall be appropriated from the restricted account to the State Homeless
388 Coordinating Committee in accordance with the Utah Budgetary Procedures Act.

389 (4) The State Homeless Coordinating Committee may accept transfers, grants, gifts,
390 bequests, or any money made available from any source to implement this part.

391 Section 10. Section **13-1-2** is amended to read:

392 **13-1-2. Creation and functions of department -- Divisions created -- Fees --**
393 **Commerce Service Account.**

- 394 (1) (a) There is created the Department of Commerce.
- 395 (b) The department shall execute and administer state laws regulating business
- 396 activities and occupations affecting the public interest.
- 397 (2) Within the department the following divisions are created:
- 398 (a) the Division of Occupational and Professional Licensing;
- 399 (b) the Division of Real Estate;
- 400 (c) the Division of Securities;
- 401 (d) the Division of Public Utilities;
- 402 (e) the Division of Consumer Protection; and
- 403 (f) the Division of Corporations and Commercial Code.
- 404 (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of
- 405 fees assessed for services provided by the department by following the procedures and
- 406 requirements of Section 63J-1-504.
- 407 (b) The department shall submit each fee established in this manner to the Legislature
- 408 for its approval as part of the department's annual appropriations request.
- 409 (c) (i) ~~[All fees collected by each division and by the department shall be deposited in]~~
- 410 There is created a restricted account within the General Fund known as the "Commerce
- 411 Service ~~[Fund.]~~ Account."
- 412 (ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by
- 413 each division and by the department.
- 414 ~~[(ii)]~~ (iii) At the end of each fiscal year, the director of the Division of Finance shall
- 415 transfer into the General Fund any fee collections that are greater than the legislative
- 416 appropriations from the Commerce Service ~~[Fund]~~ Account for that year.
- 417 (d) The department may not charge or collect ~~[any fee nor expend monies from this~~
- 418 ~~fund]~~ a fee or expend money from the restricted account without approval by the Legislature.
- 419 Section 11. Section **13-14-105** is amended to read:
- 420 **13-14-105. Registration -- Fees.**
- 421 (1) A franchisee or franchisor doing business in this state shall:

422 (a) annually register or renew its registration with the department in a manner
423 established by the department; and

424 (b) pay an annual registration fee in an amount determined by the department in
425 accordance with Sections 13-1-2 and 63J-1-504.

426 (2) The department shall register or renew the registration of a franchisee or franchisor
427 if the franchisee or franchisor complies with this chapter and rules made by the department
428 under this chapter.

429 (3) A franchisee or franchisor registered under this section shall comply with this
430 chapter and any rules made by the department under this chapter including any amendments to
431 this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.

432 (4) The fee imposed under Subsection (1)(b) shall be collected by the department and
433 deposited into the Commerce Service ~~[Fund]~~ Account created by Section 13-1-2.

434 (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of
435 a franchisor does not need to be registered under this section if the franchisor is registered
436 under this section.

437 Section 12. Section **13-15-3** is amended to read:

438 **13-15-3. Administration and enforcement -- Powers -- Legal counsel -- Fees.**

439 (1) The division shall administer and enforce this chapter. In the exercise of its
440 responsibilities, the division shall enjoy the powers, and be subject to the constraints, set forth
441 in Title 13, Chapter 2, Division of Consumer Protection.

442 (2) The attorney general, upon request, shall give legal advice to, and act as counsel
443 for, the division in the exercise of its responsibilities under this chapter.

444 (3) All fees collected under this chapter shall be deposited in the Commerce Service
445 ~~[Fund]~~ Account created by Section 13-1-2.

446 Section 13. Section **13-34-107** is amended to read:

447 **13-34-107. Advertising, recruiting, or operating a proprietary school -- Required**
448 **registration statement or exemption -- Certificate of registration -- Registration does not**
449 **constitute endorsement.**

450 (1) (a) Unless an institution complies with Subsection (1)(b), the institution may not
451 do any of the following in this state:

- 452 (i) advertise a proprietary school;
- 453 (ii) recruit students for a proprietary school; or
- 454 (iii) operate a proprietary school.

455 (b) An institution may not engage in an activity described in Subsection (1)(a) unless
456 the institution:

457 (i) (A) files with the division a registration statement relating to the proprietary school
458 that is in compliance with:

- 459 (I) applicable rules made by the division; and
- 460 (II) the requirements set forth in this chapter; and
- 461 (B) obtains a certificate of registration; or
- 462 (ii) establishes an exemption with the division.

463 (2) (a) The registration statement or exemption described in Subsection (1) shall be:

464 (i) verified by the oath or affirmation of the owner or a responsible officer of the
465 proprietary school filing the registration statement or exemption; and

466 (ii) include a certification as to whether any of the following has violated laws, federal
467 regulations, or state rules as determined in a criminal, civil, or administrative proceeding:

- 468 (A) the proprietary school; or
- 469 (B) any of the following with respect to the proprietary school:
 - 470 (I) an owner;
 - 471 (II) an officer;
 - 472 (III) a director;
 - 473 (IV) an administrator;
 - 474 (V) a faculty member;
 - 475 (VI) a staff member; or
 - 476 (VII) an agent.

477 (b) The proprietary school shall:

478 (i) make available, upon request, a copy of the registration statement, showing the date
479 upon which it was filed; and

480 (ii) display the certificate of registration obtained from the division in a conspicuous
481 place on the proprietary school's premises.

482 (3) (a) A registration statement and the accompanying certificate of registration are not
483 transferable.

484 (b) In the event of a change in ownership or in the governing body of the proprietary
485 school, the new owner or governing body, within 30 days after the change, shall file a new
486 registration statement.

487 (4) Except as provided in Subsection (3)(b), a registration statement or a renewal
488 statement and the accompanying certificate of registration are effective for a period of two
489 years after the date of filing and issuance.

490 (5) (a) The division shall establish a graduated fee structure for the filing of
491 registration statements by various classifications of institutions pursuant to Section 63J-1-504.

492 (b) Fees are not refundable.

493 (c) Fees shall be deposited in the Commerce Service ~~Fund pursuant to~~ Account
494 created by Section 13-1-2.

495 (6) (a) Each proprietary school shall:

496 (i) demonstrate fiscal responsibility at the time the proprietary school files its
497 registration statement as prescribed by rules of the division; and

498 (ii) provide evidence to the division that the proprietary school:

499 (A) is financially sound; and

500 (B) can reasonably fulfill commitments to and obligations the proprietary school has
501 incurred with students and creditors.

502 (b) A proprietary school applying for an initial certificate of registration to operate
503 shall prepare and submit financial statements and supporting documentation as requested by
504 the division.

505 (c) A proprietary school applying for renewal of a certificate of registration to operate

506 or renewal under new ownership must provide audited financial statements.

507 (d) The division may require evidence of financial status at other times when it is in
508 the best interest of students to require such information.

509 (7) (a) A proprietary school applying for an initial certificate of registration or seeking
510 renewal shall provide in a form approved by the division:

- 511 (i) a surety bond;
- 512 (ii) a certificate of deposit; or
- 513 (iii) an irrevocable letter of credit.

514 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
515 the division may make rules providing for:

516 (i) the amount of the bond, certificate, or letter of credit required under Subsection
517 (7)(a), not to exceed in amount the anticipated tuition and fees to be received by the
518 proprietary school during a school year;

519 (ii) the execution of the bond, certificate, or letter of credit;

520 (iii) cancellation of the bond, certificate, or letter of credit during or at the end of the
521 registration term; and

522 (iv) any other matters related to providing the bond, certificate, or letter of credit
523 required under Subsection (7)(a).

524 (c) The bond, certificate, or letter of credit shall be used as a protection against loss of
525 advanced tuition, book fees, supply fees, or equipment fees:

- 526 (i) collected by the proprietary school from a student or a student's parent, guardian, or
527 sponsor prior to the completion of the program or courses for which it was collected; or
- 528 (ii) for which the student is liable.

529 (8) (a) Except as provided in Section 13-34-113, the division may not refuse
530 acceptance of a registration statement that is:

- 531 (i) tendered for filing and, based on a preliminary review, appears to be in compliance
532 with Subsections (1), (2), and (6); and
- 533 (ii) accompanied by:

- 534 (A) the required fee; and
535 (B) one of the following required by Subsection (7):
536 (I) surety bond;
537 (II) certificate of deposit; or
538 (III) irrevocable letter of credit.
539 (b) A certificate of registration is effective upon the date of issuance.
540 (c) The responsibility of compliance is upon the proprietary school and not upon the
541 division.
542 (d) (i) If it appears to the division that a registration statement on file may not be in
543 compliance with this chapter, the division may advise the proprietary school as to the apparent
544 deficiencies.
545 (ii) After a proprietary school has been notified of a deficiency under Subsection
546 (8)(d)(i), a new or amended statement may be presented for filing by the proprietary school,
547 accompanied by:
548 (A) the required fee; and
549 (B) one of the following required by Subsection (7):
550 (I) surety bond;
551 (II) certificate of deposit; or
552 (III) irrevocable letter of credit.
553 (9) The following does not constitute and may not be represented by any person to
554 constitute, an endorsement or approval of the proprietary school by either the division or the
555 state:
556 (a) an acceptance of:
557 (i) a registration statement;
558 (ii) a renewal statement; or
559 (iii) an amended registration statement; and
560 (b) issuance of a certificate of registration.
561 Section 14. Section **13-35-105** is amended to read:

562 **13-35-105. Registration -- Fees.**

563 (1) A franchisee or franchisor doing business in this state shall:

564 (a) annually register or renew its registration with the department in a manner
565 established by the department; and

566 (b) pay an annual registration fee in an amount determined by the department in
567 accordance with Sections 13-1-2 and 63J-1-504.

568 (2) The department shall register or renew the registration of a franchisee or franchisor
569 if the franchisee or franchisor complies with this chapter and rules made by the department
570 under this chapter.

571 (3) A franchisee or franchisor registered under this section shall comply with this
572 chapter and any rules made by the department under this chapter including any amendments to
573 this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.

574 (4) The fee imposed under Subsection (1)(b) shall be collected by the department and
575 deposited into the Commerce Service [~~Fund~~] Account created by Section 13-1-2.

576 (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of
577 a franchisor does not need to be registered under this section if the franchisor is registered
578 under this section.

579 Section 15. Section **15-9-117** is amended to read:

580 **15-9-117. Civil and administrative penalty.**

581 (1) The division may assess a civil penalty against an athlete agent not to exceed
582 \$25,000 for a violation of this chapter.

583 (2) An administrative penalty collected under Subsection (1) shall be deposited into
584 the Commerce Service [~~Fund~~] Account created in Section 13-1-2.

585 Section 16. Section **16-10a-1703** is amended to read:

586 **16-10a-1703. Publication.**

587 (1) The division shall annually publish copies of this chapter, together with applicable
588 annotations and commentary, for sale and distribution to the public.

589 (2) The division may charge a reasonable amount for copies of the chapter sold or

590 distributed.

591 (3) The proceeds from all sales and distributions shall be deposited into the Commerce
592 Service [Fund] Account created by Section 13-1-2, and may be appropriated to the division for
593 use in defraying past or future production, publication, republication, or distribution costs.

594 Section 17. Section **19-1-307** is amended to read:

595 **19-1-307. Evaluation of closure, postclosure, and perpetual care and**
596 **maintenance for hazardous waste and radioactive waste treatment and disposal facilities**
597 **-- Report.**

598 (1) (a) Beginning in 2006, the Solid and Hazardous Waste Control Board created in
599 Section 19-1-106 shall direct an evaluation every five years of:

600 (i) the adequacy of the amount of financial assurance required for closure and
601 postclosure care under 40 C.F.R. subpart H, Sections 264.140 through 264.151 submitted
602 pursuant to a hazardous waste operation plan for a commercial hazardous waste treatment,
603 storage, or disposal facility under Section 19-6-108; and

604 (ii) the adequacy of the amount of financial assurance or funds required for perpetual
605 care and maintenance following the closure and postclosure period of a commercial hazardous
606 waste treatment, storage, or disposal facility, if found necessary following the evaluation under
607 Subsection (1)(c).

608 (b) The evaluation shall determine:

609 (i) whether the amount of financial assurance required is adequate for closure and
610 postclosure care of hazardous waste treatment, storage, or disposal facilities;

611 (ii) whether the amount of financial assurance or funds required is adequate for
612 perpetual care and maintenance following the closure and postclosure period of a commercial
613 hazardous waste treatment, storage, or disposal facility, if found necessary following the
614 evaluation under Subsection (1)(c); and

615 (iii) the costs above the minimal maintenance and monitoring for reasonable risks that
616 may occur during closure, postclosure, and perpetual care and maintenance of commercial
617 hazardous waste treatment, storage, or disposal facilities including:

- 618 (A) groundwater corrective action;
- 619 (B) differential settlement failure; or
- 620 (C) major maintenance of a cell or cells.
- 621 (c) The Solid and Hazardous Waste Control Board shall evaluate in 2006 whether
- 622 financial assurance or funds are necessary for perpetual care and maintenance following the
- 623 closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal
- 624 facility to protect human health and the environment.
- 625 (2) (a) Beginning in 2006, the Radiation Control Board created in Section 19-1-106
- 626 shall direct an evaluation every five years of:
- 627 (i) the adequacy of the Radioactive Waste Perpetual Care and Maintenance [~~Fund~~]
- 628 Account created by Section 19-3-106.2; and
- 629 (ii) the adequacy of the amount of financial assurance required for closure and
- 630 postclosure care of commercial radioactive waste treatment or disposal facilities under
- 631 Subsection 19-3-104(12).
- 632 (b) The evaluation shall determine:
- 633 (i) whether the [~~fund~~] restricted account is adequate to provide for perpetual care and
- 634 maintenance of commercial radioactive waste treatment or disposal facilities;
- 635 (ii) whether the amount of financial assurance required is adequate to provide for
- 636 closure and postclosure care of commercial radioactive waste treatment or disposal facilities;
- 637 (iii) the costs under Subsection 19-3-106.2(5)(b) of using the Radioactive Waste
- 638 Perpetual Care and Maintenance [~~Fund~~] Account during the period before the end of 100 years
- 639 following final closure of the facility for maintenance, monitoring, or corrective action in the
- 640 event that the owner or operator is unwilling or unable to carry out the duties of postclosure
- 641 maintenance, monitoring, or corrective action; and
- 642 (iv) the costs above the minimal maintenance and monitoring for reasonable risks that
- 643 may occur during closure, postclosure, and perpetual care and maintenance of commercial
- 644 radioactive waste treatment or disposal facilities including:
- 645 (A) groundwater corrective action;

646 (B) differential settlement failure; or

647 (C) major maintenance of a cell or cells.

648 (3) The boards under Subsections (1) and (2) shall submit a joint report on the
649 evaluations to the Legislative Management Committee on or before October 1 of the year in
650 which the report is due.

651 Section 18. Section **19-3-106.2** is amended to read:

652 **19-3-106.2. Fee for perpetual care and maintenance of commercial radioactive**
653 **waste disposal facilities -- Radioactive Waste Perpetual Care and Maintenance Account**
654 **created -- Contents -- Use of restricted account monies -- Evaluation.**

655 (1) As used in this section, "perpetual care and maintenance" means perpetual care
656 and maintenance of a commercial radioactive waste treatment or disposal facility, excluding
657 sites within the facility used for the disposal of byproduct material, as required by applicable
658 laws, rules, and license requirements beginning 100 years after the date of final closure of the
659 facility.

660 (2) (a) On and after July 1, 2002, the owner or operator of an active commercial
661 radioactive waste treatment or disposal facility shall pay an annual fee of \$400,000 to provide
662 for the perpetual care and maintenance of the facility.

663 (b) The owner or operator shall remit the fee to the department on or before July 1 of
664 each year.

665 (3) The department shall deposit fees received under Subsection (2) into the
666 Radioactive Waste Perpetual Care and Maintenance [~~Fund~~] Account created in Subsection (4).

667 (4) (a) There is created a restricted account within the General Fund known as the
668 "Radioactive Waste Perpetual Care and Maintenance [~~Fund~~] Account" to finance perpetual
669 care and maintenance of commercial radioactive waste treatment or disposal facilities,
670 excluding sites within those facilities used for the disposal of byproduct material.

671 (b) The sources of revenue for the [~~fund~~] restricted account are:

672 (i) the fee imposed under this section; and

673 (ii) investment income derived from money in the [~~fund~~] restricted account.

674 (c) (i) The revenues for the ~~[fund]~~ restricted account shall be segregated into
675 subaccounts for each commercial radioactive waste treatment or disposal facility covered by
676 the ~~[fund]~~ restricted account.

677 (ii) Each subaccount shall contain:

678 (A) the fees paid by each owner or operator of a commercial radioactive waste
679 treatment or disposal facility; and

680 (B) the associated investment income.

681 (5) The Legislature may appropriate money from the Radioactive Waste Perpetual
682 Care and Maintenance ~~[Fund]~~ Account for:

683 (a) perpetual care and maintenance of a commercial radioactive waste treatment or
684 disposal facility, excluding sites within the facility used for the disposal of byproduct material,
685 beginning 100 years after the date of final closure of the facility; or

686 (b) maintenance or monitoring of, or implementing corrective action at, a commercial
687 radioactive waste treatment or disposal facility, excluding sites within the facility used for the
688 disposal of byproduct material, before the end of 100 years after the date of final closure of the
689 facility, if:

690 (i) the owner or operator is unwilling or unable to carry out postclosure maintenance,
691 monitoring, or corrective action; and

692 (ii) the financial surety arrangements made by the owner or operator, including any
693 required under applicable law, are insufficient to cover the costs of postclosure maintenance,
694 monitoring, or corrective action.

695 (6) The money appropriated from the Radioactive Waste Perpetual Care and
696 Maintenance ~~[Fund]~~ Account for the purposes specified in Subsection (5)(a) or ~~[(5)]~~(b) at a
697 particular commercial radioactive waste treatment or disposal facility may be appropriated
698 only from the subaccount established under Subsection (4)(c) for the facility.

699 (7) The attorney general shall bring legal action against the owner or operator or take
700 other steps to secure the recovery or reimbursement of the costs of maintenance, monitoring,
701 or corrective action, including legal costs, incurred pursuant to Subsection (5)(b).

702 (8) The board shall direct an evaluation of the adequacy of the ~~[fund]~~ restricted
703 account as required under Section 19-1-307.

704 (9) This section does not apply to a uranium mill licensed under 10 C.F.R. Part 40,
705 Domestic Licensing of Source Material.

706 Section 19. Section **23-14-13** is amended to read:

707 **23-14-13. Wildlife Resources Account.**

708 (1) ~~[The]~~ There is created a restricted account within the General Fund known as the
709 "Wildlife Resources Account." ~~[is established within the General Fund.]~~

710 (2) The following monies shall be deposited into the Wildlife Resources Account:

711 (a) revenue from the sale of licenses, permits, tags, and certificates of registration
712 issued under this title or a rule or proclamation of the Wildlife Board, except as otherwise
713 provided by this title;

714 (b) revenue from the sale, lease, rental, or other granting of rights of real or personal
715 property acquired with revenue specified in Subsection (2)(a);

716 (c) revenue from fines and forfeitures for violations of this title or any rule,
717 proclamation, or order of the Wildlife Board, minus court costs not to exceed the schedule
718 adopted by the Judicial Council;

719 (d) funds appropriated from the General Fund by the Legislature pursuant to Section
720 23-19-39;

721 (e) other monies received by the division under any provision of this title, except as
722 otherwise provided by this title;

723 (f) contributions made in accordance with Section 59-10-1305; and

724 (g) interest, dividends, or other income earned on account monies.

725 (3) Monies in the Wildlife Resources Account shall be used for the administration of
726 this title.

727 Section 20. Section **26-2-12.5** is amended to read:

728 **26-2-12.5. Certified copies of birth certificates -- Fees credited to Children's**
729 **Account.**

730 (1) In addition to the fees provided for in Section 26-1-6, the department and local
731 registrars authorized to issue certified copies shall charge an additional \$3 fee for each
732 certified copy of a birth certificate, including certified copies of supplementary and amended
733 birth certificates, under Sections 26-2-8 through 26-2-11. This additional fee may be charged
734 only for the first copy requested at any one time.

735 (2) The fee shall be transmitted monthly to the state treasurer and credited to the
736 Children's ~~Trust~~ Account established in Section 62A-4a-309.

737 Section 21. Section **26-9-4** is amended to read:

738 **26-9-4. Rural Health Care Facilities Account -- Source of revenues -- Interest --**
739 **Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into**
740 **the General Fund.**

741 (1) As used in this section:

- 742 (a) "Emergency medical services" is as defined in Section 26-8a-102.
- 743 (b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.
- 744 (c) "Fiscal year" means a one-year period beginning on July 1 of each year.
- 745 (d) "Freestanding urgent care center" is as defined in Section 59-12-801.
- 746 ~~[(e) "Fund" means the Rural Health Care Facilities Fund created by this section.]~~
- 747 ~~[(f)]~~ (e) "Nursing care facility" is as defined in Section 26-21-2.
- 748 ~~[(g)]~~ (f) "Rural city hospital" is as defined in Section 59-12-801.
- 749 ~~[(h)]~~ (g) "Rural county health care facility" is as defined in Section 59-12-801.
- 750 ~~[(i)]~~ (h) "Rural county hospital" is as defined in Section 59-12-801.
- 751 ~~[(j)]~~ (i) "Rural county nursing care facility" is as defined in Section 59-12-801.
- 752 ~~[(k)]~~ (j) "Rural emergency medical services" is as defined in Section 59-12-801.
- 753 ~~[(l)]~~ (k) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

754 (2) There is created a ~~[general fund]~~ restricted account within the General Fund known
755 as the "Rural Health Care Facilities ~~[Fund.]~~ Account."

756 (3) (a) The ~~[fund]~~ restricted account shall be funded by amounts appropriated by the
757 Legislature.

758 (b) Any interest earned on the [~~fund~~] restricted account shall be deposited into the
759 General Fund.

760 (4) Subject to [~~Subsection~~] Subsections (5) and (6), the State Tax Commission shall
761 for a fiscal year distribute [~~monies~~] money deposited into the [~~fund~~] restricted account to each:

762 (a) county legislative body of a county that, on January 1, 2007, imposes a tax in
763 accordance with Section 59-12-802; or

764 (b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance
765 with Section 59-12-804.

766 (5) (a) [~~For~~] Subject to Subsection (6), for purposes of the distribution required by
767 Subsection (4), the State Tax Commission shall:

768 (i) estimate for each county and city described in Subsection (4) the amount by which
769 the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for
770 fiscal year 2005-06 would have been reduced had:

771 (A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to
772 Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and

773 (B) each county and city described in Subsection (4) imposed the tax under Sections
774 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

775 (ii) calculate a percentage for each county and city described in Subsection (4) by
776 dividing the amount estimated for each county and city in accordance with Subsection
777 (5)(a)(i) by \$555,000; and

778 (iii) distribute to each county and city described in Subsection (4) an amount equal to
779 the product of:

780 (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

781 (B) the amount appropriated by the Legislature to the [~~fund~~] restricted account for the
782 fiscal year.

783 (b) The State Tax Commission shall make the estimations, calculations, and
784 distributions required by Subsection (5)(a) on the basis of data collected by the State Tax
785 Commission.

786 (6) If a county legislative body repeals a tax imposed under Section 59-12-802 or a
787 city legislative body repeals a tax imposed under Section 59-12-804:

788 (a) the commission shall determine in accordance with Subsection (5) the distribution
789 that, but for this Subsection (6), the county legislative body or city legislative body would
790 receive; and

791 (b) after making the determination required by Subsection (6)(a), the commission
792 shall:

793 (i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or
794 59-12-804 is October 1:

795 (A) (I) distribute to the county legislative body or city legislative body 25% of the
796 distribution determined in accordance with Subsection (6)(a); and

797 (II) deposit 75% of the distribution determined in accordance with Subsection (6)(a)
798 into the General Fund; and

799 (B) beginning with the first fiscal year after the effective date of the repeal and for
800 each subsequent fiscal year, deposit the entire amount of the distribution determined in
801 accordance with Subsection (6)(a) into the General Fund;

802 (ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or
803 59-12-804 is January 1:

804 (A) (I) distribute to the county legislative body or city legislative body 50% of the
805 distribution determined in accordance with Subsection (6)(a); and

806 (II) deposit 50% of the distribution determined in accordance with Subsection (6)(a)
807 into the General Fund; and

808 (B) beginning with the first fiscal year after the effective date of the repeal and for
809 each subsequent fiscal year, deposit the entire amount of the distribution determined in
810 accordance with Subsection (6)(a) into the General Fund;

811 (iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or
812 59-12-804 is April 1:

813 (A) (I) distribute to the county legislative body or city legislative body 75% of the

814 distribution determined in accordance with Subsection (6)(a); and
815 (II) deposit 25% of the distribution determined in accordance with Subsection (6)(a)
816 into the General Fund; and

817 (B) beginning with the first fiscal year after the effective date of the repeal and for
818 each subsequent fiscal year, deposit the entire amount of the distribution determined in
819 accordance with Subsection (6)(a) into the General Fund; or

820 (iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or
821 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year,
822 deposit the entire amount of the distribution determined in accordance with Subsection (6)(a)
823 into the General Fund.

824 ~~[(6)]~~ (7) (a) Subject to Subsection ~~[(6)]~~ (7)(b), a county legislative body shall
825 distribute the ~~[monies]~~ money the county legislative body receives in accordance with
826 Subsection (5) or (6):

827 (i) for a county of the third, fourth, or fifth class, to fund rural county health care
828 facilities in that county; and

829 (ii) for a county of the sixth class, to fund:

830 (A) emergency medical services in that county;

831 (B) federally qualified health centers in that county;

832 (C) freestanding urgent care centers in that county;

833 (D) rural county health care facilities in that county;

834 (E) rural health clinics in that county; or

835 (F) a combination of Subsections ~~[(6)]~~ (7)(a)(ii)(A) through (E).

836 (b) A county legislative body shall distribute a percentage of the ~~[monies]~~ money the
837 county legislative body receives in accordance with Subsection (5) or (6) to each center, clinic,
838 facility, or service described in Subsection ~~[(6)]~~ (7)(a) equal to the same percentage that the
839 county legislative body distributes to that center, clinic, facility, or service in accordance with
840 Section 59-12-803 for the calendar year ending on the December 31 immediately preceding
841 the first day of the fiscal year for which the county legislative body receives the distribution in

842 accordance with Subsection (5) or (6).

843 (c) A center, clinic, facility, or service that receives a distribution in accordance with
844 this Subsection [~~(6)~~] (7) shall expend that distribution for the same purposes for which monies
845 generated by a tax under Section 59-12-802 may be expended.

846 [~~(7)~~] (8) (a) Subject to Subsection [~~(7)~~] (8)(b), a city legislative body shall distribute
847 the [~~monies~~] money the city legislative body receives in accordance with Subsection (5) or (6)
848 to fund rural city hospitals in that city.

849 (b) A city legislative body shall distribute a percentage of the monies the city
850 legislative body receives in accordance with Subsection (5) or (6) to each rural city hospital
851 described in Subsection [~~(7)~~] (8)(a) equal to the same percentage that the city legislative body
852 distributes to that rural city hospital in accordance with Section 59-12-805 for the calendar
853 year ending on the December 31 immediately preceding the first day of the fiscal year for
854 which the city legislative body receives the distribution in accordance with Subsection (5) or
855 (6).

856 (c) A rural city hospital that receives a distribution in accordance with this Subsection
857 [~~(7)~~] (8) shall expend that distribution for the same purposes for which [~~monies~~] money
858 generated by a tax under Section 59-12-804 may be expended.

859 [~~(8)~~] (9) Any [~~monies~~] money remaining in the Rural Health Care Facilities [~~Fund~~]
860 Account at the end of a fiscal year after the State Tax Commission makes the distributions
861 required by this section shall lapse into the General Fund.

862 Section 22. Section **26-18a-1** is amended to read:

863 **26-18a-1. Definitions.**

864 As used in this chapter:

865 (1) "Children" or "child" means a person under the age of 18.

866 (2) "Committee" means the Kurt Oscarson Children's Organ Transplant Coordinating
867 Committee.

868 (3) "[~~Trust~~] Restricted account" means the [~~restricted account within the General~~
869 Fund] Kurt Oscarson Children's Organ Transplant Account created in Section 26-18a-4.

870 Section 23. Section **26-18a-3** is amended to read:

871 **26-18a-3. Purpose of committee.**

872 (1) The committee shall work to:

873 (a) provide financial assistance for initial medical expenses of children who need
874 organ transplants;

875 (b) obtain the assistance of volunteer and public service organizations; and

876 (c) fund activities as the committee designates for the purpose of educating the public
877 about the need for organ donors.

878 (2) (a) The committee is responsible for awarding financial assistance funded by the
879 ~~[trust]~~ restricted account.

880 (b) The financial assistance awarded by the committee under Subsection (1)(a) shall
881 be in the form of interest free loans. The committee may establish terms for repayment of the
882 loans, including a waiver of the requirement to repay any awards if, in the committee's
883 judgment, repayment of the loan would impose an undue financial burden on the recipient.

884 (c) In making financial awards under Subsection (1)(a), the committee shall consider:

885 (i) need;

886 (ii) coordination with or enhancement of existing services or financial assistance,
887 including availability of insurance or other state aid;

888 (iii) the success rate of the particular organ transplant procedure needed by the child;
889 and

890 (iv) the extent of the threat to the child's life without the organ transplant.

891 (3) The committee may only provide the assistance described in this section to
892 children who have resided in Utah, or whose legal guardians have resided in Utah for at least
893 six months prior to the date of assistance under this section.

894 (4) (a) The committee may expend up to 5% of its annual appropriation for
895 administrative costs associated with the allocation of funds from the ~~[trust]~~ restricted account.

896 (b) The administrative costs shall be used for the costs associated with staffing the
897 committee and for State Tax Commission costs in implementing Section 59-10-1308.

898 (5) The committee shall make an annual report to the Health and Human Services
899 Appropriations Subcommittee regarding the programs and services funded by contributions to
900 the ~~[trust]~~ restricted account.

901 Section 24. Section **26-18a-4** is amended to read:

902 **26-18a-4. Creation of Kurt Oscarson Children's Organ Transplant Account.**

903 (1) There is created a restricted account within the General Fund ~~[pursuant to Section~~
904 ~~51-5-4]~~ known as the "Kurt Oscarson Children's Organ Transplant ~~[Trust]~~ Account." Private
905 contributions received under this section and Section 59-10-1308 shall be deposited into the
906 ~~[trust]~~ restricted account to be used only for the programs and purposes described in Section
907 26-18a-3.

908 (2) Money shall be appropriated from the ~~[trust]~~ restricted account to the committee in
909 accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

910 (3) In addition to funds received under Section 59-10-1308, the committee may accept
911 transfers, grants, gifts, bequests, or any money made available from any source to implement
912 this chapter.

913 Section 25. Section **35A-3-115** is amended to read:

914 **35A-3-115. Public Employment Offices -- Agreements with other authorities --**
915 **Federal system accepted -- Appropriation.**

916 (1) (a) The division shall establish and maintain free public employment offices in
917 such manner and in such places as may be necessary for the proper administration of this
918 chapter and for the purposes of performing the functions as are within the purview of the Act
919 of Congress entitled "An act to provide for the establishment of a national employment system
920 and for co-operation with the states in the promotion of such system, and for other purposes,"
921 approved June 6, 1933, 48 Stat. 113; U. S. Code, Title 29, Section 49 (c) as amended,
922 hereinafter referred to as the "Wagner-Peyser Act."

923 (b) The division shall consult with regional councils on workforce services when
924 determining the location of public employment offices.

925 (c) A public employment office may be located in connection with or as an integrated

926 part of an employment center established under Section 35A-2-203.

927 (2) The provisions of the Wagner-Peyser Act, 29 U.S.C. 49-49c, 49g, 49h, 49k, and
928 557, are accepted by this state, and the department is designated and constitutes the agency of
929 this state for the purposes of the act.

930 (3) All moneys received by [~~this~~] the state under the Wagner-Peyser Act shall be paid
931 into the Employment Security Administration [~~Fund~~] Account created by Section 35A-4-505
932 and shall be expended solely for the maintenance of the state system of public employment
933 offices.

934 (4) (a) For the purpose of establishing and maintaining free public employment
935 offices, and promoting the use of their facilities, the division is authorized to enter into
936 agreements with the railroad retirement board, or any other agency of the United States, or of
937 this or any other state, charged with the administration of any law whose purposes are
938 reasonably related to the purposes of this chapter, and as a part of such agreements may accept
939 moneys, services or quarters as a contribution to the maintenance of the state system of public
940 employment offices or as reimbursement for services performed.

941 (b) All moneys received or appropriated for such purposes shall be paid into the
942 Employment Security Administration [~~Fund~~] Account.

943 Section 26. Section **35A-4-201** is amended to read:

944 **35A-4-201. General definitions.**

945 As used in this chapter:

946 (1) "Base-period" means the first four of the last five completed calendar quarters next
947 preceding the first day of the individual's benefit year with respect to any individual whose
948 benefit year commences on or after January 5, 1986.

949 (2) "Benefit year" means the 52 consecutive week period beginning with the first week
950 with respect to which an individual files for benefits and is found to have an insured status.

951 (3) "Benefits" means the money payments payable to an individual as provided in this
952 chapter with respect to the individual's unemployment.

953 (4) "Calendar quarter" means the period of three consecutive months ending on March

954 31, June 30, September 30, or December 31, or the equivalent, as the department may by rule
955 prescribe.

956 (5) "Contribution" means the money payments required by this chapter to be made
957 into the Unemployment Compensation Fund by any employing unit on account of having
958 individuals in its employ.

959 (6) "Division" means the Unemployment Insurance Division.

960 (7) "Employment office" means a free public employment office or branch operated by
961 this or any other state as a part of a state-controlled system of public employment offices or by
962 a federal agency charged with the administration of an unemployment compensation program
963 or free public employment offices.

964 (8) "Employment Security Administration [~~Fund~~] Account" means the [~~fund~~]
965 restricted account established by Section 35A-4-505, and from which administrative expenses
966 under this chapter shall be paid.

967 (9) "Extended benefits" has the meaning specified in Subsection 35A-4-402(7)(f).

968 (10) "Fund" means the Unemployment Compensation Fund established by this
969 chapter.

970 (11) "Insured average annual wage" means on or before the 15th day of May of each
971 year, the total wages of insured workers for the preceding calendar year, divided by the
972 average monthly number of insured workers, determined by dividing by 12 the total insured
973 workers for the preceding calendar year as determined under the rules of the department
974 calculated to two decimal places, disregarding any fraction of one cent.

975 (12) "Insured average fiscal year wage" means on or before the 15th day of November
976 of each year, the total wages of insured workers for the preceding fiscal year, divided by the
977 average monthly number of insured workers, determined by dividing by 12 the total insured
978 workers for the preceding fiscal year as determined under the rules of the department
979 calculated to two decimal places, disregarding any fraction of one cent.

980 (13) "Insured average fiscal year weekly wage" means the insured average fiscal year
981 wage determined in Subsection (12), divided by 52, calculated to two decimal places,

982 disregarding any fraction of one cent.

983 (14) "Insured average weekly wage" means the insured average annual wage
984 determined in Subsection (11), divided by 52, calculated to two decimal places, disregarding
985 any fraction of one cent.

986 (15) "Insured status" means that an individual has, during the individual's base-period,
987 performed services and earned wages in employment sufficient to qualify for benefits under
988 Section 35A-4-403.

989 (16) "Insured work" means employment for an employer, as defined in Section
990 35A-4-203.

991 (17) "Monetary base period wage requirement" means 8% of the insured average fiscal
992 year wage for the preceding fiscal year, for example, fiscal year 1990 for individuals
993 establishing benefit years in 1991, rounded up to the next higher multiple of \$100.

994 (18) "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, and the
995 District of Columbia.

996 (19) "Tribal unit" means a subdivision, subsidiary, or business enterprise wholly
997 owned by an American Indian tribe.

998 (20) "Week" means the period or periods of seven consecutive calendar days as the
999 department may prescribe by rule.

1000 Section 27. Section **35A-4-305** is amended to read:

1001 **35A-4-305. Collection of contributions -- Unpaid contributions to bear interest.**

1002 (1) (a) Contributions unpaid on the date on which they are due and payable, as
1003 prescribed by the division, shall bear interest at the rate of 1% per month from and after that
1004 date until payment plus accrued interest is received by the division.

1005 (b) (i) Contribution reports not made and filed by the date on which they are due as
1006 prescribed by the division are subject to a penalty to be assessed and collected in the same
1007 manner as contributions due under this section equal to 5% of the contribution due if the
1008 failure to file on time was not more than 15 days, with an additional 5% for each additional 15
1009 days or fraction thereof during which the failure continued, but not to exceed 25% in the

1010 aggregate and not less than \$25 with respect to each reporting period.

1011 (ii) If a report is filed after the required time and it is shown to the satisfaction of the
1012 division or its authorized representative that the failure to file was due to a reasonable cause
1013 and not to willful neglect, no addition shall be made to the contribution.

1014 (c) (i) If contributions are unpaid after 10 days from the date of the mailing or personal
1015 delivery by the division or its authorized representative, of a written demand for payment,
1016 there shall attach to the contribution, to be assessed and collected in the same manner as
1017 contributions due under this section, a penalty equal to 5% of the contribution due.

1018 (ii) A penalty may not attach if within 10 days after the mailing or personal delivery,
1019 arrangements for payment have been made with the division, or its authorized representative,
1020 and payment is made in accordance with those arrangements.

1021 (d) The division shall assess as a penalty a service charge, in addition to any other
1022 penalties that may apply, in an amount not to exceed the service charge imposed by Section
1023 7-15-1 for dishonored instruments if:

1024 (i) any amount due the division for contributions, interest, other penalties or benefit
1025 overpayments is paid by check, draft, order, or other instrument; and

1026 (ii) the instrument is dishonored or not paid by the institution against which it is
1027 drawn.

1028 (e) Except for benefit overpayments under Subsection 35A-4-405(5), benefit
1029 overpayments, contributions, interest, penalties, and assessed costs, uncollected three years
1030 after they become due, may be charged as uncollectible and removed from the records of the
1031 division if:

1032 (i) no assets belonging to the liable person and subject to attachment can be found;
1033 and

1034 (ii) in the opinion of the division there is no likelihood of collection at a future date.

1035 (f) Interest and penalties collected in accordance with this section shall be paid into
1036 the Special Administrative Expense ~~[Fund]~~ Account created by Section 35A-4-506.

1037 (g) Action required for the collection of sums due under this chapter is subject to the

1038 applicable limitations of actions under Title 78B, Chapter 2, Statutes of Limitations.

1039 (2) (a) If an employer fails to file a report when prescribed by the division for the
1040 purpose of determining the amount of the employer's contribution due under this chapter, or if
1041 the report when filed is incorrect or insufficient or is not satisfactory to the division, the
1042 division may determine the amount of wages paid for employment during the period or periods
1043 with respect to which the reports were or should have been made and the amount of
1044 contribution due from the employer on the basis of any information it may be able to obtain.

1045 (b) The division shall give written notice of the determination to the employer.

1046 (c) The determination is considered correct unless:

1047 (i) the employer, within 10 days after mailing or personal delivery of notice of the
1048 determination, applies to the division for a review of the determination as provided in Section
1049 35A-4-508; or

1050 (ii) unless the division or its authorized representative of its own motion reviews the
1051 determination.

1052 (d) The amount of contribution determined under Subsection (2)(a) is subject to
1053 penalties and interest as provided in Subsection (1).

1054 (3) (a) If, after due notice, an employer defaults in the payment of contributions,
1055 interest, or penalties on the contributions, or a claimant defaults in a repayment of benefit
1056 overpayments and penalties on the overpayments, the amount due shall be collectible by civil
1057 action in the name of the division, and the employer adjudged in default shall pay the costs of
1058 the action.

1059 (b) Civil actions brought under this section to collect contributions, interest, or
1060 penalties from an employer, or benefit overpayments and penalties from a claimant shall be:

1061 (i) heard by the court at the earliest possible date; and

1062 (ii) entitled to preference upon the calendar of the court over all other civil actions

1063 except:

1064 (A) petitions for judicial review under this chapter; and

1065 (B) cases arising under the workers' compensation law of this state.

1066 (c) (i) (A) To collect contributions, interest, or penalties, or benefit overpayments and
1067 penalties due from employers or claimants located outside Utah, the division may employ
1068 private collectors providing debt collection services outside Utah.

1069 (B) Accounts may be placed with private collectors only after the employer or
1070 claimant has been given a final notice that the division intends to place the account with a
1071 private collector for further collection action.

1072 (C) The notice shall advise the employer or claimant of the employer's or claimant's
1073 rights under this chapter and the applicable rules of the department.

1074 (ii) (A) A private collector may receive as compensation up to 25% of the lesser of the
1075 amount collected or the amount due, plus the costs and fees of any civil action or
1076 postjudgment remedy instituted by the private collector with the approval of the division.

1077 (B) The employer or claimant shall be liable to pay the compensation of the collector,
1078 costs, and fees in addition to the original amount due.

1079 (iii) A private collector is subject to the federal Fair Debt Collection Practices Act, 15
1080 U.S.C. Sec. 1692 et seq.

1081 (iv) (A) A civil action may not be maintained by a private collector without specific
1082 prior written approval of the division.

1083 (B) When division approval is given for civil action against an employer or claimant,
1084 the division may cooperate with the private collector to the extent necessary to effect the civil
1085 action.

1086 (d) (i) Notwithstanding Section 35A-4-312, the division may disclose the contribution,
1087 interest, penalties or benefit overpayments and penalties, costs due, the name of the employer
1088 or claimant, and the employer's or claimant's address and telephone number when any
1089 collection matter is referred to a private collector under Subsection (3)(c).

1090 (ii) A private collector is subject to the confidentiality requirements and penalty
1091 provisions provided in Section 35A-4-312 and Subsection 76-8-1301(4), except to the extent
1092 disclosure is necessary in a civil action to enforce collection of the amounts due.

1093 (e) An action taken by the division under this section may not be construed to be an

1094 election to forego other collection procedures by the division.

1095 (4) (a) In the event of a distribution of an employer's assets under an order of a court
1096 under the laws of Utah, including a receivership, assignment for benefits of creditors,
1097 adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter
1098 due shall be paid in full prior to all other claims except taxes and claims for wages of not more
1099 than \$400 to each claimant, earned within five months of the commencement of the
1100 proceeding.

1101 (b) If an employer commences a proceeding in the Federal Bankruptcy Court under a
1102 chapter of 11 U.S.C. 101 et seq., as amended by the Bankruptcy Abuse Prevention and
1103 Consumer Protection Act of 2005, contributions, interest, and penalties then or thereafter due
1104 shall be entitled to the priority provided for taxes, interest, and penalties in the Bankruptcy
1105 Abuse Prevention and Consumer Protection Act of 2005.

1106 (5) (a) In addition and as an alternative to any other remedy provided by this chapter
1107 and provided that no appeal or other proceeding for review provided by this chapter is then
1108 pending and the time for taking it has expired, the division may issue a warrant in duplicate,
1109 under its official seal, directed to the sheriff of any county of the state, commanding the sheriff
1110 to levy upon and sell the real and personal property of a delinquent employer or claimant
1111 found within the sheriff's county for the payment of the contributions due, with the added
1112 penalties, interest, or benefit overpayment and penalties, and costs, and to return the warrant to
1113 the division and pay into the fund the money collected by virtue of the warrant by a time to be
1114 specified in the warrant, not more than 60 days from the date of the warrant.

1115 (b) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the
1116 duplicate with the clerk of the district court in the sheriff's county.

1117 (ii) The clerk shall enter in the judgment docket, in the column for judgment debtors,
1118 the name of the delinquent employer or claimant mentioned in the warrant, and in appropriate
1119 columns the amount of the contribution, penalties, interest, or benefit overpayment and
1120 penalties, and costs, for which the warrant is issued and the date when the duplicate is filed.

1121 (c) The amount of the docketed warrant shall:

1122 (i) have the force and effect of an execution against all personal property of the
1123 delinquent employer; and

1124 (ii) become a lien upon the real property of the delinquent employer or claimant in the
1125 same manner and to the same extent as a judgment duly rendered by a district court and
1126 docketed in the office of the clerk.

1127 (d) After docketing, the sheriff shall:

1128 (i) proceed in the same manner as is prescribed by law with respect to execution issued
1129 against property upon judgments of a court of record; and

1130 (ii) be entitled to the same fees for the sheriff's services in executing the warrant, to be
1131 collected in the same manner.

1132 (6) (a) Contributions imposed by this chapter are a lien upon the property of an
1133 employer liable for the contribution required to be collected under this section who shall sell
1134 out the employer's business or stock of goods or shall quit business, if the employer fails to
1135 make a final report and payment on the date subsequent to the date of selling or quitting
1136 business on which they are due and payable as prescribed by rule.

1137 (b) (i) An employer's successor, successors, or assigns, if any, are required to withhold
1138 sufficient of the purchase money to cover the amount of the contributions and interest or
1139 penalties due and payable until the former owner produces a receipt from the division showing
1140 that they have been paid or a certificate stating that no amount is due.

1141 (ii) If the purchaser of a business or stock of goods fails to withhold sufficient
1142 purchase money, the purchaser is personally liable for the payment of the amount of the
1143 contributions required to be paid by the former owner, interest and penalties accrued and
1144 unpaid by the former owner, owners, or assignors.

1145 (7) (a) If an employer is delinquent in the payment of a contribution, the division may
1146 give notice of the amount of the delinquency by registered mail to all persons having in their
1147 possession or under their control, any credits or other personal property belonging to the
1148 employer, or owing any debts to the employer at the time of the receipt by them of the notice.

1149 (b) A person notified under Subsection (7)(a) shall neither transfer nor make any other

1150 disposition of the credits, other personal property, or debts until:

1151 (i) the division has consented to a transfer or disposition; or

1152 (ii) 20 days after the receipt of the notice.

1153 (c) All persons notified under Subsection (7)(a) shall, within five days after receipt of
1154 the notice, advise the division of credits, other personal property, or other debts in their
1155 possession, under their control or owing by them, as the case may be.

1156 (8) (a) (i) Each employer shall furnish the division necessary information for the
1157 proper administration of this chapter and shall include wage information for each employee,
1158 for each calendar quarter.

1159 (ii) The information shall be furnished at a time, in the form, and to those individuals
1160 as the department may by rule require.

1161 (b) (i) Each employer shall furnish each individual worker who is separated that
1162 information as the department may by rule require, and shall furnish within 48 hours of the
1163 receipt of a request from the division a report of the earnings of any individual during the
1164 individual's base-period.

1165 (ii) The report shall be on a form prescribed by the division and contain all
1166 information prescribed by the division.

1167 (c) (i) For each failure by an employer to conform to this Subsection (8) the division
1168 shall, unless good cause is shown, assess a \$50 penalty if the filing was not more than 15 days
1169 late.

1170 (ii) If the filing is more than 15 days late, the division shall assess an additional
1171 penalty of \$50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed
1172 \$250 per filing.

1173 (iii) The penalty is to be collected in the same manner as contributions due under this
1174 chapter.

1175 (d) (i) The division shall prescribe rules providing standards for determining which
1176 contribution reports must be filed on magnetic or electronic media or in other
1177 machine-readable form.

- 1178 (ii) In prescribing these rules, the division:
- 1179 (A) may not require an employer to file contribution reports on magnetic or electronic
1180 media unless the employer is required to file wage data on at least 250 employees during any
1181 calendar quarter or is an authorized employer representative who files quarterly tax reports on
1182 behalf of 100 or more employers during any calendar quarter;
- 1183 (B) shall take into account, among other relevant factors, the ability of the employer to
1184 comply at reasonable cost with the requirements of the rules; and
- 1185 (C) may require an employer to post a bond for failure to comply with the rules
1186 required by this Subsection (8)(d).
- 1187 (9) (a) (i) An employer liable for payments in lieu of contributions shall file
1188 Reimbursable Employment and Wage Reports.
- 1189 (ii) The reports are due on the last day of the month that follows the end of each
1190 calendar quarter unless the division, after giving notice, changes the due date.
- 1191 (iii) A report postmarked on or before the due date is considered timely.
- 1192 (b) (i) Unless the employer can show good cause, the division shall assess a \$50
1193 penalty against an employer who does not file Reimbursable Employment and Wage Reports
1194 within the time limits set out in Subsection (9)(a) if the filing was not more than 15 days late.
- 1195 (ii) If the filing is more than 15 days late, the division shall assess an additional
1196 penalty of \$50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed
1197 \$250 per filing.
- 1198 (iii) The division shall assess and collect the penalties referred to in this Subsection
1199 (9)(b) in the same manner as prescribed in Sections 35A-4-309 and 35A-4-311.
- 1200 (10) If a person liable to pay a contribution or benefit overpayment imposed by this
1201 chapter neglects or refuses to pay it after demand, the amount, including any interest,
1202 additional amount, addition to contributions, or assessable penalty, together with any
1203 additional accruable costs, shall be a lien in favor of the division upon all property and rights
1204 to property, whether real or personal belonging to the person.
- 1205 (11) (a) The lien imposed by Subsection (10) arises at the time the assessment, as

1206 defined in the department rules, is made and continues until the liability for the amount
1207 assessed, or a judgment against the taxpayer arising out of the liability, is satisfied.

1208 (b) (i) The lien imposed by Subsection (10) is not valid as against a purchaser, holder
1209 of a security interest, mechanics' lien holder, or judgment lien creditor until the division files a
1210 warrant with the clerk of the district court.

1211 (ii) For the purposes of this Subsection (11)(b):

1212 (A) "Judgment lien creditor" means a person who obtains a valid judgment of a court
1213 of record for recovery of specific property or a sum certain of money, and who in the case of a
1214 recovery of money, has a perfected lien under the judgment on the property involved. A
1215 judgment lien does not include inchoate liens such as attachment or garnishment liens until
1216 they ripen into a judgment. A judgment lien does not include the determination or assessment
1217 of a quasi-judicial authority, such as a state or federal taxing authority.

1218 (B) "Mechanics' lien holder" means any person who has a lien on real property, or on
1219 the proceeds of a contract relating to real property, for services, labor, or materials furnished in
1220 connection with the construction or improvement of the property. A person has a lien on the
1221 earliest date the lien becomes valid against subsequent purchasers without actual notice, but
1222 not before the person begins to furnish the services, labor, or materials.

1223 (C) "Person" means:

1224 (I) an individual;

1225 (II) a trust;

1226 (III) an estate;

1227 (IV) a partnership;

1228 (V) an association;

1229 (VI) a company;

1230 (VII) a limited liability company;

1231 (VIII) a limited liability partnership; or

1232 (IX) a corporation.

1233 (D) "Purchaser" means a person who, for adequate and full consideration in money or

1234 money's worth, acquires an interest, other than a lien or security interest, in property which is
1235 valid under state law against subsequent purchasers without actual notice.

1236 (E) "Security interest" means any interest in property acquired by contract for the
1237 purpose of securing payment or performance of an obligation or indemnifying against loss or
1238 liability. A security interest exists at any time:

1239 (I) the property is in existence and the interest has become protected under the law
1240 against a subsequent judgment lien arising out of an unsecured obligation; and

1241 (II) to the extent that, at that time, the holder has parted with money or money's worth.

1242 Section 28. Section **35A-4-306** is amended to read:

1243 **35A-4-306. Charging benefit costs to employer.**

1244 (1) Benefit costs of former workers of an employer will be charged to the employer in
1245 the same proportion as the wages paid by that employer in the base period bear to the total
1246 wages of all employers of that worker in the base period, calculated to the nearest five decimal
1247 places.

1248 (2) Notification by the division that a worker has filed an initial claim for
1249 unemployment insurance benefits will be sent to all base-period employers and all subsequent
1250 employers prior to the payment of benefits. Any employing unit that receives a notice of the
1251 filing of a claim may protest payment of benefits to former employees or charges to the
1252 employer if the protest is filed within 10 days after the date the notice is issued.

1253 (3) On or before November 1 of each year beginning November 1, 1984, each
1254 employer shall receive notification of all benefit costs of former workers that have been
1255 charged to that employer in the immediately preceding fiscal year. Any employing unit that
1256 receives a notice of benefit charges may protest the correctness of the charges if the protest is
1257 filed within 30 days after the date the notice is issued.

1258 (4) On written request made by an employer, corrections or modifications of the
1259 employer's wages shall be taken into account for the purpose of redetermining the employer's
1260 contribution rate. The request shall be made to the division no later than the end of the
1261 calendar year following the year for which the contribution rate is assigned. The division may,

1262 within a like period upon its own initiative, redetermine an employer's contribution rate.

1263 (5) (a) If no later than three years after the date on which any contributions or interest
1264 or penalty for contributions were due, an employer who has paid the contributions, interest, or
1265 penalty may make application for an adjustment in connection with subsequent contribution
1266 payments, or for a refund because the adjustment cannot be made, and the division shall
1267 determine that the contributions or interest or penalty or any portion thereof was erroneously
1268 collected, the division shall allow the employer to make an adjustment, without interest, in
1269 connection with subsequent contribution payments by the employer, or if the adjustment
1270 cannot be made, the division shall refund that amount, without interest.

1271 (b) Refunds of contributions shall be made from the clearing account or the benefit
1272 account in the fund, and refunds of interest and penalty shall be made from the Special
1273 Administrative Expense [~~fund~~] Account or from the interest and penalty moneys in the
1274 clearing account of the fund.

1275 (c) For like cause and within the same period, an adjustment or refund may be made
1276 on the division's own initiative.

1277 (d) Decisions with respect to applications for refund are final unless the employing
1278 unit, within 10 days after the mailing or personal delivery of notice of the decision, applies to
1279 the division for a review of the decision as provided in Section 35A-4-508.

1280 Section 29. Section **35A-4-501** is amended to read:

1281 **35A-4-501. Unemployment Compensation Fund -- Administration -- Contents --**
1282 **Treasurer and custodian -- Separate accounts -- Use of money requisitioned -- Advances**
1283 **under Social Security Act.**

1284 (1) There is established the Unemployment Compensation Fund, separate and apart
1285 from all public moneys or funds of this state, that shall be administered by the department
1286 exclusively for the purposes of this chapter. This fund shall consist of the following moneys,
1287 all of which shall be mingled and undivided:

1288 (a) all contributions collected under this chapter, less refunds of contributions made
1289 from the clearing account under Subsection 35A-4-306(5);

- 1290 (b) interest earned upon any moneys in the fund;
- 1291 (c) any property or securities acquired through the use of moneys belonging to the
- 1292 fund;
- 1293 (d) all earnings of the property or securities;
- 1294 (e) all money credited to this state's account in the unemployment trust fund under
- 1295 Section 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended; and
- 1296 (f) all other moneys received for the fund from any other source.
- 1297 (2) (a) The state treasurer shall be the treasurer and custodian of the fund, and shall
- 1298 administer the fund in accordance with the directions of the division and shall pay all warrants
- 1299 drawn upon it by the division or its duly authorized agent in accordance with rules made by
- 1300 the department. The division shall maintain within the fund three separate accounts:
- 1301 (i) a clearing account;
- 1302 (ii) an unemployment trust fund account; and
- 1303 (iii) a benefit account.
- 1304 (b) All moneys payable to the fund, upon receipt by the division, shall be immediately
- 1305 deposited in the clearing account.
- 1306 (c) (i) All moneys in the clearing account after clearance shall, except as otherwise
- 1307 provided in this section, be deposited immediately with the secretary of the treasury of the
- 1308 United States of America to the credit of the account of this state in the unemployment trust
- 1309 fund, established and maintained under Section 904 of the Social Security Act, 42 U.S.C.
- 1310 1104, as amended, any provisions of law in this state relating to the deposit, administration,
- 1311 release, or disbursement of moneys in the possession or custody of this state to the contrary
- 1312 notwithstanding.
- 1313 (ii) Refunds of contributions payable under Subsections 35A-4-205(1)(a) and
- 1314 35A-4-306(5) may be paid from the clearing account or the benefit account.
- 1315 (d) The benefit account shall consist of all moneys requisitioned from this state's
- 1316 account in the unemployment trust fund in the United States treasury.
- 1317 (e) Moneys in the clearing and benefit accounts may be deposited in any depository

1318 bank in which general funds of this state may be deposited, but no public deposit insurance
1319 charge or premium may be paid out of the fund.

1320 (f) (i) Moneys in the clearing and benefit accounts may not be commingled with other
1321 state funds, but shall be maintained in separate accounts on the books of the depository bank.

1322 (ii) The money shall be secured by the depository bank to the same extent and in the
1323 same manner as required by the general depository law of this state.

1324 (iii) Collateral pledged for this purpose shall be kept separate and distinct from any
1325 collateral pledged to secure other funds of the state.

1326 (g) (i) The state treasurer is liable on the state treasurer's official bond for the faithful
1327 performance of the state treasurer's duties in connection with the unemployment compensation
1328 fund provided for under this chapter.

1329 (ii) The liability on the official bond shall be effective immediately upon the
1330 enactment of this provision, and that liability shall exist in addition to the liability upon any
1331 separate bond existent on the effective date of this provision, or which may be given in the
1332 future.

1333 (iii) All sums recovered for losses sustained by the fund shall be deposited in the fund.

1334 (3) (a) (i) Moneys requisitioned from the state's account in the unemployment trust
1335 fund shall, except as set forth in this section, be used exclusively for the payment of benefits
1336 and for refunds of contributions under Subsections 35A-4-205(1)(a) and 35A-4-306(5).

1337 (ii) The department shall from time to time requisition from the unemployment trust
1338 fund amounts, not exceeding the amounts standing to this state's account in the fund, as it
1339 considers necessary for the payment of those benefits and refunds for a reasonable future
1340 period.

1341 (iii) (A) Upon receipt the treasurer shall deposit the moneys in the benefit account and
1342 shall pay benefits and refunds from the account by means of warrants issued by the division in
1343 accordance with rules prescribed by the department.

1344 (B) Expenditures of these moneys in the benefit account and refunds from the clearing
1345 account are not subject to any provisions of law requiring specific appropriations or other

1346 formal release by state officers of money in their custody.

1347 (b) Moneys in the state's account in the unemployment trust fund that were collected
1348 under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., and credited to the state
1349 under Section 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended may be
1350 requisitioned from the state's account and used in the payment of expenses incurred by the
1351 department for the administration of the state's unemployment law and public employment
1352 offices, if the expenses are incurred and the withdrawals are made only after and under a
1353 specific appropriation of the Legislature that specifies:

1354 (i) the purposes and amounts;

1355 (ii) that the moneys may not be obligated after the two-year period that began on the
1356 date of the enactment of the appropriation law; and

1357 (iii) that the total amount which may be used during a fiscal year shall not exceed the
1358 amount by which the aggregate of the amounts credited to this state's account under Section
1359 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended, during the fiscal year and
1360 the 34 preceding fiscal years, exceeds the aggregate of the amounts used by this state for
1361 administration during the same 35 fiscal years.

1362 (A) For the purpose of Subsection (3)(b)(iii), amounts used during any fiscal year shall
1363 be charged against equivalent amounts that were first credited and that have not previously
1364 been so charged. An amount used during any fiscal year may not be charged against any
1365 amount credited during a fiscal year earlier than the 34th preceding fiscal year.

1366 (B) Except as appropriated and used for administrative expenses, as provided in this
1367 section, moneys transferred to this state under Section 903 of the Social Security Act as
1368 amended, may be used only for the payment of benefits.

1369 (C) Any moneys used for the payment of benefits may be restored for appropriation
1370 and use for administrative expenses, upon request of the governor, under Section 903(c) of the
1371 Social Security Act.

1372 (D) Money appropriated as provided in this section for the payment of expenses of
1373 administration shall be requisitioned as needed for the payment of obligations incurred under

1374 the appropriation and, upon requisition, shall be deposited in the Employment Security
1375 Administration [Fund] Account created by Section 35A-4-505 from which the payments shall
1376 be made.

1377 (E) The division shall maintain a separate record of the deposit, obligation,
1378 expenditure, and return of funds deposited.

1379 (F) Money deposited shall, until expended, remain a part of the unemployment fund
1380 and, if not expended, shall be returned promptly to the account of this state in the
1381 unemployment trust fund.

1382 (G) The moneys available by reason of this legislative appropriation shall not be
1383 expended or available for expenditure in any manner that would permit their substitution for,
1384 or a corresponding reduction in, federal funds that would in the absence of the moneys be
1385 available to finance expenditures for the administration of this chapter.

1386 (c) Any balance of moneys requisitioned from the unemployment trust fund that
1387 remains unclaimed or unpaid in the benefit account after the expiration of the period for which
1388 the sums were requisitioned shall either be deducted from estimates for, and may be utilized
1389 for the payment of, benefits and refunds during succeeding periods, or in the discretion of the
1390 division, shall be redeposited with the secretary of the treasury of the United States of America
1391 to the credit of the state's account in the unemployment trust fund, as provided in Subsection
1392 (2).

1393 (4) (a) The provisions of Subsections (1), (2), and (3), to the extent that they relate to
1394 the unemployment trust fund, shall be operative only so long as the unemployment trust fund
1395 continues to exist and so long as the secretary of the treasury of the United States of America
1396 continues to maintain for the state a separate book account of all moneys deposited in the fund
1397 by the state for benefit purposes, together with the state's proportionate share of the earnings of
1398 the unemployment trust fund, from which no other state is permitted to make withdrawals.

1399 (b) (i) When the unemployment trust fund ceases to exist, or the separate book account
1400 is no longer maintained, all moneys belonging to the unemployment compensation fund of the
1401 state shall be administered by the division as a trust fund for the purpose of paying benefits

1402 under this chapter, and the division shall have authority to hold, invest, transfer, sell, deposit,
 1403 and release the moneys, and any properties, securities, or earnings acquired as an incident to
 1404 the administration.

1405 (ii) The moneys shall be invested in readily marketable bonds or other interest-bearing
 1406 obligations of the United States of America, of the state, or of any county, city, town, or school
 1407 district of the state, at current market prices for the bonds.

1408 (iii) The investment shall be made so that all the assets of the fund shall always be
 1409 readily convertible into cash when needed for the payment of benefits.

1410 Section 30. Section **35A-4-505** is amended to read:

1411 **35A-4-505. Employment Security Administration Account.**

1412 (1) (a) There is created [~~in the General Fund~~] a restricted account within the General
 1413 Fund known as the "Employment Security Administration [~~Fund~~] Account."

1414 (b) [~~All moneys which are~~] Money deposited or paid into [~~this fund~~] the account shall
 1415 be continuously available to the department for expenditure in accordance with the provisions
 1416 of this chapter and Chapter 3, Employment Support Act, and shall not lapse at any time or be
 1417 transferred to any other fund.

1418 (c) [~~All moneys in this fund which are~~] Money in the restricted account which is
 1419 received from the Secretary of Labor under Title III of the Social Security Act, 42 U.S.C. 501
 1420 et seq. shall be expended solely for the [~~purposes~~] purpose and in the [~~amounts~~] amount found
 1421 necessary, after reasonable notice and opportunity for hearing to the division, by the Secretary
 1422 of Labor for the proper and efficient administration of this chapter.

1423 (2) The [~~fund~~] restricted account shall consist of [~~all moneys~~] money:

1424 (a) appropriated by this state[~~, all moneys~~];

1425 (b) received from the United States of America, or any agency thereof, including the
 1426 Secretary of Labor[~~;~~]; and [~~all moneys received from any other source for such purpose, and~~
 1427 ~~shall also include any moneys~~]

1428 (c) received from any agency of the United States or any other state as compensation
 1429 for services or facilities supplied to such agency, any amounts received pursuant to any surety

1430 bond or insurance policy or from other sources for losses sustained by the Employment
1431 Security Administration [~~Fund~~] Account or by reason of damage to equipment or supplies
1432 purchased from [~~moneys~~] money in [~~such fund~~] the restricted account, and any proceeds
1433 realized from the sale or disposition of any equipment or supplies which may no longer be
1434 necessary for the proper administration of this chapter[-]; and

1435 (d) received from any other source for such purpose.

1436 (3) (a) [~~All moneys in this fund~~] Money in the restricted account shall be deposited,
1437 administered, and disbursed, in accordance with the directions of the department.

1438 (b) The state treasurer shall pay all warrants drawn upon it by the division in
1439 accordance with rules prescribed by the department.

1440 (4) The state treasurer shall be liable on his official bond for the faithful performance
1441 of his duties in connection with the Employment Security Administration [~~fund~~] Account
1442 provided for under this chapter. [~~Such~~] The liability on the official bond shall be effective
1443 immediately upon the enactment of this provision, and [~~such liability~~] shall exist in addition to
1444 any liability upon any separate bond existent on the effective date of this provision, or which
1445 may be given in the future. All sums recovered on any surety bond for losses sustained by the
1446 Employment Security Administration [~~fund~~] Account shall be deposited in [~~said fund~~] the
1447 restricted account.

1448 (5) If [~~any moneys~~] money received after June 30, 1941, from the Secretary of Labor
1449 under Title III of the Social Security Act, or any unencumbered balances in the Employment
1450 Security Administration [~~fund~~] Account as of that date, are found, after reasonable notice and
1451 opportunity for hearing to the division, by the Secretary of Labor to have been lost or been
1452 expended for purposes other than, or in amounts in excess of, those found necessary by the
1453 Secretary of Labor for the proper administration of this chapter, the [~~moneys~~] money shall be
1454 replaced within a reasonable time by [~~moneys~~] money appropriated for this purpose from the
1455 general funds of this state to the Employment Security Administration [~~Fund~~] Account for
1456 expenditure as provided in Subsection (1). Upon receipt of notice of such a finding by the
1457 Secretary of Labor, the division shall promptly report the amount required for such

1458 replacement to the governor.

1459 Section 31. Section **35A-4-506** is amended to read:

1460 **35A-4-506. Special Administrative Account.**

1461 (1) There is created [~~in the General Fund~~] a restricted account within the General Fund
1462 known as the "Special Administrative Expense [~~Fund~~] Account."

1463 (2) (a) [~~All interest~~] Interest and penalties collected under this chapter, less refunds
1464 made under Subsection 35A-4-306(5), shall be paid into [~~this fund~~] the restricted account
1465 from the clearing account of the [~~fund~~] restricted account at the end of each calendar month.

1466 (b) [~~Any voluntary contributions tendered as a~~] A contribution to [~~this fund~~] the
1467 restricted account and any other [~~moneys~~] money received for that purpose shall be paid into
1468 [~~this fund~~] the restricted account.

1469 (c) The [~~moneys shall~~] money may not be expended [~~or available for expenditure~~] in
1470 any manner that would permit their substitution for, or a corresponding reduction in, federal
1471 funds that would in the absence of [~~those moneys~~] the money be available to finance
1472 expenditures for the administration of this chapter.

1473 (3) Nothing in this section shall prevent [~~those moneys~~] the money from being used as
1474 a revolving fund to cover expenditures, necessary and proper under this chapter, for which
1475 federal funds have been duly requested but not yet received subject to the charging of those
1476 expenditures against the funds when received.

1477 (4) [~~The moneys in this fund~~] Money in the restricted account shall be deposited,
1478 administered, and dispersed in accordance with the directions of the Legislature.

1479 (5) [~~The moneys~~] Money in the restricted account shall be used for the payment of
1480 costs of administration that are found not to have been properly and validly chargeable against
1481 federal grants or other funds received for or in the Employment Security Administration
1482 [~~Fund~~] Account, and may be used for the payment of refunds of interest and penalties under
1483 Subsection 35A-4-306(5). [~~The moneys~~] Money shall be available either to satisfy [~~the~~
1484 ~~obligations~~] an obligation incurred by the division directly or by requesting the state treasurer
1485 to transfer the required amounts from the Special Administrative Expense [~~Fund~~] Account to

1486 the Employment Security Administration [~~Fund~~] Account.

1487 (6) [~~The moneys in this fund are hereby specifically~~] Money in the restricted account
 1488 is made available to replace, within a reasonable time, any [~~moneys~~] money received by this
 1489 state under Section 302 of the Federal Social Security Act, 42 U.S.C. 502, as amended, that
 1490 because of any action of contingency have been lost or have been expended for purposes other
 1491 than or in amounts in excess of those necessary for the proper administration of this chapter.

1492 (7) [~~The moneys in this fund~~] Money in the restricted account shall be [~~continuously~~]
 1493 available to the division for expenditure in accordance with this section and shall not lapse at
 1494 any time or be transferred to any other fund or account except as directed by the Legislature.

1495 (8) The state treasurer shall pay all warrants drawn upon it by the division or its duly
 1496 authorized agent in accordance with such rules as the department shall prescribe.

1497 (9) The state treasurer shall be liable on the state treasurer's official bond for the
 1498 faithful performance of the treasurer's duties in connection with the [~~special administrative~~
 1499 ~~expense fund~~] Special Administrative Expense Account provided for under this chapter.
 1500 Liability on the official bond shall exist in addition to any liability upon any separate bond
 1501 existent on the effective date of this provision or that may be given in the future. [~~All sums~~]
 1502 Any money recovered on any surety bond losses sustained by the [~~special administrative~~
 1503 ~~expense fund~~] Special Administrative Expense Account shall be deposited in [~~that fund~~] the
 1504 restricted account or in the General Fund if so directed by the Legislature.

1505 Section 32. Section **35A-4-507** is amended to read:

1506 **35A-4-507. Authority to obtain money from state's account in federal**
 1507 **unemployment trust fund -- Use and deposit.**

1508 Notwithstanding the provisions of Sections 35A-4-501, 35A-4-505, and 35A-4-506,
 1509 the department is authorized to requisition and receive from the state's account in the
 1510 unemployment trust fund in the treasury of the United States the moneys standing to the state's
 1511 credit as may, consistent with conditions for approval of this chapter under the Federal
 1512 Unemployment Tax Act, 26 U.S.C. 3301 et seq., be used for expenses of administering this
 1513 chapter and to expend such moneys for such purpose. Moneys so requisitioned shall be

1514 deposited in the Special Administrative Expense [~~Fund~~] Account created by Section
1515 35A-4-506.

1516 Section 33. Section **51-5-4** is amended to read:

1517 **51-5-4. Funds established -- Titles of funds -- Fund functions.**

1518 (1) (a) (i) The funds enumerated in this section are established as major fund types.

1519 (ii) All resources and financial transactions of Utah state government shall be
1520 accounted for within one of these major fund types.

1521 (b) (i) All funds or subfunds shall be consolidated into one of the state's major fund
1522 types.

1523 (ii) Where a specific statute requires that a restricted fund or account be established,
1524 that fund or account shall be accounted for as an individual fund [~~or~~], subfund, or account
1525 within the major fund type to meet generally accepted accounting principles.

1526 (iii) Existing and new activities of state government authorized by the Legislature shall
1527 be accounted for within the framework of the major fund types established in this section.

1528 (c) The Division of Finance shall determine the accounting classification that complies
1529 with generally accepted accounting principles for all funds [~~or~~], subfunds, or accounts created
1530 by the Legislature.

1531 (d) (i) Major fund types shall be added by amending this chapter.

1532 (ii) Whenever a new act creates or establishes a fund, subfund, or account without
1533 amending this chapter, the reference to a fund, subfund, or account in the new act shall be
1534 classified within one of the major fund types established by this section.

1535 (2) Major Fund Type Titles:

1536 (a) General Fund;

1537 (b) Special Revenue Funds;

1538 (c) Capital Projects Funds;

1539 (d) Debt Service Funds;

1540 (e) Permanent Funds;

1541 (f) Enterprise Funds;

- 1542 (g) Internal Service Funds;
- 1543 (h) Trust and Agency Funds; and
- 1544 (i) Discrete Component Unit Funds.

1545 (3) The General Fund shall receive all revenues and account for all expenditures not
1546 otherwise provided for by law in any other fund.

1547 (4) Special Revenue Funds account for proceeds of specific revenue sources, other
1548 than permanent funds, trust and agency funds, or major capital projects, that are legally
1549 restricted to expenditures for a specific purpose.

1550 (a) The Education Fund is a Special Revenue Fund that:

1551 (i) receives all revenues from taxes on intangible property or from a tax on income;
1552 and

1553 (ii) is designated for public and higher education.

1554 ~~[(b) The Uniform School Fund is a Special Revenue Fund that accounts for all~~
1555 ~~revenues that are required by law to be expended for the public school programs of the state.]~~

1556 (b) The Transportation Investment Fund of 2005 is a Special Revenue Fund that
1557 accounts for revenues that are required by law to be expended for the maintenance,
1558 construction, reconstruction, or renovation of certain state and federal highways.

1559 (c) The Transportation Fund is a Special Revenue Fund that accounts for all revenues
1560 that are required by law to be expended for highway purposes.

1561 (d) (i) A Restricted Special Revenue Fund is a Special Revenue Fund created by
1562 legislation or contractual relationship with parties external to the state that:

1563 (A) identifies specific revenues collected from fees, taxes, dedicated credits,
1564 donations, federal funds, or other sources;

1565 (B) defines the use of the money in the fund for a specific function of government or
1566 program within an agency; and

1567 (C) delegates spending authority or authorization to use the fund's assets to a
1568 governing board, administrative department, or other officials as defined in the enabling
1569 legislation or contract establishing the fund.

1570 (ii) A Restricted Special Revenue Fund may only be created by contractual
1571 relationship with external parties when the sources of revenue for the fund are donated
1572 revenues or federal revenues.

1573 (iii) Restricted Special Revenue Funds are subject to annual legislative review by the
1574 appropriate legislative appropriations subcommittee.

1575 (5) Capital Projects Funds account for financial resources to be expended for the
1576 acquisition or construction of major capital facilities, except that when financing for the
1577 acquisition or construction of a major capital facility is obtained from a trust fund or a
1578 proprietary type fund within one of the major fund types, the monies shall be accounted for in
1579 those accounts.

1580 (6) Debt Service Funds account for the accumulation of resources for, and the
1581 payment of, the principal and interest on general long-term obligations.

1582 (7) Permanent Funds account for assets that are legally restricted to the extent that
1583 only earnings, and not principal, may be used for a specific purpose.

1584 (8) Enterprise Funds are designated to account for the following:

1585 (a) operations, financed and operated in a manner similar to private business
1586 enterprises, where the Legislature intends that the costs of providing goods or services to the
1587 public are financed or recovered primarily through user charges;

1588 (b) operations where the Legislature requires periodic determination of revenues
1589 earned, expenses incurred, and net income;

1590 (c) operations for which a fee is charged to external users for goods or services; or

1591 (d) operations that are financed with debt that is secured solely by a pledge of the net
1592 revenues from fees and charges of the operations.

1593 (9) Internal Service Funds account for the financing of goods or services provided by
1594 one department, division, or agency to other departments, divisions, or agencies of the state, or
1595 to other governmental units, on a cost-reimbursement basis.

1596 (10) (a) Trust and Agency Funds account for assets held by the state as trustee or agent
1597 for individuals, private organizations, or other governmental units.

1598 (b) Pension Trust Funds, Investment Trust Funds, Private-Purpose Trust Funds, and
1599 Agency Funds are Trust and Agency Funds.

1600 (11) Discrete Component Unit Funds account for the financial resources used to
1601 operate the state's colleges and universities and other discrete component units.

1602 Section 34. Section **51-9-407** is amended to read:

1603 **51-9-407. Intoxicated Driver Rehabilitation Account share of surcharge.**

1604 The Division of Finance shall allocate 7.5% of the collected surcharge established in
1605 Section 51-9-401, but not to exceed the amount appropriated by the Legislature, to the
1606 Intoxicated Driver Rehabilitation Account [~~established by Section 62A-15-503~~] created in
1607 Section 62A-15-502.5.

1608 Section 35. Section **53-10-602** is amended to read:

1609 **53-10-602. Committee's duties and powers.**

1610 (1) The committee shall:

1611 (a) review and make recommendations to the division, the Bureau of
1612 Communications, public safety answering points, and the Legislature on:

1613 (i) technical, administrative, fiscal, and operational issues for the implementation of a
1614 unified statewide wireless and land-based E-911 emergency system;

1615 (ii) specific technology and standards for the implementation of a unified statewide
1616 wireless and land-based E-911 emergency system;

1617 (iii) emerging technological upgrades;

1618 (iv) expenditures by local public service answering points to assure implementation of
1619 a unified statewide wireless and land-based E-911 emergency system and standards of
1620 operation; and

1621 (v) mapping systems and technology necessary to implement the unified statewide
1622 wireless and land-based E-911 emergency system;

1623 (b) administer the [~~fund~~] Statewide Unified E-911 Emergency Service Account as
1624 provided in this part;

1625 (c) assist as many local entities as possible, at their request, to implement the

1626 recommendations of the committee; and

1627 (d) fulfill all other duties imposed on the committee by the Legislature by this part.

1628 (2) The committee may sell, lease, or otherwise dispose of equipment or personal

1629 property belonging to the committee, the proceeds from which shall return to the [fund]

1630 restricted account.

1631 (3) (a) The committee shall review information regarding:

1632 (i) in aggregate, the number of telecommunication service subscribers by

1633 telecommunication service type in a political subdivision;

1634 (ii) 911 call delivery network costs;

1635 (iii) public safety answering point costs; and

1636 (iv) system engineering information.

1637 (b) In accordance with Subsection (3)(a) the committee may request:

1638 (i) information as described in Subsection (3)(a)(i) from the Utah State Tax

1639 Commission; and

1640 (ii) information from public safety answering points connected to the 911 call delivery

1641 system.

1642 (c) The information requested by and provided to the committee under Subsection (3)

1643 is a protected record in accordance with Section 63G-2-305.

1644 (4) The committee shall issue the reimbursement allowed under Subsection

1645 53-10-605(1)(b) provided that:

1646 (a) the reimbursement is based on aggregated cost studies submitted to the committee

1647 by the wireless carriers seeking reimbursement; and

1648 (b) the reimbursement to any one carrier does not exceed 125% of the wireless

1649 carrier's contribution to the [fund] restricted account.

1650 (5) The committee shall adopt rules in accordance with Title 63G, Chapter 3, Utah

1651 Administrative Rulemaking Act, to administer the [fund] restricted account created in Section

1652 53-10-603 including rules that establish the criteria, standards, technology, and equipment that

1653 a local entity or state agency must adopt in order to qualify for grants from the [fund]

1654 restricted account.

1655 (6) This section does not expand the authority of the Utah State Tax Commission to
1656 request additional information from a telecommunication service provider.

1657 Section 36. Section **53-10-603** is amended to read:

1658 **53-10-603. Creation of Statewide Unified E-911 Emergency Service Account.**

1659 (1) There is created a restricted account [in] within the General Fund [entitled] known
1660 as the "Statewide Unified E-911 Emergency Service [Fund," or "fund"] Account," consisting
1661 of:

- 1662 (a) proceeds from the fee imposed in Section 69-2-5.6;
- 1663 (b) money appropriated or otherwise made available by the Legislature; and
- 1664 (c) contributions of money, property, or equipment from federal agencies, political
1665 subdivisions of the state, persons, or corporations.

1666 (2) The [monies] money in this [fund] restricted account shall be used exclusively for
1667 the following statewide public purposes:

- 1668 (a) enhancing public safety as provided in this chapter;
- 1669 (b) providing a statewide, unified, wireless E-911 service available to public service
1670 answering points; and
- 1671 (c) providing reimbursement to providers for certain costs associated with Phase II
1672 wireless E-911 service.

1673 Section 37. Section **53-10-604** is amended to read:

1674 **53-10-604. Committee expenses -- Tax Commission expenses -- Division of**
1675 **Finance responsibilities.**

1676 (1) Committee expenses and the costs of administering grants from the [fund]
1677 restricted account, as provided in Subsection (3), shall be paid from the [fund] restricted
1678 account.

1679 (2) (a) The expenses and costs of the State Tax Commission to administer and enforce
1680 the collection of the telephone levy imposed by Section 69-2-5.6 shall be paid from the [fund]
1681 restricted account.

1682 (b) (i) The State Tax Commission may charge the [fund] restricted account the
1683 administrative costs incurred in discharging the responsibilities imposed by Section 69-2-5.6.

1684 (ii) The charges in Subsection (2)(b)(i) may not exceed an amount equal to 1.5% of
1685 the charges imposed under Section 69-2-5.6.

1686 (3) (a) The Division of Finance shall be responsible for the care, custody, safekeeping,
1687 collection, and accounting for grants issued by the committee under the provisions of Section
1688 53-10-605.

1689 (b) The Division of Finance may charge the [fund] restricted account the
1690 administrative costs incurred in discharging the responsibilities imposed by Subsection (3)(a).

1691 Section 38. Section **53-10-605** is amended to read:

1692 **53-10-605. Use of money in restricted account -- Criteria -- Administration.**

1693 (1) Subject to an annual legislative appropriation from the [fund] restricted account to:

1694 (a) the committee, the committee shall:

1695 (i) authorize the use of the money in the fund, by grant to a local entity or state agency
1696 in accordance with this Subsection (1) and Subsection (2);

1697 (ii) grant to state agencies and local entities an amount not to exceed the per month fee
1698 levied on telecommunications service under Section 69-2-5.6 for installation, implementation,
1699 and maintenance of unified, statewide 911 emergency services and technology; and

1700 (iii) in addition to any money under Subsection (1)(a)(ii), grant to counties of the third
1701 through sixth class the amount dedicated for rural assistance, which is at least 3 cents per
1702 month levied on telecommunications service under Section 69-2-5.6 to:

1703 (A) enhance the 911 emergency services with a focus on areas or counties that do not
1704 have E-911 services; and

1705 (B) where needed, assist the counties, in cooperation with private industry, with the
1706 creation or integration of wireless systems and location technology in rural areas of the state;

1707 (b) the committee, the committee shall:

1708 (i) include reimbursement to a provider of radio communications service, as defined in
1709 Section 69-2-2, for costs as provided in Subsection (1)(b)(ii); and

1710 (ii) an agreement to reimburse costs to a provider of radio communications services
1711 must be a written agreement among the committee, the local public safety answering point and
1712 the carrier; and

1713 (c) the state's Automated Geographic Reference Center in the Division of Integrated
1714 Technology of the Department of Technology Services, an amount equal to 1 cent per month
1715 levied on telecommunications service under Section 69-2-5.6 shall be used to enhance and
1716 upgrade statewide digital mapping standards.

1717 (2) (a) Beginning July 1, 2007, the committee may not grant the money in the [fund]
1718 restricted account to a local entity unless the local entity is in compliance with Phase I,
1719 wireless E-911 service.

1720 (b) Beginning July 1, 2009, the committee may not grant money in the [fund]
1721 restricted account to a local entity unless the local entity is in compliance with Phase II,
1722 wireless E-911 service.

1723 (3) A local entity must deposit any money it receives from the committee into a special
1724 emergency telecommunications service fund in accordance with Subsection 69-2-5(4).

1725 (4) For purposes of this part, "local entity" means a county, city, town, local district,
1726 special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal
1727 Cooperation Act.

1728 Section 39. Section **53-10-606** is amended to read:

1729 **53-10-606. Committee to report annually.**

1730 (1) The committee shall submit an annual report to the Executive Appropriations
1731 Committee of the Legislature which shall include:

1732 (a) the total aggregate surcharge collected by local entities and the state in the last
1733 fiscal year under Sections 69-2-5 and 69-2-5.6;

1734 (b) the amount of each disbursement from the [fund] restricted account;

1735 (c) the recipient of each disbursement and describing the project for which money was
1736 disbursed;

1737 (d) the conditions, if any, placed by the committee on disbursements from the [fund]

1738 restricted account;

1739 (e) the planned expenditures from the [~~fund~~] restricted account for the next fiscal year;

1740 (f) the amount of any unexpended funds carried forward;

1741 (g) a cost study to guide the Legislature towards necessary adjustments of both the

1742 Statewide Unified E-911 Emergency Service [~~Fund~~] Account and the monthly emergency

1743 services telephone charge imposed under Section 69-2-5; and

1744 (h) a progress report of local government implementation of wireless and land-based

1745 E-911 services including:

1746 (i) a fund balance or balance sheet from each agency maintaining its own emergency

1747 telephone service fund;

1748 (ii) a report from each public safety answering point of annual call activity separating

1749 wireless and land-based 911 call volumes; and

1750 (iii) other relevant justification for ongoing support from the Statewide Unified E-911

1751 Emergency Service [~~Fund~~] Account created by Section 53-10-603.

1752 (2) (a) The committee may request information from a local entity as necessary to

1753 prepare the report required by this section.

1754 (b) A local entity imposing a levy under Section 69-2-5 or receiving a grant under

1755 Section 53-10-605 shall provide the information requested pursuant to Subsection (2)(a).

1756 Section 40. Section **53A-16-101** is amended to read:

1757 **53A-16-101. Uniform School Fund -- Contents -- Interest and Dividends**

1758 **Account.**

1759 (1) The Uniform School Fund, a special revenue fund within the Education Fund,

1760 established by Utah Constitution, Article X, Section 5, consists of:

1761 (a) interest and dividends derived from the investment of monies in the permanent

1762 State School Fund established by Utah Constitution, Article X, Section 5;

1763 (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Unclaimed

1764 Property Act; and

1765 (c) all other constitutional or legislative allocations to the fund, including revenues

1766 received by donation.

1767 (2) (a) There is created within the Uniform School Fund a restricted account known as
1768 the Interest and Dividends Account.

1769 (b) The Interest and Dividends Account consists of:

1770 (i) interest and dividends derived from the investment of monies in the permanent
1771 State School Fund referred to in Subsection (1)(a); and

1772 (ii) interest on account [~~monies~~] money.

1773 (3) (a) Upon appropriation by the Legislature, [~~monies~~] money from the Interest and
1774 Dividends Account shall be used for the School LAND Trust Program as provided in Section
1775 53A-16-101.5.

1776 (b) The Legislature may appropriate any remaining balance for the support of the
1777 public education system.

1778 Section 41. Section **58-31b-103** is amended to read:

1779 **58-31b-103. Nurse Education and Enforcement Account.**

1780 (1) There is created [~~within the General Fund~~] a restricted account within the General
1781 Fund known as the "Nurse Education and Enforcement [~~Fund.~~] Account."

1782 (2) The restricted account shall be nonlapsing and consist of:

1783 (a) administrative penalties imposed under Section 58-31b-503; and

1784 (b) interest earned on [~~monies~~] money in the account.

1785 (3) [~~Monies~~] Money in the account may be appropriated by the Legislature for the
1786 following purposes:

1787 (a) education and training of licensees or potential licensees under this chapter;

1788 (b) enforcement of this chapter by:

1789 (i) investigating unprofessional or unlawful conduct;

1790 (ii) providing legal representation to the division when legal action is taken against a
1791 person engaging in unprofessional or unlawful conduct; and

1792 (iii) monitoring compliance of renewal requirements;

1793 (c) survey nursing education programs throughout the state;

1794 (d) education and training of board members; and
1795 (e) review and approve nursing education programs and medication aide certified
1796 training programs.

1797 Section 42. Section **58-31b-503** is amended to read:

1798 **58-31b-503. Penalties and administrative actions for unlawful conduct and**
1799 **unprofessional conduct.**

1800 (1) Any person who violates the unlawful conduct provision specifically defined in
1801 Subsection 58-1-501(1)(a) is guilty of a third degree felony.

1802 (2) Any person who violates any of the unlawful conduct provisions specifically
1803 defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A
1804 misdemeanor.

1805 (3) Any person who violates any of the unlawful conduct provisions specifically
1806 defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B
1807 misdemeanor.

1808 (4) (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts
1809 of unprofessional or unlawful conduct, the division may:

- 1810 (i) assess administrative penalties; and
- 1811 (ii) take any other appropriate administrative action.

1812 (b) An administrative penalty imposed pursuant to this section shall be deposited in
1813 the "Nurse Education and Enforcement [~~Fund~~] Account" as provided in Section 58-31b-103.

1814 (5) If a licensee has been convicted of violating Section 58-31b-501 prior to an
1815 administrative finding of a violation of the same section, the licensee may not be assessed an
1816 administrative fine under this chapter for the same offense for which the conviction was
1817 obtained.

1818 (6) (a) If upon inspection or investigation, the division concludes that a person has
1819 violated the provisions of Sections 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1,
1820 Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled
1821 Substances Act, or any rule or order issued with respect to these provisions, and that

1822 disciplinary action is appropriate, the director or the director's designee from within the
1823 division shall:

1824 (i) promptly issue a citation to the person according to this chapter and any pertinent
1825 administrative rules;

1826 (ii) attempt to negotiate a stipulated settlement; or

1827 (iii) notify the person to appear before an adjudicative proceeding conducted under
1828 Title 63G, Chapter 4, Administrative Procedures Act.

1829 (b) Any person who is in violation of a provision described in Subsection (6)(a), as
1830 evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an
1831 adjudicative proceeding may be assessed a fine:

1832 (i) pursuant to this Subsection (6) of up to \$10,000 per single violation or up to \$2,000
1833 per day of ongoing violation, whichever is greater, in accordance with a fine schedule
1834 established by rule; and

1835 (ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered
1836 to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502,
1837 Chapter 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah
1838 Controlled Substances Act, or any rule or order issued with respect to those provisions.

1839 (c) Except for an administrative fine and a cease and desist order, the licensure
1840 sanctions cited in Section 58-31b-401 may not be assessed through a citation.

1841 (d) Each citation issued under this section shall:

1842 (i) be in writing; and

1843 (ii) clearly describe or explain:

1844 (A) the nature of the violation, including a reference to the provision of the chapter,
1845 rule, or order alleged to have been violated;

1846 (B) that the recipient must notify the division in writing within 20 calendar days of
1847 service of the citation in order to contest the citation at a hearing conducted under Title 63G,
1848 Chapter 4, Administrative Procedures Act; and

1849 (C) the consequences of failure to timely contest the citation or to make payment of

- 1850 any fines assessed by the citation within the time specified in the citation; and
- 1851 (iii) be served upon any person upon whom a summons may be served:
- 1852 (A) in accordance with the Utah Rules of Civil Procedure;
- 1853 (B) personally or upon the person's agent by a division investigator or by any person
- 1854 specially designated by the director; or
- 1855 (C) by mail.
- 1856 (e) If within 20 calendar days from the service of a citation, the person to whom the
- 1857 citation was issued fails to request a hearing to contest the citation, the citation becomes the
- 1858 final order of the division and is not subject to further agency review. The period to contest
- 1859 the citation may be extended by the division for cause.
- 1860 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
- 1861 the license of a licensee who fails to comply with the citation after it becomes final.
- 1862 (g) The failure of an applicant for licensure to comply with a citation after it becomes
- 1863 final is a ground for denial of license.
- 1864 (h) No citation may be issued under this section after the expiration of six months
- 1865 following the occurrence of any violation.
- 1866 Section 43. Section **58-37-7.5** is amended to read:
- 1867 **58-37-7.5. Controlled substance database -- Pharmacy reporting requirements --**
- 1868 **Access -- Penalties.**
- 1869 (1) As used in this section:
- 1870 (a) "Board" means the Utah State Board of Pharmacy created in Section 58-17b-201.
- 1871 (b) "Database" means the controlled substance database created in this section.
- 1872 (c) "Database manager" means the person responsible for operating the database, or
- 1873 the person's designee.
- 1874 (d) "Division" means the Division of Occupational and Professional Licensing created
- 1875 in Section 58-1-103.
- 1876 (e) "Health care facility" is as defined in Section 26-21-2.
- 1877 (f) "Mental health therapist" is as defined in Section 58-60-102.

1878 (g) "Pharmacy" or "pharmaceutical facility" is as defined in Section 58-17b-102.

1879 (h) "Prospective patient" means a person who:

1880 (i) is seeking medical advice, medical treatment, or medical services from a
1881 practitioner; and

1882 (ii) the practitioner described in Subsection (1)(h)(i) is considering accepting as a
1883 patient.

1884 (i) "Substance abuse treatment program" is as defined in Section 62A-2-101.

1885 (2) (a) There is created within the division a controlled substance database.

1886 (b) The division shall administer and direct the functioning of the database in
1887 accordance with this section. The division may under state procurement laws contract with
1888 another state agency or private entity to establish, operate, or maintain the database. The
1889 division in collaboration with the board shall determine whether to operate the database within
1890 the division or contract with another entity to operate the database, based on an analysis of
1891 costs and benefits.

1892 (c) The purpose of the database is to contain data as described in this section
1893 regarding every prescription for a controlled substance dispensed in the state to any person
1894 other than an inpatient in a licensed health care facility.

1895 (d) Data required by this section shall be submitted in compliance with this section to
1896 the manager of the database by the pharmacist in charge of the drug outlet where the
1897 controlled substance is dispensed.

1898 (3) The board shall advise the division regarding:

1899 (a) establishing, maintaining, and operating the database;

1900 (b) access to the database and how access is obtained; and

1901 (c) control of information contained in the database.

1902 (4) The pharmacist in charge shall, regarding each controlled substance dispensed by a
1903 pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a
1904 health care facility, submit to the manager of the database the following information, by a
1905 procedure and in a format established by the division:

- 1906 (a) name of the prescribing practitioner;
- 1907 (b) date of the prescription;
- 1908 (c) date the prescription was filled;
- 1909 (d) name of the person for whom the prescription was written;
- 1910 (e) positive identification of the person receiving the prescription, including the type
- 1911 of identification and any identifying numbers on the identification;
- 1912 (f) name of the controlled substance;
- 1913 (g) quantity of controlled substance prescribed;
- 1914 (h) strength of controlled substance;
- 1915 (i) quantity of controlled substance dispensed;
- 1916 (j) dosage quantity and frequency as prescribed;
- 1917 (k) name of drug outlet dispensing the controlled substance;
- 1918 (l) name of pharmacist dispensing the controlled substance; and
- 1919 (m) other relevant information as required by division rule.
- 1920 (5) The division shall maintain the database in an electronic file or by other means
- 1921 established by the division to facilitate use of the database for identification of:
- 1922 (a) prescribing practices and patterns of prescribing and dispensing controlled
- 1923 substances;
- 1924 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
- 1925 manner;
- 1926 (c) individuals receiving prescriptions for controlled substances from licensed
- 1927 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
- 1928 in quantities or with a frequency inconsistent with generally recognized standards of dosage
- 1929 for that controlled substance; and
- 1930 (d) individuals presenting forged or otherwise false or altered prescriptions for
- 1931 controlled substances to a pharmacy.
- 1932 (6) (a) The division shall by rule establish the electronic format in which the
- 1933 information required under this section shall be submitted to the administrator of the database.

1934 (b) The division shall ensure the database system records and maintains for reference:

1935 (i) identification of each person who requests or receives information from the
1936 database;

1937 (ii) the information provided to each person; and

1938 (iii) the date and time the information is requested or provided.

1939 (7) The division shall make rules to:

1940 (a) effectively enforce the limitations on access to the database as described in
1941 Subsection (8); and

1942 (b) establish standards and procedures to ensure accurate identification of individuals
1943 requesting information or receiving information without request from the database.

1944 (8) The manager of the database shall make information in the database available only
1945 to the following persons, in accordance with the requirements of this section and division
1946 rules:

1947 (a) personnel of the division specifically assigned to conduct investigations related to
1948 controlled substances laws under the jurisdiction of the division;

1949 (b) authorized division personnel engaged in analysis of controlled substance
1950 prescription information as a part of the assigned duties and responsibilities of their
1951 employment;

1952 (c) employees of the Department of Health whom the director of the Department of
1953 Health assigns to conduct scientific studies regarding the use or abuse of controlled
1954 substances, provided that the identity of the individuals and pharmacies in the database are
1955 confidential and are not disclosed in any manner to any individual who is not directly involved
1956 in the scientific studies;

1957 (d) a licensed practitioner having authority to prescribe controlled substances, to the
1958 extent the information:

1959 (i) (A) relates specifically to a current or prospective patient of the practitioner; and

1960 (B) is sought by the practitioner for the purpose of:

1961 (I) prescribing or considering prescribing any controlled substance to the current or

1962 prospective patient;

1963 (II) diagnosing the current or prospective patient;

1964 (III) providing medical treatment or medical advice to the current or prospective

1965 patient; or

1966 (IV) determining whether the current or prospective patient:

1967 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;

1968 or

1969 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled

1970 substance from the practitioner;

1971 (ii) (A) relates specifically to a former patient of the practitioner; and

1972 (B) is sought by the practitioner for the purpose of determining whether the former

1973 patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled

1974 substance from the practitioner;

1975 (iii) relates specifically to an individual who has access to the practitioner's Drug

1976 Enforcement Administration number, and the practitioner suspects that the individual may

1977 have used the practitioner's Drug Enforcement Administration identification number to

1978 fraudulently acquire or prescribe a controlled substance;

1979 (iv) relates to the practitioner's own prescribing practices, except when specifically

1980 prohibited by the division by administrative rule;

1981 (v) relates to the use of the controlled substance database by an employee of the

1982 practitioner, described in Subsection (8)(e); or

1983 (vi) relates to any use of the practitioner's Drug Enforcement Administration

1984 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a

1985 controlled substance;

1986 (e) in accordance with Subsection (17), an employee of a practitioner described in

1987 Subsection (8)(d), for a purpose described in Subsection (8)(d)(i) or (ii), if:

1988 (i) the employee is designated by the practitioner as a person authorized to access the

1989 information on behalf of the practitioner;

1990 (ii) the practitioner provides written notice to the division of the identity of the
1991 employee; and

1992 (iii) the division:

1993 (A) grants the employee access to the database; and

1994 (B) provides the employee with a password that is unique to that employee to access
1995 the database in order to permit the division to comply with the requirements of Subsection
1996 (6)(b) with respect to the employee;

1997 (f) a licensed pharmacist having authority to dispense controlled substances to the
1998 extent the information is sought for the purpose of:

1999 (i) dispensing or considering dispensing any controlled substance; or

2000 (ii) determining whether a person:

2001 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

2002 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
2003 substance from the pharmacist;

2004 (g) federal, state, and local law enforcement authorities, and state and local
2005 prosecutors, engaged as a specified duty of their employment in enforcing laws:

2006 (i) regulating controlled substances; or

2007 (ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud;

2008 (h) a mental health therapist, if:

2009 (i) the information relates to a patient who is:

2010 (A) enrolled in a licensed substance abuse treatment program; and

2011 (B) receiving treatment from, or under the direction of, the mental health therapist as
2012 part of the patient's participation in the licensed substance abuse treatment program described
2013 in Subsection (8)(h)(i)(A);

2014 (ii) the information is sought for the purpose of determining whether the patient is
2015 using a controlled substance while the patient is enrolled in the licensed substance abuse
2016 treatment program described in Subsection (8)(h)(i)(A); and

2017 (iii) the licensed substance abuse treatment program described in Subsection

2018 (8)(h)(i)(A) is associated with a practitioner who:

2019 (A) is a physician, a physician assistant, an advance practice registered nurse, or a
2020 pharmacist; and

2021 (B) is available to consult with the mental health therapist regarding the information
2022 obtained by the mental health therapist, under this Subsection (8)(h), from the database; and

2023 (i) an individual who is the recipient of a controlled substance prescription entered
2024 into the database, upon providing evidence satisfactory to the database manager that the
2025 individual requesting the information is in fact the person about whom the data entry was
2026 made.

2027 (9) Any person who knowingly and intentionally releases any information in the
2028 database in violation of the limitations under Subsection (8) is guilty of a third degree felony.

2029 (10) (a) Any person who obtains or attempts to obtain information from the database
2030 by misrepresentation or fraud is guilty of a third degree felony.

2031 (b) Any person who obtains or attempts to obtain information from the database for a
2032 purpose other than a purpose authorized by this section or by rule is guilty of a third degree
2033 felony.

2034 (11) (a) Except as provided in Subsection (11)(d), a person may not knowingly and
2035 intentionally use, release, publish, or otherwise make available to any other person or entity
2036 any information obtained from the database for any purpose other than those specified in
2037 Subsection (8). Each separate violation of this Subsection (11) is a third degree felony and is
2038 also subject to a civil penalty not to exceed \$5,000.

2039 (b) The procedure for determining a civil violation of this Subsection (11) shall be in
2040 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

2041 (c) Civil penalties assessed under this Subsection (11) shall be deposited in the
2042 General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

2043 (d) Nothing in this Subsection (11) prohibits a person who obtains information from
2044 the database under Subsection (8)(d) or (e) from:

2045 (i) including the information in the person's medical chart or file for access by a

2046 person authorized to review the medical chart or file; or

2047 (ii) providing the information to a person in accordance with the requirements of the
2048 Health Insurance Portability and Accountability Act of 1996.

2049 (12) (a) The failure of a pharmacist in charge to submit information to the database as
2050 required under this section after the division has submitted a specific written request for the
2051 information or when the division determines the individual has a demonstrable pattern of
2052 failing to submit the information as required is grounds for the division to take the following
2053 actions in accordance with Section 58-1-401:

2054 (i) refuse to issue a license to the individual;

2055 (ii) refuse to renew the individual's license;

2056 (iii) revoke, suspend, restrict, or place on probation the license;

2057 (iv) issue a public or private reprimand to the individual;

2058 (v) issue a cease and desist order; and

2059 (vi) impose a civil penalty of not more than \$1,000 for each dispensed prescription
2060 regarding which the required information is not submitted.

2061 (b) Civil penalties assessed under Subsection (12)(a)(vi) shall be deposited in the
2062 General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

2063 (c) The procedure for determining a civil violation of this Subsection (12) shall be in
2064 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

2065 (13) An individual who has submitted information to the database in accordance with
2066 this section may not be held civilly liable for having submitted the information.

2067 (14) All department and the division costs necessary to establish and operate the
2068 database shall be funded by appropriations from:

2069 (a) the Commerce Service ~~[Fund]~~ Account created by Section 13-1-2; and

2070 (b) the General Fund.

2071 (15) All costs associated with recording and submitting data as required in this section
2072 shall be assumed by the submitting pharmacy.

2073 (16) (a) Except as provided in Subsection (16)(b), data provided to, maintained in, or

2074 accessed from the database that may be identified to, or with, a particular person is not subject
2075 to discovery, subpoena, or similar compulsory process in any civil, judicial, administrative, or
2076 legislative proceeding, nor shall any individual or organization with lawful access to the data
2077 be compelled to testify with regard to the data.

2078 (b) The restrictions in Subsection (16)(a) do not apply to:

2079 (i) a criminal proceeding; or

2080 (ii) a civil, judicial, or administrative action brought to enforce the provisions of this
2081 section, Section 58-37-7.7, or Section 58-37-7.8.

2082 (17) (a) A practitioner described in Subsection (8)(d) may designate up to three
2083 employees to access information from the database under Subsection (8)(e).

2084 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
2085 Administrative Rulemaking Act, to establish background check procedures to determine
2086 whether an employee designated under Subsection (8)(e)(i) should be granted access to the
2087 database.

2088 (c) The division shall grant an employee designated under Subsection (8)(e)(i) access
2089 to the database, unless the division determines, based on a background check, that the
2090 employee poses a security risk to the information contained in the database.

2091 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a
2092 practitioner who designates an employee under Subsection (8)(e)(i), to pay for the costs
2093 incurred by the division to conduct the background check and make the determination
2094 described in Subsection (17)(c).

2095 (18) (a) A person who is granted access to the database based on the fact that the
2096 person is a licensed practitioner or a mental health therapist shall be denied access to the
2097 database when the person is no longer licensed.

2098 (b) A person who is granted access to the database based on the fact that the person is
2099 a designated employee of a licensed practitioner shall be denied access to the database when
2100 the practitioner is no longer licensed.

2101 (19) A person who is a relative of a deceased individual is not entitled to access

2102 information from the database relating to the deceased individual based on the fact or claim
2103 that the person is:

- 2104 (a) related to the deceased individual; or
- 2105 (b) subrogated to the rights of the deceased individual.

2106 Section 44. Section **58-44a-103** is amended to read:

2107 **58-44a-103. Certified Nurse Midwife Education and Enforcement Account.**

2108 (1) There is created [~~within the General Fund~~] a restricted account within the General
2109 Fund known as the "Certified Nurse Midwife Education and Enforcement [~~Fund.~~] Account."

2110 (2) The restricted account shall be nonlapsing and consist of:

- 2111 (a) administrative penalties imposed under Section 58-44a-402; and
- 2112 (b) interest earned on [~~monies~~] money in the account.

2113 (3) [~~Monies~~] Money in the account may be appropriated by the Legislature for the
2114 following purposes:

- 2115 (a) education and training of licensees under this chapter;
- 2116 (b) enforcement of this chapter by:
 - 2117 (i) investigating unprofessional or unlawful conduct;
 - 2118 (ii) providing legal representation to the division when legal action is taken against a
2119 person engaging in unprofessional or unlawful conduct; and
 - 2120 (iii) monitoring compliance of renewal requirements; and
- 2121 (c) education and training of board members.

2122 Section 45. Section **58-55-503** is amended to read:

2123 **58-55-503. Penalty for unlawful conduct -- Citations.**

2124 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
2125 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), or (15), or Subsection 58-55-504(2), or who fails
2126 to comply with a citation issued under this section after it is final, is guilty of a class A
2127 misdemeanor.

2128 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
2129 individual and does not include a sole proprietorship, joint venture, corporation, limited

2130 liability company, association, or organization of any type.

2131 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
2132 awarded and may not accept a contract for the performance of the work.

2133 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
2134 infraction unless the violator did so with the intent to deprive the person to whom money is to
2135 be paid of the money received, in which case the violator is guilty of theft, as classified in
2136 Section 76-6-412.

2137 (3) Grounds for immediate suspension of the licensee's license by the division and the
2138 commission include the issuance of a citation for violation of Subsection 58-55-308(2),
2139 Section 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make
2140 application to, report to, or notify the division with respect to any matter for which
2141 application, notification, or reporting is required under this chapter or rules adopted under this
2142 chapter, including applying to the division for a new license to engage in a new specialty
2143 classification or to do business under a new form of organization or business structure, filing
2144 with the division current financial statements, notifying the division concerning loss of
2145 insurance coverage, or change in qualifier.

2146 (4) (a) If upon inspection or investigation, the division concludes that a person has
2147 violated the provisions of Subsection 58-55-308(2) or Subsections 58-55-501(1), (2), (3), (9),
2148 (10), (12), (14), (19), (21), or Subsection 58-55-504(2), or any rule or order issued with
2149 respect to these subsections, and that disciplinary action is appropriate, the director or the
2150 director's designee from within the division shall promptly issue a citation to the person
2151 according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement,
2152 or notify the person to appear before an adjudicative proceeding conducted under Title 63G,
2153 Chapter 4, Administrative Procedures Act.

2154 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),
2155 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21), or Subsection
2156 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding
2157 of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection

2158 (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating
2159 Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21),
2160 or Subsection 58-55-504(2).

2161 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
2162 58-55-401 may not be assessed through a citation.

2163 (iii) (A) A person who receives a citation or is fined for violating Subsection
2164 58-55-501(21) may also be issued a cease and desist order from engaging in work to be
2165 performed by a contractor licensed under this chapter unless the person meets the continuing
2166 education requirement within 30 days after receipt of the citation or fine.

2167 (B) The order, if issued, shall be removed upon the person's completion of the
2168 continuing education requirement.

2169 (C) This Subsection (4)(a)(iii) is repealed effective July 1, 2010.

2170 (b) (i) Each citation shall be in writing and describe with particularity the nature of the
2171 violation, including a reference to the provision of the chapter, rule, or order alleged to have
2172 been violated.

2173 (ii) The citation shall clearly state that the recipient must notify the division in writing
2174 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
2175 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2176 (iii) The citation shall clearly explain the consequences of failure to timely contest the
2177 citation or to make payment of any fines assessed by the citation within the time specified in
2178 the citation.

2179 (c) Each citation issued under this section, or a copy of each citation, may be served
2180 upon a person upon whom a summons may be served:

2181 (i) in accordance with the Utah Rules of Civil Procedure;

2182 (ii) personally or upon the person's agent by a division investigator or by a person
2183 specially designated by the director; or

2184 (iii) by mail.

2185 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the

2186 citation was issued fails to request a hearing to contest the citation, the citation becomes the
2187 final order of the division and is not subject to further agency review.

2188 (ii) The period to contest a citation may be extended by the division for cause.

2189 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
2190 the license of a licensee who fails to comply with a citation after it becomes final.

2191 (f) The failure of an applicant for licensure to comply with a citation after it becomes
2192 final is a ground for denial of license.

2193 (g) No citation may be issued under this section after the expiration of six months
2194 following the occurrence of any violation.

2195 (h) Fines shall be assessed by the director or the director's designee according to the
2196 following:

2197 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

2198 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

2199 and

2200 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
2201 \$2,000 for each day of continued offense.

2202 (i) (i) For purposes of issuing a final order under this section and assessing a fine
2203 under Subsection (4)(~~+~~)(h), an offense constitutes a second or subsequent offense if:

2204 (A) the division previously issued a final order determining that a person committed a
2205 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
2206 (3), (9), (10), (12), (14), or (19), or Subsection 58-55-504(2); or

2207 (B) (I) the division initiated an action for a first or second offense;

2208 (II) no final order has been issued by the division in the action initiated under
2209 Subsection (4)(i)(i)(B)(I);

2210 (III) the division determines during an investigation that occurred after the initiation of
2211 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
2212 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
2213 (10), (12), (14), or (19), or Subsection 58-55-504(2); and

2214 (IV) after determining that the person committed a second or subsequent offense under
2215 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
2216 Subsection (4)(i)(i)(B)(I).

2217 (ii) In issuing a final order for a second or subsequent offense under Subsection
2218 (4)(i)(i), the division shall comply with the requirements of this section.

2219 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
2220 into the Commerce Service ~~[Fund]~~ Account created by Section 13-1-2.

2221 (b) A penalty which is not paid may be collected by the director by either referring the
2222 matter to a collection agency or bringing an action in the district court of the county in which
2223 the person against whom the penalty is imposed resides or in the county where the office of the
2224 director is located.

2225 (c) A county attorney or the attorney general of the state is to provide legal assistance
2226 and advice to the director in any action to collect the penalty.

2227 (d) In an action brought to enforce the provisions of this section, reasonable attorney's
2228 fees and costs shall be awarded.

2229 Section 46. Section **58-56-9.5** is amended to read:

2230 **58-56-9.5. Penalty for unlawful conduct -- Citations.**

2231 (1) A person who violates a provision of Section 58-56-9.1 or who fails to comply
2232 with a citation issued under this section after it is final is guilty of a class A misdemeanor.

2233 (2) Grounds for immediate suspension of a licensee's license by the division under this
2234 chapter include:

2235 (a) the issuance of a citation for violation of a provision of Section 58-56-9.1; and

2236 (b) failure by a licensee to make application to, report to, or notify the division with
2237 respect to a matter for which application, notification, or reporting is required under this
2238 chapter or rules made under this chapter by the division.

2239 (3) (a) If upon inspection or investigation, the division concludes that a person has
2240 violated a provision of Section 58-56-9.1, or a rule or order issued with respect to that section,
2241 and that disciplinary action is appropriate, the director or the director's designee from within

2242 the division shall:

2243 (i) promptly issue a citation to the person according to this chapter and any pertinent
2244 rules;

2245 (ii) attempt to negotiate a stipulated settlement; or

2246 (iii) notify the person to appear before an adjudicative proceeding conducted under
2247 Title 63G, Chapter 4, Administrative Procedures Act.

2248 (b) (i) A person who violates a provision of Section 58-56-9.1, as evidenced by an
2249 uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative
2250 proceeding, may be assessed a fine under this Subsection (3)(b) and may, in addition to or
2251 instead of the fine, be ordered by the division to cease from violating the provision.

2252 (ii) Except as otherwise provided in Subsection (2)(a), the division may not assess
2253 licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

2254 (c) (i) Each citation shall be in writing and describe with particularity the nature of the
2255 violation, including a reference to the provision of the chapter, rule, or order alleged to have
2256 been violated.

2257 (ii) The citation shall clearly state that the recipient must notify the division in writing
2258 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
2259 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2260 (iii) The citation shall clearly explain the consequences of failure to timely contest the
2261 citation or to make payment of any fines assessed by the citation within the time specified in
2262 the citation.

2263 (d) Each citation issued under this section, or a copy of each citation, may be served
2264 upon any person upon whom a summons may be served:

2265 (i) in accordance with the Utah Rules of Civil Procedure;

2266 (ii) personally or upon the person's agent by a division investigator or by any person
2267 specially designated by the director; or

2268 (iii) by mail.

2269 (e) (i) If within 20 calendar days from the service of a citation, the person to whom the

2270 citation was issued fails to request a hearing to contest the citation, the citation becomes the
2271 final order of the division and is not subject to further agency review.

2272 (ii) The period to contest a citation may be extended by the division for cause.

2273 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
2274 the license of a licensee who fails to comply with a citation after it becomes final.

2275 (g) The failure of an applicant for licensure to comply with a citation after it becomes
2276 final is a ground for denial of a license.

2277 (h) No citation may be issued under this section after the expiration of six months
2278 following the occurrence of the violation.

2279 (i) The director or the director's designee may assess fines for violations of Section
2280 58-56-9.1 as follows:

2281 (i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;

2282 (ii) for a second offense, a fine of up to \$2,000; and

2283 (iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued
2284 offense.

2285 (j) For the purposes of issuing a final order under this section and assessing a fine
2286 under Subsection (3)(i), an offense constitutes a second or subsequent offense if:

2287 (i) the division previously issued a final order determining that a person committed a
2288 first or second offense in violation of a provision of Section 58-56-9.1; or

2289 (ii) (A) the division initiated an action for a first or second offense;

2290 (B) no final order has been issued by the division in the action initiated under
2291 Subsection (3)(j)(ii)(A);

2292 (C) the division determines during an investigation that occurred after the initiation of
2293 the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent
2294 violation of a provision of Section 58-56-9.1; and

2295 (D) after determining that the person committed a second or subsequent offense under
2296 Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under
2297 Subsection (3)(j)(ii)(A).

2298 (k) In issuing a final order for a second or subsequent offense under Subsection (3)(j),
2299 the division shall comply with the requirements of this section.

2300 (4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the
2301 Commerce Service ~~[Fund]~~ Account created by Section 13-1-2.

2302 (b) The director may collect an unpaid fine by:

2303 (i) referring the matter to a collection agency; or

2304 (ii) bringing an action in the district court of the county in which the person resides or
2305 in the county where the director's office is located.

2306 (c) (i) The state's attorney general or a county attorney shall provide legal assistance
2307 and advice to the director in an action brought under Subsection (4)(b).

2308 (ii) Reasonable ~~[attorney's]~~ attorney fees and costs shall be awarded in an action
2309 brought to enforce the provisions of this section.

2310 Section 47. Section **58-76-103** is amended to read:

2311 **58-76-103. Professional Geologist Education and Enforcement Account.**

2312 (1) There is created ~~[within the General Fund]~~ a restricted account within the General
2313 Fund known as the "Professional Geologist Education and Enforcement ~~[Fund.]~~ Account."

2314 (2) The restricted account shall be nonlapsing and consist of ~~[monies]~~ money from:

2315 (a) a surcharge fee established by the department in accordance with Section
2316 63J-1-504, placed on initial, renewal, and reinstatement licensure fees under this chapter not to
2317 exceed 50% of the respective initial, renewal, or reinstatement licensure fee;

2318 (b) administrative penalties collected pursuant to this chapter; and

2319 (c) interest earned on ~~[monies]~~ money in the account.

2320 (3) ~~[Monies]~~ Money in the account may be appropriated by the Legislature for the
2321 following purposes:

2322 (a) education and training of licensees under this chapter;

2323 (b) education and training of the public or other interested persons in matters
2324 concerning geology laws and practices;

2325 (c) enforcement of this chapter by:

- 2326 (i) investigating unprofessional or unlawful conduct;
- 2327 (ii) providing legal representation to the division when legal action is taken against a
- 2328 person engaging in unprofessional or unlawful conduct; and
- 2329 (iii) monitoring compliance of renewal requirements; and
- 2330 (d) education and training of board members.

2331 Section 48. Section **59-1-210** is amended to read:

2332 **59-1-210. General powers and duties.**

2333 The powers and duties of the commission are as follows:

- 2334 (1) to sue and be sued in its own name;
- 2335 (2) to adopt rules and policies consistent with the Constitution and laws of this state to
- 2336 govern the commission, executive director, division directors, and commission employees in
- 2337 the performance of their duties;
- 2338 (3) to adopt rules and policies consistent with the Constitution and laws of the state, to
- 2339 govern county boards and officers in the performance of any duty relating to assessment,
- 2340 equalization, and collection of taxes;
- 2341 (4) to prescribe the use of forms relating to the assessment of property for state or local
- 2342 taxation, the equalization of those assessments, the reporting of property or income for state or
- 2343 local taxation purposes, or for the computation of those taxes and the reporting of any
- 2344 information, statistics, or data required by the commission;
- 2345 (5) to administer and supervise the tax laws of the state;
- 2346 (6) to prepare and maintain from year to year a complete record of all lands subject to
- 2347 taxation in this state, and all machinery used in mining and all property or surface
- 2348 improvements upon or appurtenant to mines or mining claims;
- 2349 (7) to exercise general supervision over assessors and county boards of equalization
- 2350 including the authority to enforce Section 59-2-303.1, and over other county officers in the
- 2351 performance of their duties relating to the assessment of property and collection of taxes, so
- 2352 that all assessments of property are just and equal, according to fair market value, and that the
- 2353 tax burden is distributed without favor or discrimination;

2354 (8) to reconvene any county board of equalization which, when reconvened, may only
2355 address business approved by the commission and extend the time for which any county board
2356 of equalization may sit for the equalization of assessments;

2357 (9) to confer with, advise, and direct county treasurers, assessors, and other county
2358 officers in matters relating to the assessment and equalization of property for taxation and the
2359 collection of taxes;

2360 (10) to provide for and hold annually at such time and place as may be convenient a
2361 district or state convention of county assessors, auditors, and other county officers to consider
2362 and discuss matters relative to taxation, uniformity of valuation, and changes in the law
2363 relative to taxation and methods of assessment, to which county assessors and other officers
2364 called to attend shall attend at county expense;

2365 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the
2366 penalties, liabilities, and punishments of public officers, persons, and officers or agents of
2367 corporations for failure or neglect to comply with the statutes governing the reporting,
2368 assessment, and taxation of property;

2369 (12) to cause complaints to be made in the proper court seeking removal from office of
2370 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing
2371 officers, who are guilty of official misconduct or neglect of duty;

2372 (13) to require county attorneys to immediately institute and prosecute actions and
2373 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the
2374 laws relating to the assessment and taxation of property in their respective counties;

2375 (14) to require any person to furnish any information required by the commission to
2376 ascertain the value and the relative burden borne by all kinds of property in the state, and to
2377 require from all state and local officers any information necessary for the proper discharge of
2378 the duties of the commission;

2379 (15) to examine all records relating to the valuation of property of any person;

2380 (16) to subpoena witnesses to appear and give testimony and produce records relating
2381 to any matter before the commission;

2382 (17) to cause depositions of witnesses to be taken as in civil actions at the request of
2383 the commission or any party to any matter or proceeding before the commission;

2384 (18) to authorize any member or employee of the commission to administer oaths and
2385 affirmations in any matter or proceeding relating to the exercise of the powers and duties of
2386 the commission;

2387 (19) to visit periodically each county of the state, to investigate and direct the work
2388 and methods of local assessors and other officials in the assessment, equalization, and taxation
2389 of property, and to ascertain whether the law requiring the assessment of all property not
2390 exempt from taxation, and the collection of taxes, have been properly administered and
2391 enforced;

2392 (20) to carefully examine all cases where evasion or violation of the laws for
2393 assessment and taxation of property is alleged, to ascertain whether existing laws are defective
2394 or improperly administered;

2395 (21) to furnish to the governor from time to time such assistance and information as
2396 the governor requires;

2397 (22) to transmit to the governor and to each member of the Legislature
2398 recommendations as to legislation which will correct or eliminate defects in the operation of
2399 the tax laws and will equalize the burden of taxation within the state;

2400 (23) to correct any error in any assessment made by it at any time before the tax is due
2401 and report the correction to the county auditor, who shall enter the corrected assessment upon
2402 the assessment roll;

2403 (24) to compile and publish statistics relating to taxation in the state and prepare and
2404 submit an annual budget to the governor for inclusion in the state budget to be submitted to
2405 the Legislature;

2406 (25) to perform any further duties imposed by law, and exercise all powers necessary
2407 in the performance of its duties;

2408 (26) to adopt a schedule of fees assessed for services provided by the commission,
2409 unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the

2410 cost of services provided. Each fee established in this manner shall be submitted to and
2411 approved by the Legislature as part of the commission's annual appropriations request. The
2412 commission may not charge or collect any fee proposed in this manner without approval by
2413 the Legislature;

2414 (27) to comply with the procedures and requirements of Title 63G, Chapter 4,
2415 Administrative Procedures Act, in its adjudicative proceedings; and

2416 (28) to distribute the monies deposited into the Rural Health Care Facilities [~~Fund~~
2417 Account] as required by Section 26-9-4.

2418 Section 49. Section **59-7-614.5** is amended to read:

2419 **59-7-614.5. Refundable motion picture tax credit.**

2420 (1) As used in this section:

2421 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
2422 picture company under [~~Subsection 63M-1-1802(5)] Section 63M-1-1802.~~

2423 (b) "Office" means the Governor's Office of Economic Development.

2424 (c) "State-approved production" has the same meaning as defined in Subsection
2425 63M-1-1802(10).

2426 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
2427 may claim a refundable tax credit for a state-approved production.

2428 (3) The tax credit under this section is the amount listed as the tax credit amount on
2429 the tax credit certificate that the office issues to a motion picture company under Section
2430 63M-1-1803 for the taxable year.

2431 (4) (a) In accordance with any rules prescribed by the commission under Subsection
2432 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
2433 credit under this section if the amount of the tax credit exceeds the motion picture company's
2434 tax liability for a taxable year.

2435 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2436 the commission may make rules providing procedures for making a refund to a motion picture
2437 company as required by Subsection (4)(a).

2438 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
2439 Utah Tax Review Commission shall study the tax credit allowed by this section and make
2440 recommendations to the Revenue and Taxation Interim Committee and the Workforce
2441 Services and Community and Economic Development Interim Committee concerning whether
2442 the tax credit should be continued, modified, or repealed.

2443 (b) For purposes of the study required by this Subsection (5), the office shall provide
2444 the following information to the Utah Tax Review Commission:

2445 (i) the amount of tax credit that the office grants to each motion picture company for
2446 each calendar year;

2447 (ii) the criteria that the office uses in granting the tax credit;

2448 (iii) the dollars left in the state, as defined in Subsection 63M-1-1802(2), by each
2449 motion picture company for each calendar year;

2450 (iv) the information contained in the office's latest report to the Legislature under
2451 Section 63M-1-1805; and

2452 (v) any other information requested by the Utah Tax Review Commission.

2453 (c) The Utah Tax Review Commission shall ensure that its recommendations under
2454 Subsection (5)(a) include an evaluation of:

2455 (i) the cost of the tax credit to the state;

2456 (ii) the effectiveness of the tax credit; and

2457 (iii) the extent to which the state benefits from the tax credit.

2458 Section 50. Section **59-10-1108** is amended to read:

2459 **59-10-1108. Refundable motion picture tax credit.**

2460 (1) As used in this section:

2461 (a) "Motion picture company" means a claimant, estate, or trust that meets the
2462 definition of a motion picture company under [~~Subsection 63M-1-1802(5)] Section
2463 63M-1-1802.~~

2464 (b) "Office" means the Governor's Office of Economic Development.

2465 (c) "State-approved production" has the same meaning as defined in Subsection

2466 63M-1-1802(10).

2467 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
2468 may claim a refundable tax credit for a state-approved production.

2469 (3) The tax credit under this section is the amount listed as the tax credit amount on
2470 the tax credit certificate that the office issues to a motion picture company under Section
2471 63M-1-1803 for the taxable year.

2472 (4) (a) In accordance with any rules prescribed by the commission under Subsection
2473 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
2474 credit under this section if the amount of the tax credit exceeds the motion picture company's
2475 tax liability for the taxable year.

2476 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2477 the commission may make rules providing procedures for making a refund to a motion picture
2478 company as required by Subsection (4)(a).

2479 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
2480 Utah Tax Review Commission shall study the tax credit allowed by this section and make
2481 recommendations to the Revenue and Taxation Interim Committee and the Workforce
2482 Services and Community and Economic Development Interim Committee concerning whether
2483 the tax credit should be continued, modified, or repealed.

2484 (b) For purposes of the study required by this Subsection (5), the office shall provide
2485 the following information to the Utah Tax Review Commission:

2486 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

2487 (ii) the criteria the office uses in granting a tax credit;

2488 (iii) the dollars left in the state, as defined in Subsection 63M-1-1802(2), by each
2489 motion picture company for each calendar year;

2490 (iv) the information contained in the office's latest report to the Legislature under
2491 Section 63M-1-1805; and

2492 (v) any other information requested by the Utah Tax Review Commission.

2493 (c) The Utah Tax Review Commission shall ensure that its recommendations under

2494 Subsection (5)(a) include an evaluation of:

- 2495 (i) the cost of the tax credit to the state;
- 2496 (ii) the effectiveness of the tax credit; and
- 2497 (iii) the extent to which the state benefits from the tax credit.

2498 Section 51. Section **59-10-1306** is amended to read:

2499 **59-10-1306. Homeless contribution -- Credit to Pamela Atkinson Homeless**
2500 **Account.**

2501 (1) Except as provided in Section 59-10-1304, a resident or nonresident individual
2502 that files an individual income tax return under this chapter may designate on the resident or
2503 nonresident individual's individual income tax return a contribution to the Pamela Atkinson
2504 Homeless [Trust] Account as provided in this part.

2505 (2) The commission shall:

2506 (a) determine annually the total amount of contributions designated in accordance
2507 with this section; and

2508 (b) credit the amount described in Subsection (2)(a) to the Pamela Atkinson Homeless
2509 [Trust] Account created by Section 9-4-803.

2510 Section 52. Section **59-10-1308** is amended to read:

2511 **59-10-1308. Children's organ transplants contribution -- Credit to Kurt**
2512 **Oscarson Children's Organ Transplant Account.**

2513 (1) Except as provided in Section 59-10-1304, a resident or nonresident individual
2514 that files an individual income tax return under this chapter may designate on the resident or
2515 nonresident individual's individual income tax return a contribution to the Kurt Oscarson
2516 Children's Organ Transplant [Trust] Account created by Section 26-18a-4.

2517 (2) The commission shall:

2518 (a) determine annually the total amount of contributions designated in accordance
2519 with this section; and

2520 (b) credit the amount described in Subsection (2)(a) to the Kurt Oscarson Children's
2521 Organ Transplant [Trust] Account created by Section 26-18a-4.

2522 Section 53. Section **59-21-2** is amended to read:

2523 **59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus**
2524 **Account money -- Mineral Lease Account created -- Contents -- Appropriation of monies**
2525 **from Mineral Lease Account.**

2526 (1) (a) ~~[The]~~ There is created a restricted account within the General Fund known as
2527 the "Mineral Bonus Account." ~~[is created within the General Fund.]~~

2528 (b) The Mineral Bonus Account consists of federal mineral lease bonus payments
2529 deposited pursuant to Subsection 59-21-1(3).

2530 (c) The Legislature shall make appropriations from the Mineral Bonus Account in
2531 accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

2532 (d) The state treasurer shall:

2533 (i) invest the money in the Mineral Bonus Account by following the procedures and
2534 requirements of Title 51, Chapter 7, State Money Management Act; and

2535 (ii) deposit all interest or other earnings derived from the account into the Mineral
2536 Bonus Account.

2537 (2) (a) ~~[The]~~ There is created a restricted account within the General Fund known as
2538 the "Mineral Lease Account." ~~[is created within the General Fund.]~~

2539 (b) The Mineral Lease Account consists of federal mineral lease money deposited
2540 pursuant to Subsection 59-21-1(1).

2541 (c) The Legislature shall make appropriations from the Mineral Lease Account as
2542 provided in Subsection 59-21-1(1) and this Subsection (2).

2543 (d) The Legislature shall annually appropriate 32.5% of all deposits made to the
2544 Mineral Lease Account to the Permanent Community Impact Fund established by Section
2545 9-4-303.

2546 (e) The Legislature shall annually appropriate 2.25% of all deposits made to the
2547 Mineral Lease Account to the State Board of Education, to be used for education research and
2548 experimentation in the use of staff and facilities designed to improve the quality of education
2549 in Utah.

2550 (f) The Legislature shall annually appropriate 2.25% of all deposits made to the
2551 Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by
2552 the survey having as a purpose the development and exploitation of natural resources in the
2553 state.

2554 (g) The Legislature shall annually appropriate 2.25% of all deposits made to the
2555 Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used
2556 for activities carried on by the laboratory having as a purpose the development and
2557 exploitation of water resources in the state.

2558 (h) (i) The Legislature shall annually appropriate to the Department of Transportation
2559 40% of all deposits made to the Mineral Lease Account to be distributed as provided in
2560 Subsection (2)(h)(ii) to:

2561 (A) counties;

2562 (B) special service districts established:

2563 (I) by counties;

2564 (II) under Title 17D, Chapter 1, Special Service District Act; and

2565 (III) for the purpose of constructing, repairing, or maintaining roads; or

2566 (C) special service districts established:

2567 (I) by counties;

2568 (II) under Title 17D, Chapter 1, Special Service District Act; and

2569 (III) for other purposes authorized by statute.

2570 (ii) The Department of Transportation shall allocate the funds specified in Subsection
2571 (2)(h)(i):

2572 (A) in amounts proportionate to the amount of mineral lease money generated by each
2573 county; and

2574 (B) to a county or special service district established by a county under Title 17D,
2575 Chapter 1, Special Service District Act, as determined by the county legislative body.

2576 (i) (i) The Legislature shall annually appropriate 5% of all deposits made to the
2577 Mineral Lease Account to the Department of Community and Culture to be distributed to:

2578 (A) special service districts established:
2579 (I) by counties;
2580 (II) under Title 17D, Chapter 1, Special Service District Act; and
2581 (III) for the purpose of constructing, repairing, or maintaining roads; or
2582 (B) special service districts established:
2583 (I) by counties;
2584 (II) under Title 17D, Chapter 1, Special Service District Act; and
2585 (III) for other purposes authorized by statute.
2586 (ii) The Department of Community and Culture may distribute the amounts described
2587 in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1,
2588 Special Service District Act, by counties:
2589 (A) of the third, fourth, fifth, or sixth class;
2590 (B) in which 4.5% or less of the mineral lease moneys within the state are generated;
2591 and
2592 (C) that are significantly socially or economically impacted as provided in Subsection
2593 [~~(3)~~] (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30
2594 U.S.C. Sec. 181 et seq.
2595 (iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C)
2596 shall be as a result of:
2597 (A) the transportation within the county of hydrocarbons, including solid
2598 hydrocarbons as defined in Section 59-5-101;
2599 (B) the employment of persons residing within the county in hydrocarbon extraction,
2600 including the extraction of solid hydrocarbons as defined in Section 59-5-101; or
2601 (C) a combination of Subsections (2)(i)(iii)(A) and (B).
2602 (iv) For purposes of distributing the appropriations under this Subsection (2)(i) to
2603 special service districts established by counties under Title 17D, Chapter 1, Special Service
2604 District Act, the Department of Community and Culture shall:
2605 (A) (I) allocate 50% of the appropriations equally among the counties meeting the

2606 requirements of Subsections (2)(i)(ii) and (iii); and
2607 (II) allocate 50% of the appropriations based on the ratio that the population of each
2608 county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population
2609 of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and
2610 (B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the
2611 allocated revenues to special service districts established by the counties under Title 17D,
2612 Chapter 1, Special Service District Act, as determined by the executive director of the
2613 Department of Community and Culture after consulting with the county legislative bodies of
2614 the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).
2615 (v) The executive director of the Department of Community and Culture:
2616 (A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii)
2617 and (iii);
2618 (B) shall distribute the appropriations under Subsection (2)(i)(i) to special service
2619 districts established by counties under Title 17D, Chapter 1, Special Service District Act, that
2620 meet the requirements of Subsections (2)(i)(ii) and (iii); and
2621 (C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2622 may make rules:
2623 (I) providing a procedure for making the distributions under this Subsection (2)(i) to
2624 special service districts; and
2625 (II) defining the term "population" for purposes of Subsection (2)(i)(iv).
2626 (j) (i) The Legislature shall annually make the following appropriations from the
2627 Mineral Lease Account:
2628 (A) an amount equal to 52 cents multiplied by the number of acres of school or
2629 institutional trust lands, lands owned by the Division of Parks and Recreation, and lands
2630 owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to
2631 each county in which those lands are located;
2632 (B) to each county in which school or institutional trust lands are transferred to the
2633 federal government after December 31, 1992, an amount equal to the number of transferred

2634 acres in the county multiplied by a payment per acre equal to the difference between 52 cents
2635 per acre and the per acre payment made to that county in the most recent payment under the
2636 federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal
2637 payment was equal to or exceeded the 52 cents per acre, in which case a payment under this
2638 Subsection (2)(j)(i)(B) may not be made for the transferred lands;

2639 (C) to each county in which federal lands, which are entitlement lands under the
2640 federal in lieu of taxes program, are transferred to the school or institutional trust, an amount
2641 equal to the number of transferred acres in the county multiplied by a payment per acre equal
2642 to the difference between the most recent per acre payment made under the federal payment in
2643 lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less
2644 than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be
2645 made for the transferred land; and

2646 (D) to a county of the fifth or sixth class, an amount equal to the product of:

2647 (I) \$1,000; and

2648 (II) the number of residences described in Subsection (2)(j)(iv) that are located within
2649 the county.

2650 (ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the
2651 county legislative body, distribute the money or a portion of the money to:

2652 (A) special service districts established by the county under Title 17D, Chapter 1,
2653 Special Service District Act;

2654 (B) school districts; or

2655 (C) public institutions of higher education.

2656 (iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95,
2657 the Division of Finance shall increase or decrease the amounts per acre provided for in
2658 Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price
2659 Index for all urban consumers published by the Department of Labor.

2660 (B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance
2661 shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average

2662 annual change in the Consumer Price Index for all urban consumers published by the
2663 Department of Labor.

2664 (iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

2665 (A) owned by:

2666 (I) the Division of Parks and Recreation; or

2667 (II) the Division of Wildlife Resources;

2668 (B) located on lands that are owned by:

2669 (I) the Division of Parks and Recreation; or

2670 (II) the Division of Wildlife Resources; and

2671 (C) are not subject to taxation under:

2672 (I) Chapter 2, Property Tax Act; or

2673 (II) Chapter 4, Privilege Tax.

2674 (k) The Legislature shall annually appropriate to the Permanent Community Impact
2675 Fund all deposits remaining in the Mineral Lease Account after making the appropriations
2676 provided for in Subsections (2)(d) through (j).

2677 (3) (a) Each agency, board, institution of higher education, and political subdivision
2678 receiving money under this chapter shall provide the Legislature, through the Office of the
2679 Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual
2680 basis.

2681 (b) The accounting required under Subsection (3)(a) shall:

2682 (i) include actual expenditures for the prior fiscal year, budgeted expenditures for the
2683 current fiscal year, and planned expenditures for the following fiscal year; and

2684 (ii) be reviewed by the Economic Development and Human Resources Appropriation
2685 Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary
2686 Procedures Act.

2687 Section 54. Section **62A-4a-309** is amended to read:

2688 **62A-4a-309. Children's Account.**

2689 (1) There ~~shall be~~ is created a restricted account within the General Fund ~~[to be]~~

2690 known as the "Children's [~~Trust Account. This~~] Account." The restricted account is for
2691 crediting of contributions from private sources and from appropriate revenues received under
2692 Section 26-2-12.5 for abuse and neglect prevention programs described in Section
2693 62A-4a-305.

2694 (2) Money shall be appropriated from the account to the division by the Legislature
2695 under the Utah Budgetary Procedures Act, and shall be drawn upon by the director in
2696 consultation with the executive director of the department.

2697 (3) Except as provided in Subsection (4), the Children's [~~Trust~~] Account may be used
2698 only to implement prevention programs described in Section 62A-4a-305, and may only be
2699 allocated to [~~entities~~] an entity that [~~provide~~] provides a one-to-one match, comprising a
2700 match from the community of at least 50% in cash and up to 50% in in-kind donations, which
2701 is 25% of the total funding received from the Children's [~~Trust~~] Account.

2702 (4) (a) The entity that receives the statewide evaluation contract is excepted from the
2703 cash-match provisions of Subsection (3).

2704 (b) Upon recommendation of the executive director and the council, the division may
2705 reduce or waive the match requirements described in Subsection (3) for an entity, if the
2706 division determines that imposing the requirements would prohibit or limit the provision of
2707 services needed in a particular geographic area.

2708 Section 55. Section **62A-4a-310** is amended to read:

2709 **62A-4a-310. Funds -- Transfers and gifts.**

2710 On behalf of the Children's [~~Trust~~] Account, the department, through the division, may
2711 accept transfers, grants, gifts, bequests, or any money made available from any source to
2712 implement this part.

2713 Section 56. Section **62A-4a-311** is amended to read:

2714 **62A-4a-311. Child Abuse Advisory Council -- Creation -- Membership --**
2715 **Expenses.**

2716 (1) (a) There is established the Child Abuse Advisory Council composed of no more
2717 than 25 members who are appointed by the division.

2718 (b) Except as required by Subsection (1)(c), as terms of current council members
2719 expire, the division shall appoint each new member or reappointed member to a four-year
2720 term.

2721 (c) Notwithstanding the requirements of Subsection (1)(b), the division shall, at the
2722 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
2723 council members are staggered so that approximately half of the council is appointed every
2724 two years.

2725 (d) The council shall have geographic, economic, gender, cultural, and philosophical
2726 diversity.

2727 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
2728 appointed for the unexpired term.

2729 (2) The council shall elect a chairperson from its membership at least biannually.

2730 (3) (a) A member of the council who is not a government employee shall receive no
2731 compensation or benefits for the member's services, but may:

2732 (i) receive per diem and expenses incurred in the performance of the member's official
2733 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
2734 63A-3-107; or

2735 (ii) decline to receive per diem and expenses for the member's service.

2736 (b) A member of the council who is a state government officer or employee and who
2737 does not receive salary, per diem, or expenses from the member's agency for the member's
2738 service may:

2739 (i) receive per diem and expenses incurred in the performance of the member's official
2740 duties from the commission at the rates established by the Division of Finance under Sections
2741 63A-3-106 and 63A-3-107; or

2742 (ii) decline to receive per diem and expenses for the member's service.

2743 (4) The council shall hold a public meeting quarterly. Within budgetary constraints,
2744 meetings may also be held on the call of the chair, or of a majority of the members. A majority
2745 of the members currently appointed to the council constitute a quorum at any meeting and the

2746 action of the majority of the members present shall be the action of the council.

2747 (5) The council shall:

2748 (a) advise the division on matters relating to abuse and neglect; and

2749 (b) recommend to the division how funds contained in the Children's [Trust] Account
2750 should be allocated.

2751 Section 57. Section **62A-15-502.5** is enacted to read:

2752 **62A-15-502.5. Intoxicated Driver Rehabilitation Account -- Created.**

2753 (1) There is created a restricted account within the General Fund known as the
2754 "Intoxicated Driver Rehabilitation Account."

2755 (2) The restricted account created in Subsection (1) consists of assessments as
2756 provided for in Section 62A-15-503.

2757 (3) Upon appropriations from the Legislature, money from the account created in
2758 Subsection (1) shall be used as prescribed in Section 62A-15-503.

2759 Section 58. Section **62A-15-503** is amended to read:

2760 **62A-15-503. Assessments for DUI -- Use of money for rehabilitation programs,**
2761 **including victim impact panels -- Rulemaking power granted.**

2762 (1) Assessments imposed under Section 62A-15-502 may, pursuant to court order,
2763 either:

2764 (a) be collected by the clerk of the court in which the person was convicted; or

2765 (b) be paid directly to the licensed alcohol or drug treatment program. Those
2766 assessments collected by the court shall either be:

2767 (i) forwarded to the state treasurer for credit to [~~a special account in the General Fund,~~
2768 ~~designated as~~] the ["Intoxicated Driver Rehabilitation Account"] created by Section
2769 62A-15-502.5; or

2770 (ii) forwarded to a special nonlapsing account created by the county treasurer of the
2771 county in which the fee is collected.

2772 (2) Proceeds of the accounts described in Subsection (1) shall be used exclusively for
2773 the operation of licensed alcohol or drug rehabilitation programs and education, assessment,

2774 supervision, and other activities related to and supporting the rehabilitation of persons
2775 convicted of driving while under the influence of intoxicating liquor or drugs. A requirement
2776 of the rehabilitation program shall be participation with a victim impact panel or program
2777 providing a forum for victims of alcohol or drug related offenses and defendants to share
2778 experiences on the impact of alcohol or drug related incidents in their lives. The Division of
2779 Substance Abuse and Mental Health shall establish guidelines to implement victim impact
2780 panels where, in the judgment of the licensed alcohol or drug program, appropriate victims are
2781 available, and shall establish guidelines for other programs where such victims are not
2782 available.

2783 (3) None of the assessments shall be maintained for administrative costs by the
2784 division.

2785 Section 59. Section **63A-5-220** is amended to read:

2786 **63A-5-220. Definitions -- Creation of Account for People with Disabilities -- Use**
2787 **of restricted account.**

2788 (1) As used in this section:

2789 (a) "Developmental center" means the Utah State Developmental Center described in
2790 Section 62A-5-201.

2791 (b) "DSPD" means the Division of Services for People with Disabilities within the
2792 Department of Human Services.

2793 [~~(c) "Fund" means the Trust Fund for People with Disabilities created by this section.~~]

2794 [~~(d)~~] (c) "Long-term lease" means:

2795 (i) a lease with a term of five years or more; or

2796 (ii) a lease with a term of less than five years that may be unilaterally renewed by the
2797 lessee.

2798 (2) Notwithstanding the provisions of Section 63A-5-215, any [~~monies~~] money
2799 received by the division or DSPD from the sale, lease, except any lease existing on May 1,
2800 1995, or other disposition of real property associated with the developmental center shall be
2801 deposited in the [~~fund~~] restricted account created in Subsection (3).

2802 (3) (a) There is created a restricted account within the General Fund [~~entitled the~~
2803 ~~"Trust Fund"~~] known as the "Account for People with Disabilities."

2804 (b) The Division of Finance shall deposit the following revenues into the [~~fund~~]
2805 restricted account:

2806 (i) revenue from the sale, lease, except any lease existing on May 1, 1995, or other
2807 disposition of real property associated with the developmental center;

2808 (ii) revenue from the sale, lease, or other disposition of water rights associated with the
2809 developmental center; and

2810 (iii) revenue from voluntary contributions made to the [~~fund~~] restricted account.

2811 (c) The state treasurer shall invest [~~monies contained~~] money in the fund according to
2812 the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and all
2813 interest shall remain with the [~~fund~~] restricted account.

2814 (d) (i) Except as provided in Subsection (3)(d)(ii), no expenditure or appropriation
2815 may be made from the [~~fund~~] restricted account.

2816 (ii) (A) The Legislature may appropriate interest earned on [~~fund monies~~] restricted
2817 account money invested pursuant to this Subsection (3)(d), leases from real property and
2818 improvements, leases from water, rents, and fees to DSPD for programs described in Title
2819 62A, Chapter 5, Services to People with Disabilities.

2820 (B) [~~Fund monies~~] Restricted account money appropriated each year under Subsection
2821 (3)(d)(ii)(A) may not be expended unless approved by the director of the Division of Services
2822 for People with Disabilities within the Department of Human Services in consultation with the
2823 executive director of the department.

2824 (4) (a) Notwithstanding the provisions of Section 65A-4-1, any sale or disposition of
2825 real property or water rights associated with the developmental center shall be conducted as
2826 provided in this Subsection (4).

2827 (b) The division shall secure the concurrence of DSPD and the approval of the
2828 governor before making the sale or other disposition of land or water rights.

2829 (c) In addition to the concurrences required by Subsection (4)(b), the division shall

2830 secure the approval of the Legislature before offering the land or water rights for sale,
2831 exchange, or long-term lease.

2832 (d) The division shall sell or otherwise dispose of the land or water rights as directed
2833 by the governor.

2834 (e) The division may not sell, exchange, or enter into a long-term lease of the land or
2835 water rights for a price or estimated value below the average of two appraisals conducted by an
2836 appraiser who holds an appraiser's certificate or license issued by the Division of Real Estate
2837 under Title 61, Chapter 2b, Real Estate Appraiser Licensing and Certification Act.

2838 Section 60. Section **63B-10-401** is amended to read:

2839 **63B-10-401. Other capital facility authorizations and intent language.**

2840 (1) It is the intent of the Legislature that:

2841 (a) Utah State University use institutional funds to plan, design, and construct an
2842 expansion of the HPER Building under the direction of the director of the Division of
2843 Facilities Construction and Management unless supervisory authority has been delegated;

2844 (b) no state funds be used for any portion of this project; and

2845 (c) the university may request state funds for operations and maintenance to the extent
2846 that the university is able to demonstrate to the Board of Regents that the facility meets
2847 approved academic and training purposes under Board of Regents policy R710.

2848 (2) It is the intent of the Legislature that:

2849 (a) the University of Utah use institutional funds to plan, design, and construct the
2850 Moran Eye Center II project under the direction of the director of the Division of Facilities
2851 Construction and Management unless supervisory authority has been delegated;

2852 (b) no state funds be used for any portion of this project; and

2853 (c) the university may request state funds for operations and maintenance to the extent
2854 that the university is able to demonstrate to the Board of Regents that the facility meets
2855 approved academic and training purposes under Board of Regents policy R710.

2856 (3) It is the intent of the Legislature that:

2857 (a) the University of Utah use institutional funds to plan, design, and construct the E.

2858 E. Jones Medical Science Addition under the direction of the director of the Division of
2859 Facilities Construction and Management unless supervisory authority has been delegated;

2860 (b) no state funds be used for any portion of this project; and

2861 (c) the university may request state funds for operations and maintenance to the extent
2862 that the university is able to demonstrate to the Board of Regents that the facility meets
2863 approved academic and training purposes under Board of Regents policy R710.

2864 (4) It is the intent of the Legislature that:

2865 (a) the University of Utah use institutional funds to plan, design, and construct a
2866 Museum of Natural History under the direction of the director of the Division of Facilities
2867 Construction and Management unless supervisory authority has been delegated;

2868 (b) no state funds be used for any portion of this project; and

2869 (c) the university may request state funds for operations and maintenance to the extent
2870 that the university is able to demonstrate to the Board of Regents that the facility meets
2871 approved academic and training purposes under Board of Regents policy R710.

2872 (5) It is the intent of the Legislature that:

2873 (a) Dixie College use institutional funds to plan, design, and construct the Hurricane
2874 Education Center under the direction of the director of the Division of Facilities Construction
2875 and Management unless supervisory authority has been delegated;

2876 (b) no state funds be used for any portion of this project; and

2877 (c) the college may request state funds for operations and maintenance to the extent
2878 that the university is able to demonstrate to the Board of Regents that the facility meets
2879 approved academic and training purposes under Board of Regents policy R710.

2880 (6) It is the intent of the Legislature that:

2881 (a) Southern Utah University use institutional funds to plan, design, and construct the
2882 Shakespearean Festival Center under the direction of the director of the Division of Facilities
2883 Construction and Management unless supervisory authority has been delegated;

2884 (b) no state funds be used for any portion of this project; and

2885 (c) the college may not request state funds for operations and maintenance.

2886 (7) It is the intent of the Legislature that:

2887 (a) the Department of Corrections use donations to plan, design, and construct the
2888 Wasatch Family History Center under the direction of the director of the Division of Facilities
2889 Construction and Management unless supervisory authority has been delegated;

2890 (b) no state funds be used for any portion of this project; and

2891 (c) the department may request state funds for operations and maintenance.

2892 (8) It is the intent of the Legislature that:

2893 (a) the Department of Workforce Services use \$1,186,700 from its Special
2894 Administrative Expense [~~Fund~~] Account created in Section 35A-4-506 to plan, design, and
2895 construct an addition to the Cedar City Employment Center under the direction of the director
2896 of the Division of Facilities Construction and Management unless supervisory authority has
2897 been delegated; and

2898 (b) the department may request state funds for operations and maintenance.

2899 (9) It is the intent of the Legislature that the Division of Facilities Construction and
2900 Management, acting on behalf of the Department of Natural Resources, may enter into a lease
2901 purchase agreement with Carbon County to provide needed space for agency programs in the
2902 area if the Department of Natural Resources obtains the approval of the State Building Board
2903 by demonstrating that the lease purchase will be a benefit to the state and that the lease,
2904 including operation and maintenance costs, can be funded within existing agency budgets.

2905 Section 61. Section **63J-1-104** is amended to read:

2906 **63J-1-104. Revenue types -- Disposition of funds collected or credited by a state**
2907 **agency.**

2908 (1) (a) The Division of Finance shall:

2909 (i) account for revenues in accordance with generally accepted accounting principles;

2910 and

2911 (ii) use the major revenue types in internal accounting.

2912 (b) Each agency shall:

2913 (i) use the major revenue types to account for revenues;

- 2914 (ii) deposit revenues and other public funds received by them by following the
2915 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
2916 (iii) expend revenues and public funds as required by this chapter.
- 2917 (2) (a) Each agency shall deposit its free revenues into the appropriate fund.
2918 (b) An agency may expend free revenues up to the amount specifically appropriated by
2919 the Legislature.
- 2920 (c) Any free revenue funds appropriated by the Legislature to an agency that remain
2921 unexpended at the end of the fiscal year lapse to the source fund unless the Legislature
2922 provides by law that those funds are nonlapsing.
- 2923 (3) (a) Each agency shall deposit its restricted revenues into ~~[a]~~ the applicable
2924 restricted account or fund.
- 2925 (b) Revenues in a restricted account or fund do not lapse to another account or fund
2926 unless otherwise specifically provided for by law or legislative appropriation.
- 2927 ~~[(b)]~~ (c) The Legislature may appropriate restricted revenues from a restricted account
2928 or fund for the specific purpose or program designated by law.
- 2929 ~~[(c)]~~ (d) If the fund equity of a restricted account or fund is insufficient to provide the
2930 ~~[funds]~~ accounts appropriated from it by the Legislature, the Division of Finance may reduce
2931 the appropriation to a level that ensures that the fund equity is not less than zero.
- 2932 ~~[(d)]~~ (e) Any restricted ~~[revenue funds]~~ revenues appropriated by the Legislature to an
2933 agency that remain unexpended at the end of the fiscal year lapse to the applicable restricted
2934 account or fund unless the Legislature provides by law that those ~~[funds]~~ appropriations, or the
2935 program or line item financed by those ~~[funds]~~ appropriations, are nonlapsing.
- 2936 (4) (a) An agency may expend dedicated credits for any purpose within the program or
2937 line item.
- 2938 (b) (i) Except as provided in Subsection (4)(b)(ii), an agency may not expend
2939 dedicated credits in excess of the amount appropriated as dedicated credits by the Legislature.
- 2940 (ii) In order to expend dedicated credits in excess of the amount appropriated as
2941 dedicated credits by the Legislature, the following procedure shall be followed:

- 2942 (A) The agency seeking to make the excess expenditure shall:
- 2943 (I) develop a new work program that:
- 2944 (Aa) consists of the currently approved work program and the excess expenditure
- 2945 sought to be made; and
- 2946 (Bb) complies with the requirements of Section 63J-2-202;
- 2947 (II) prepare a written justification for the new work program that sets forth the purpose
- 2948 and necessity of the excess expenditure; and
- 2949 (III) submit the new work program and the written justification for the new work
- 2950 program to the Division of Finance.
- 2951 (B) The Division of Finance shall process the new work program with written
- 2952 justification and make this information available to the Governor's Office of Planning and
- 2953 Budget and the legislative fiscal analyst.
- 2954 (iii) An expenditure of dedicated credits in excess of amounts appropriated as
- 2955 dedicated credits by the Legislature may not be used to permanently increase personnel within
- 2956 the agency unless:
- 2957 (A) the increase is approved by the Legislature; or
- 2958 (B) the monies are deposited as dedicated credits in:
- 2959 (I) the Drug Stamp Tax Fund under Section 59-19-105; or
- 2960 (II) a line item covering tuition or federal vocational funds at an institution of higher
- 2961 education.
- 2962 (c) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal
- 2963 year unless the Legislature has designated the entire program or line item that is partially or
- 2964 fully funded from dedicated credits as nonlapsing.
- 2965 (ii) The Division of Finance shall determine the appropriate fund into which the
- 2966 dedicated credits lapse.
- 2967 (5) (a) The Legislature may establish by law the maximum amount of fixed collections
- 2968 that an agency may expend.
- 2969 (b) If an agency receives less than the maximum amount of expendable fixed

2970 collections established by law, the agency's authority to expend is limited to the amount of
2971 fixed collections that it receives.

2972 (c) If an agency receives fixed collections greater than the maximum amount of
2973 expendable fixed collections established by law, those excess amounts lapse to the General
2974 Fund, the Education Fund, [~~the Uniform School Fund, or~~] the Transportation Fund, or the
2975 Transportation Investment Fund of 2005 as designated by the director of the Division of
2976 Finance at the end of the fiscal year.

2977 (6) Unless otherwise specifically provided by law, when an agency has a program or
2978 line item that is funded by more than one major revenue type:

2979 (a) the agency shall expend its dedicated credits and fixed collections first; and

2980 (b) if the program or line item includes both free revenue and restricted revenue, an
2981 agency shall expend those revenues based upon a proration of the amounts appropriated from
2982 each of those major revenue types.

2983 Section 62. Section **63J-1-602** is amended to read:

2984 **63J-1-602. Nonlapsing accounts and funds.**

2985 (1) The following revenue collections, appropriations from a fund or account, and
2986 appropriations to a program are nonlapsing:

2987 (a) appropriations made to the Legislature and its committees;

2988 (b) funds collected by the grain grading program, as provided in Section 4-2-2;

2989 (c) the Salinity Offset Fund created in Section 4-2-8.5;

2990 (d) the Invasive Species Mitigation [~~Fund~~] Account created in Section 4-2-8.7;

2991 (e) funds collected by pesticide dealer license registration fees, as provided in Section
2992 4-14-3;

2993 (f) funds collected by pesticide applicator business registration fees, as provided in
2994 Section 4-14-13;

2995 (g) the Rangeland Improvement [~~Fund~~] Account created in Section 4-20-2;

2996 (h) funds deposited as dedicated credits under the Insect Infestation Emergency
2997 Control Act, as provided in Section 4-35-6;

- 2998 (i) the Percent-for-Art Program created in Section 9-6-404;
- 2999 (j) the Centennial History Fund created in Section 9-8-604;
- 3000 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;
- 3001 (l) the Navajo Revitalization Fund created in Section 9-11-104;
- 3002 (m) the LeRay McAllister Critical Land Conservation Program created in Section
3003 11-38-301;
- 3004 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;
- 3005 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided
3006 in Section 19-6-120;
- 3007 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and
3008 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;
- 3009 (q) award monies under the Crime Reduction Assistance Program, as provided under
3010 Section 24-1-19;
- 3011 (r) funds collected from the emergency medical services grant program, as provided in
3012 Section 26-8a-207;
- 3013 (s) fees and other funding available to purchase training equipment and to administer
3014 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;
- 3015 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the
3016 federal Social Security Act, as provided in Section 26-18-3;
- 3017 (u) the Utah Health Care Workforce Financial Assistance Program created in Section
3018 26-46-102;
- 3019 (v) monies collected from subscription fees for publications prepared or distributed by
3020 the insurance commissioner, as provided in Section 31A-2-208;
- 3021 (w) monies received by the Insurance Department for administering, investigating
3022 under, and enforcing the Insurance Fraud Act, as provided in Section 31A-31-108;
- 3023 (x) certain monies received for penalties paid under the Insurance Fraud Act, as
3024 provided in Section 31A-31-109;
- 3025 (y) the fund for operating the state's Federal Health Care Tax Credit Program, as

3026 provided in Section 31A-38-104;

3027 (z) certain funds in the Department of Workforce Services' program for the education,
3028 training, and transitional counseling of displaced homemakers, as provided in Section
3029 35A-3-114;

3030 (aa) the Employment Security Administration [~~Fund~~] Account created in Section
3031 35A-4-505;

3032 (bb) the Special Administrative Expense [~~Fund~~] Account created in Section
3033 35A-4-506;

3034 (cc) funding for a new program or agency that is designated as nonlapsing under
3035 Section 36-24-101;

3036 (dd) the Oil and Gas Conservation Account created in Section 40-6-14.5;

3037 (ee) funds available to the State Tax Commission for purchase and distribution of
3038 license plates and decals, as provided in Section 41-1a-1201;

3039 (ff) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
3040 provided in Section 41-1a-1221;

3041 (gg) certain fees collected for administering and enforcing the Motor Vehicle Business
3042 Regulation Act, as provided in Section 41-3-601;

3043 (hh) certain fees for the cost of electronic payments under the Motor Vehicle Business
3044 Regulation Act, as provided in Section 41-3-604;

3045 (ii) the Off-Highway Access and Education Restricted Account created in Section
3046 41-22-19.5;

3047 (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
3048 provided in Section 41-22-36;

3049 (kk) monies collected under the Notaries Public Reform Act, as provided under
3050 46-1-23;

3051 (ll) certain funds associated with the Law Enforcement Operations Account, as
3052 provided in Section 51-9-411;

3053 (mm) the Public Safety Honoring Heroes Restricted Account created in Section

3054 53-1-118;

3055 (nn) funding for the Search and Rescue Financial Assistance Program, as provided in
3056 Section 53-2-107;

3057 (oo) appropriations made to the Department of Public Safety from the Department of
3058 Public Safety Restricted Account, as provided in Section 53-3-106;

3059 (pp) appropriations to the Motorcycle Rider Education Program, as provided in
3060 Section 53-3-905;

3061 (qq) fees collected by the State Fire Marshal Division under the Utah Fire Prevention
3062 and Safety Act, as provided in Section 53-7-314;

3063 (rr) the DNA Specimen Restricted Account created in Section 53-10-407;

3064 (ss) the minimum school program, as provided in Section 53A-17a-105;

3065 (tt) certain funds appropriated from the Uniform School Fund to the State Board of
3066 Education for new teacher bonus and performance-based compensation plans, as provided in
3067 Section 53A-17a-148;

3068 (uu) certain funds appropriated from the Uniform School Fund to the State Board of
3069 Education for implementation of proposals to improve mathematics achievement test scores,
3070 as provided in Section 53A-17a-152;

3071 (vv) the School Building Revolving Account created in Section 53A-21-401;

3072 (ww) monies received by the State Office of Rehabilitation for the sale of certain
3073 products or services, as provided in Section 53A-24-105;

3074 (xx) the State Board of Regents, as provided in Section 53B-6-104;

3075 (yy) certain funds appropriated from the General Fund to the State Board of Regents
3076 for teacher preparation programs, as provided in Section 53B-6-104;

3077 (zz) a certain portion of monies collected for administrative costs under the School
3078 Institutional Trust Lands Management Act, as provided under Section 53C-3-202;

3079 (aaa) certain surcharges on residence and business telecommunications access lines
3080 imposed by the Public Service Commission, as provided in Section 54-8b-10;

3081 (bbb) certain fines collected by the Division of Occupational and Professional

3082 Licensing for violation of unlawful or unprofessional conduct that are used for education and
3083 enforcement purposes, as provided in Section 58-17b-505;

3084 (ccc) the Nurse Education and Enforcement [~~Fund~~] Account created in Section
3085 58-31b-103;

3086 (ddd) funding of the controlled substance database, as provided in Section 58-37-7.7;

3087 (eee) the Certified Nurse Midwife Education and Enforcement [~~Fund~~] Account created
3088 in Section 58-44a-103;

3089 (fff) funding for the building inspector's education program, as provided in Section
3090 58-56-9;

3091 (ggg) certain fines collected by the Division of Occupational and Professional
3092 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
3093 provided in Section 58-63-103;

3094 (hhh) the Professional Geologist Education and Enforcement [~~Fund~~] Account created
3095 in Section 58-76-103;

3096 (iii) certain monies in the Water Resources Conservation and Development Fund, as
3097 provided in Section 59-12-103;

3098 (jjj) funds paid to the Division of Real Estate for the cost of a criminal background
3099 check for broker and sales agent licenses, as provided in Section 61-2-9;

3100 (kkk) the Utah Housing Opportunity Restricted Account created in Section 61-2-28;

3101 (lll) funds paid to the Division of Real Estate for the cost of a criminal background
3102 check for a mortgage loan license, as provided in Section 61-2c-202;

3103 (mmm) funds paid to the Division of Real Estate in relation to examination of records
3104 in an investigation, as provided in Section 61-2c-401;

3105 (nnn) certain funds donated to the Department of Human Services, as provided in
3106 Section 62A-1-111;

3107 (ooo) certain funds donated to the Division of Child and Family Services, as provided
3108 in Section 62A-4a-110;

3109 (ppp) the Mental Health Therapist Grant and Scholarship Program, as provided in

3110 Section 62A-13-109;

3111 (qqq) assessments for DUI violations that are forwarded to an account created by a
3112 county treasurer, as provided in Section 62A-15-503;

3113 (rrr) appropriations to the Division of Services for People with Disabilities, as
3114 provided in Section 62A-5-102;

3115 (sss) certain donations to the Division of Substance Abuse and Mental Health, as
3116 provided in Section 62A-15-103;

3117 (ttt) certain funds received by the Division of Parks and Recreation from the sale or
3118 disposal of buffalo, as provided under Section 63-11-19.2;

3119 (uuu) revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
3120 Park, or Jordan River State Park, as provided under Section 63-11-19.5;

3121 (vvv) revenue for golf user fees at the Green River State Park, as provided under
3122 Section 63-11-19.6;

3123 (www) the Centennial Nonmotorized Paths and Trail Crossings Program created under
3124 Section 63-11a-503;

3125 (xxx) the Bonneville Shoreline Trail Program created under Section 63-11a-504;

3126 (yyy) the account for the Utah Geological Survey, as provided in Section 63-73-10;

3127 (zzz) the Risk Management Fund created under Section 63A-4-201;

3128 (aaaa) the Child Welfare Parental Defense Fund created in Section 63A-11-203;

3129 (bbbb) the Constitutional Defense Restricted Account created in Section 63C-4-103;

3130 (cccc) a portion of the funds appropriated to the Utah Seismic Safety Commission, as
3131 provided in Section 63C-6-104;

3132 (dddd) funding for the Medical Education Program administered by the Medical
3133 Education Council, as provided in Section 63C-8-102;

3134 (eeee) certain monies payable for commission expenses of the Pete Suazo Utah
3135 Athletic Commission, as provided under Section 63C-11-301;

3136 (ffff) funds collected for publishing the Division of Administrative Rules'
3137 publications, as provided in Section 63G-3-402;

3138 (gggg) the appropriation to fund the Governor's Office of Economic Development's
3139 Enterprise Zone Act, as provided in Section 63M-1-416;
3140 (hhhh) the Tourism Marketing Performance Account, as provided in Section
3141 63M-1-1406;
3142 (iiii) certain funding for rural development provided to the Office of Rural
3143 Development in the Governor's Office of Economic Development, as provided in Section
3144 63M-1-1604;
3145 (jjjj) certain monies in the Development for Disadvantaged Rural Communities
3146 Restricted Account, as provided in Section 63M-1-2003;
3147 (kkkk) appropriations to the Utah Science Technology and Research Governing
3148 Authority, created under Section 63M-2-301, as provided under Section 63M-3-302;
3149 (llll) certain monies in the Rural Broadband Service ~~[Fund]~~ Account, as provided in
3150 Section 63M-1-2303;
3151 (mmmm) funds collected from monthly offender supervision fees, as provided in
3152 Section 64-13-21.2;
3153 (nnnn) funds collected by the housing of state probationary inmates or state parole
3154 inmates, as provided in Subsection 64-13e-104(2);
3155 (oooo) the Sovereign Lands Management account created in Section 65A-5-1;
3156 (pppp) certain forestry and fire control funds utilized by the Division of Forestry, Fire,
3157 and State Lands, as provided in Section 65A-8-103;
3158 (qqqq) the Department of Human Resource Management user training program, as
3159 provided in Section 67-19-6;
3160 (rrrr) funds for the University of Utah Poison Control Center program, as provided in
3161 Section 69-2-5.5;
3162 (ssss) appropriations to the Transportation Corridor Preservation Revolving Loan
3163 Fund, as provided in Section 72-2-117;
3164 (tttt) appropriations to the Local Transportation Corridor Preservation Fund, as
3165 provided in Section 72-2-117.5;

3166 (uuuu) appropriations to the Tollway [~~Restricted~~] Special Revenue Fund, as provided
3167 in Section 77-2-120;

3168 (vvvv) appropriations to the Aeronautics Construction Revolving Loan Fund, as
3169 provided in Section 77-2-122;

3170 (www) appropriations to the State Park Access Highways Improvement Program, as
3171 provided in Section 72-3-207;

3172 (xxxx) the Traffic Noise Abatement Program created in Section 72-6-112;

3173 (yyyy) certain funds received by the Office of the State Engineer for well drilling fines
3174 or bonds, as provided in Section 73-3-25;

3175 (zzzz) certain monies appropriated to increase the carrying capacity of the Jordan
3176 River that are transferred to the Division of Parks and Recreation, as provided in Section
3177 73-10e-1;

3178 (aaaa) certain fees for the cost of electronic payments under the State Boating Act, as
3179 provided in Section 73-18-25;

3180 (bbbb) certain monies appropriated from the Water Resources Conservation and
3181 Development Fund, as provided in Section 73-23-2;

3182 (cccc) the Lake Powell Pipeline Project Operation and Maintenance Fund created in
3183 Section 73-28-404;

3184 (dddd) certain funds in the Water Development and Flood Mitigation Reserve
3185 Account, as provided in Section 73-103-1;

3186 (eeee) certain funds appropriated for compensation for special prosecutors, as
3187 provided in Section 77-10a-19;

3188 (ffff) the Indigent Aggravated Murder Defense Trust Fund created in Section
3189 77-32-601;

3190 (gggg) the Indigent Felony Defense Trust Fund created in Section 77-32-701;

3191 (hhhh) funds donated or paid to a juvenile court by private sources, as provided in
3192 Subsection 78A-6-203(1)(c);

3193 (iiii) a state rehabilitative employment program, as provided in Section 78A-6-210;

3194 and

3195 (jjjj) fees from the issuance and renewal of licenses for certified court interpreters, as
 3196 provided in Section 78B-1-146.

3197 (2) No revenue collection, appropriation from a fund or account, or appropriation to a
 3198 program may be treated as nonlapsing unless:

3199 (a) it is expressly referenced by this section;

3200 (b) it is designated in a condition of appropriation in the appropriations bill; or

3201 (c) nonlapsing authority is granted under Section 63J-1-603.

3202 (3) Each legislative appropriations subcommittee shall review the accounts and funds
 3203 that have been granted nonlapsing authority under this section or Section 63J-1-603.

3204 Section 63. Section **63J-6-203** is amended to read:

3205 **63J-6-203. Redemption account -- Creation -- Sources -- Use -- Investment --**
 3206 **Income.**

3207 (1) There is created a [~~special fund to be known as~~] restricted account within the
 3208 General Fund known as the "Tax and Revenue Anticipation Note Redemption [~~Fund,~~ referred
 3209 ~~to in this chapter as the "redemption fund."~~] Account." When any notes have been issued in
 3210 anticipation of income or revenue under this chapter, not less than two days before the
 3211 principal and interest on the notes comes due, income or revenue realized from the tax or
 3212 nontax sources specified in the approved plan of financing to be anticipated or from any other
 3213 source [~~or sources of monies~~] of money legally available for such purpose shall be placed in
 3214 the [~~redemption fund~~] restricted account so that the amount in the [~~redemption fund~~] restricted
 3215 account is sufficient to pay the principal amount of all notes outstanding, together with interest
 3216 on them.

3217 (2) The money in the [~~redemption fund~~] restricted account is appropriated solely for
 3218 the payment of the principal of and interest on the notes issued under this chapter. The
 3219 payment of the principal and interest on the notes issued under this chapter is not limited
 3220 solely to the income and revenues from the specific tax or nontax sources in anticipation of
 3221 which the notes were issued. Accrued interest received upon the sale of the notes shall be

3222 deposited by the state treasurer in the [~~redemption fund~~] restricted account.

3223 (3) The state treasurer may invest all money in the [~~redemption fund~~] restricted
3224 account in accordance with Title 51, Chapter 7, State Money Management Act [~~of 1974~~],
3225 maturing at a time which will permit payment of the principal of and interest on the notes in a
3226 timely manner when due. The state treasurer may covenant with the purchasers of the notes as
3227 to the manner of holding money in the [~~redemption fund~~] restricted account, the investment of
3228 money in the [~~redemption fund~~] restricted account, and the disposition of any investment
3229 income therefrom by retaining investment income in the [~~redemption fund~~] restricted account
3230 to be used to pay principal of and interest on notes when due or by paying the investment
3231 income to the state treasurer for deposit into the General Fund. If there is sufficient money in
3232 the [~~redemption fund~~] restricted account to pay all principal of and interest on all outstanding
3233 notes payable therefrom, all investment income on it shall be paid to the state treasurer for
3234 deposit into the General Fund.

3235 Section 64. Section **63M-1-902** is amended to read:

3236 **63M-1-902. Definitions.**

3237 As used in this part:

- 3238 (1) "Administrator" means the director or the director's designee.
- 3239 (2) "Board" means the Board of Business and Economic Development.
- 3240 (3) "Company creating an economic impediment" means a company that discourages
3241 economic development within a reasonable radius of its location because of:
- 3242 (a) odors;
 - 3243 (b) noise;
 - 3244 (c) pollution;
 - 3245 (d) health hazards; or
 - 3246 (e) other activities similar to those described in Subsections (3)(a) through (d).
- 3247 (4) "Economic opportunities" means unique business situations or community
3248 circumstances which lend themselves to the furtherance of the economic interests of the state
3249 by providing a catalyst or stimulus to the growth or retention, or both, of commerce and

3250 industry in the state.

3251 (5) "Economically disadvantaged rural area" means a geographic area designated by
3252 the board under Section 63M-1-910.

3253 [~~(7)~~ (6) "Replacement company" means a company locating its business or part of its
3254 business in a location vacated by a company creating an economic impediment.

3255 [~~(6)~~ "Fund"] (7) "Restricted Account" means the restricted account known as the
3256 Industrial Assistance [~~Fund~~] Account created in Section 63M-1-903.

3257 (8) "Targeted industry" means an industry or group of industries targeted by the board
3258 under Section 63M-1-910, for economic development in the state.

3259 Section 65. Section **63M-1-903** is amended to read:

3260 **63M-1-903. Industrial Assistance Account created.**

3261 (1) There is created [~~within the General Fund~~] a restricted account within the General
3262 Fund known as the "Industrial Assistance [~~Fund~~] Account" of which:

3263 (a) up to 50% shall be used in economically disadvantaged rural areas; and

3264 (b) up to 20% may be used to take timely advantage of economic opportunities as they
3265 arise.

3266 (2) The [~~fund~~] restricted account shall be administered by the administrator under the
3267 policy direction of the board.

3268 (3) The administrator may hire appropriate support staff.

3269 (4) The cost of administering the [~~fund~~] restricted account shall be paid from [~~monies~~]
3270 money in the [~~fund~~] restricted account.

3271 (5) Interest accrued from investment of [~~monies~~] money in the [~~fund~~] restricted
3272 account shall remain in the [~~fund~~] restricted account.

3273 Section 66. Section **63M-1-904** is amended to read:

3274 **63M-1-904. Rural Fast Track Program -- Creation -- Funding -- Qualifications**
3275 **for program participation -- Awards -- Reports.**

3276 (1) (a) There is created the Rural Fast Track Program, hereafter referred to in this
3277 section as "the program."

3278 (b) The program is a funded component of the economically disadvantaged rural areas
3279 designation in Subsection 63M-1-903(1)(a).

3280 (2) The purpose of the program is to provide an efficient way for small companies in
3281 rural Utah to receive incentives for creating high paying jobs in the rural areas of the state and
3282 to further promote business and economic development in rural Utah.

3283 (3) (a) Twenty percent of the money in the Industrial Assistance [~~Fund~~] Account at the
3284 beginning of each fiscal year shall be used to fund the program.

3285 (b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up
3286 to 50% designation for economically disadvantaged rural areas referred to in Subsection
3287 63M-1-903(1)(a).

3288 (c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in
3289 the program by the end of the third quarter of each fiscal year, that money may be used for any
3290 other loan, grant, or assistance program offered through the Industrial Assistance [~~Fund~~]
3291 Account during the fiscal year.

3292 (4) (a) To qualify for participation in the program a company shall:

3293 (i) complete and file with the office an application for participation in the program,
3294 signed by an officer of the company;

3295 (ii) be located and conduct its business operations in a county in the state that has:

3296 (A) a population of less than 30,000; and

3297 (B) an average household income of less than \$60,000 as reflected in the most recently
3298 available data collected and reported by the United States Census Bureau;

3299 (iii) have been in business in the state for at least two years; and

3300 (iv) have at least two employees.

3301 (b) (i) Office staff shall verify an applicant's qualifications under Subsection (4)(a).

3302 (ii) The application must be approved by the administrator in order for a company to
3303 receive an incentive or other assistance under this section.

3304 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3305 administrator may make rules governing:

- 3306 (i) the content of the application form referred to in Subsection (4)(a)(i);
- 3307 (ii) who qualifies as an employee under Subsection (4)(a)(iv); and
- 3308 (iii) the verification procedure referred to in Subsection (4)(b).

3309 (5) (a) The administrator shall make incentive cash awards to small companies under
3310 this section based on the following criteria:

3311 (i) \$1,000 for each new incremental job that pays over 110% of the county's average
3312 annual wage;

3313 (ii) \$1,250 for each incremental job that pays over 115% of the county's average
3314 annual wage; and

3315 (iii) \$1,500 for each incremental job that pays over 125% of the county's average
3316 annual wage.

3317 (b) The administrator shall make a cash award under Subsection (5)(a) when a new
3318 incremental job has been in place for at least 12 months.

3319 (c) The creation of a new incremental job by a company is based on the number of
3320 employees at the company during the previous 24 months.

3321 (d) (i) A small company may also apply for grants, loans, or other financial assistance
3322 under the program to help develop its business in rural Utah and may receive up to \$50,000
3323 under the program if approved by the administrator.

3324 (ii) The board must approve a distribution that exceeds the \$50,000 cap under
3325 Subsection (5)(d)(i).

3326 (6) The administrator shall make a quarterly report to the board of the awards made by
3327 the administrator under this section and an annual report to the Legislative Workforce Services
3328 and Community and Economic Development Interim Committee as to the awards and their
3329 impact on economic development in the state's rural areas.

3330 Section 67. Section **63M-1-905** is amended to read:

3331 **63M-1-905. Loans, grants, and assistance -- Repayment -- Earned credits.**

3332 (1) (a) A company that qualifies under Section 63M-1-906 may receive loans, grants,
3333 or other financial assistance from the ~~[fund]~~ Industrial Assistance Account for expenses

3334 related to establishment, relocation, or development of industry in Utah.

3335 (b) A company creating an economic impediment that qualifies under Section
3336 63M-1-908 may in accordance with this part receive loans, grants, or other financial assistance
3337 from the [fund] restricted account for the expenses of the company creating an economic
3338 impediment related to:

3339 (i) relocation to a rural area in Utah of the company creating an economic
3340 impediment; and

3341 (ii) the siting of a replacement company.

3342 (c) An entity offering an economic opportunity that qualifies under Section
3343 63M-1-909 may:

3344 (i) receive loans, grants, or other financial assistance from the [fund] restricted
3345 account for expenses related to the establishment, relocation, retention, or development of
3346 industry in the state; and

3347 (ii) include infrastructure or other economic development precursor activities that act
3348 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
3349 enlargement of the state's tax base.

3350 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the
3351 structure, amount, and nature of any loan, grant, or other financial assistance from the [fund]
3352 restricted account.

3353 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
3354 or return to the state, including cash or credit, equals at least the amount of the assistance
3355 together with an annual interest charge as negotiated by the administrator.

3356 (c) Payments resulting from grants awarded from the [fund] restricted account shall be
3357 made only after the administrator has determined that the company has satisfied the conditions
3358 upon which the payment or earned credit was based.

3359 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
3360 system of earned credits that may be used to support grant payments or in lieu of cash
3361 repayment of a [fund] restricted account loan obligation.

3362 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
3363 determined by the administrator, including:

- 3364 (A) the number of Utah jobs created;
- 3365 (B) the increased economic activity in Utah; or
- 3366 (C) other events and activities that occur as a result of the ~~[fund]~~ restricted account
3367 assistance.

3368 (b) (i) The administrator shall provide for a system of credits to be used to support
3369 grant payments or in lieu of cash repayment of a ~~[fund]~~ restricted account loan when loans are
3370 made to a company creating an economic impediment.

3371 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
3372 determined by the administrator, including:

- 3373 (A) the number of Utah jobs created;
- 3374 (B) the increased economic activity in Utah; or
- 3375 (C) other events and activities that occur as a result of the ~~[fund]~~ restricted account
3376 assistance.

3377 (4) (a) A cash loan repayment or other cash recovery from a company receiving
3378 assistance under this section, including interest, shall be deposited into the ~~[fund]~~ restricted
3379 account.

3380 (b) The administrator and the Division of Finance shall determine the manner of
3381 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
3382 grant payments as provided in Subsection (3).

3383 (5) (a) At the end of each fiscal year, the unrestricted, undesignated General Fund
3384 balance after the transfers of surplus of General Fund revenues described in this Subsection
3385 (5)(a) shall be earmarked to the Industrial Assistance ~~[Fund]~~ Account in an amount equal to
3386 any credit that has accrued under this part. The earmark required by this Subsection (5)(a)
3387 shall be made after the transfer of surplus General Fund revenues is made:

- 3388 (i) to the General Fund Budget Reserve Account as provided in Section 63J-1-312;
- 3389 and

3390 (ii) beginning with the fiscal year ending June 30, 2007, as provided in Section
3391 63J-1-314.

3392 (b) These credit amounts may not be used for purposes of the [fund] restricted account
3393 as provided in this part until appropriated by the Legislature.

3394 Section 68. Section **63M-1-906** is amended to read:

3395 **63M-1-906. Qualification for assistance.**

3396 (1) Except as provided in Section 63M-1-908 or 63M-1-909, the administrator shall
3397 determine which industries, companies, and individuals qualify to receive monies from the
3398 [fund] Industrial Assistance Account. Except as provided by Subsection (2), to qualify for
3399 financial assistance from the [fund] restricted account, an applicant shall:

3400 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
3401 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
3402 proportional with monies provided from the [fund] restricted account at a minimum ratio of 2
3403 to 1 per year or other more stringent requirements as established from time to time by the
3404 board for a minimum period of five years beginning with the date the loan or grant was
3405 approved;

3406 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
3407 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
3408 loan provided by the [fund] restricted account; and

3409 (c) satisfy other criteria the administrator considers appropriate.

3410 (2) (a) The administrator may exempt an applicant from the requirements of
3411 Subsection (1)(a) or (b) if:

3412 (i) the financial assistance is provided to an applicant for the purpose of locating all or
3413 any portion of its operations to an economically disadvantaged rural area;

3414 (ii) the applicant is part of a targeted industry;

3415 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
3416 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
3417 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide

3418 significant economic stimulus to the growth of commerce and industry in the state; or
3419 (iv) the applicant is an entity offering an economic opportunity under Section
3420 63M-1-909.

3421 (b) The administrator may not exempt the applicant from the requirement under
3422 Subsection 63M-1-905(2)(b) that the loan be structured so that the repayment or return to the
3423 state equals at least the amount of the assistance together with an annual interest charge.

3424 (3) The administrator shall:

3425 (a) for applicants not described in Subsection (2)(a):

3426 (i) make findings as to whether or not each applicant has satisfied each of the
3427 conditions set forth in Subsection (1); and

3428 (ii) monitor the continued compliance by each applicant with each of the conditions
3429 set forth in Subsection (1) for five years;

3430 (b) for applicants described in Subsection (2)(a), make findings as to whether the
3431 economic activities of each applicant has resulted in the creation of new jobs on a per capita
3432 basis in the economically disadvantaged rural area or targeted industry in which the applicant
3433 is located;

3434 (c) monitor the compliance by each applicant with the provisions of any contract or
3435 agreement entered into between the applicant and the state as provided in Section 63M-1-907;
3436 and

3437 (d) make funding decisions based upon appropriate findings and compliance.

3438 Section 69. Section **63M-1-908** is amended to read:

3439 **63M-1-908. Financial assistance to companies that create economic**
3440 **impediments.**

3441 (1) (a) The administrator may provide monies from the [~~fund~~] Industrial Assistance
3442 Account to a company creating an economic impediment if that company:

3443 (i) applies to the administrator;

3444 (ii) relocates to a rural area in Utah; and

3445 (iii) meets the qualifications of Subsection (1)(b).

3446 (b) Except as provided by Subsection (2), to qualify for financial assistance from the
3447 ~~[fund]~~ restricted account, a company creating an economic impediment shall:

3448 (i) demonstrate to the satisfaction of the administrator that the company creating an
3449 economic impediment, its replacement company, or in the aggregate the company creating the
3450 economic impediment and its replacement company:

3451 (A) will expend funds in Utah with employees, vendors, subcontractors, or other
3452 businesses in an amount proportional with monies provided from the ~~[fund]~~ restricted account
3453 at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from
3454 time to time by the board for a minimum period of five years beginning with the date the loan
3455 or grant was approved; and

3456 (B) can sustain economic activity in the state sufficient to repay, by means of cash or
3457 appropriate credits, the loan provided by the ~~[fund]~~ restricted account; and

3458 (ii) satisfy other criteria the administrator considers appropriate.

3459 (2) (a) The administrator may exempt a company creating an economic impediment
3460 from the requirements of Subsection (1)(b)(i)(A) if:

3461 (i) the financial assistance is provided to a company creating an economic impediment
3462 for the purpose of locating all or any portion of its operations to an economically
3463 disadvantaged rural area; or

3464 (ii) its replacement company is part of a targeted industry.

3465 (b) The administrator may not exempt a company creating an economic impediment
3466 from the requirement under Subsection 63M-1-905(2)(b) that the loan be structured so that the
3467 repayment or return to the state equals at least the amount of the assistance together with an
3468 annual interest charge.

3469 (3) The administrator shall:

3470 (a) make findings as to whether or not a company creating an economic impediment,
3471 its replacement company, or both, have satisfied each of the conditions set forth in Subsection
3472 (1);

3473 (b) monitor the compliance by a company creating an economic impediment, its

3474 replacement company, or both, with:

3475 (i) each of the conditions set forth in Subsection (1); and

3476 (ii) any contract or agreement under Section 63M-1-907 entered into between:

3477 (A) the company creating an economic impediment; and

3478 (B) the state; and

3479 (c) make funding decisions based upon appropriate findings and compliance.

3480 Section 70. Section **63M-1-909** is amended to read:

3481 **63M-1-909. Financial assistance to entities offering economic opportunities.**

3482 (1) Subject to the duties and powers of the board under Section 63M-1-303, the

3483 administrator may provide monies from the [~~fund~~] Industrial Assistance Account to an entity

3484 offering an economic opportunity if that entity:

3485 (a) applies to the administrator; and

3486 (b) meets the qualifications of Subsection (2).

3487 (2) The applicant shall:

3488 (a) demonstrate to the satisfaction of the administrator the nature of the economic

3489 opportunity and the related benefit to the economic well-being of the state by providing

3490 evidence documenting the logical and compelling linkage, either direct or indirect, between

3491 the expenditure of monies necessitated by the economic opportunity and the likelihood that the

3492 state's tax base will be maintained or enlarged;

3493 (b) demonstrate how the funding request will act in concert with other state, federal, or

3494 local agencies to achieve the economic benefit;

3495 (c) demonstrate how the funding request will act in concert with free market

3496 principles;

3497 (d) satisfy other criteria the administrator considers appropriate; and

3498 (e) be either:

3499 (i) an entity whose purpose is to exclusively or substantially promote, develop, or

3500 maintain the economic welfare and prosperity of the state as a whole, regions of the state, or

3501 specific components of the state; or

3502 (ii) a company or individual that does not otherwise qualify under Section 63M-1-906.

3503 (3) Subject to the duties and powers of the board under Section 63M-1-303, the
3504 administrator shall:

3505 (a) make findings as to whether an applicant has satisfied each of the conditions set
3506 forth in Subsection (2);

3507 (b) establish benchmarks and timeframes in which progress toward the completion of
3508 the agreed upon activity is to occur;

3509 (c) monitor compliance by an applicant with any contract or agreement entered into by
3510 the applicant and the state as provided by Section 63M-1-907; and

3511 (d) make funding decisions based upon appropriate findings and compliance.

3512 Section 71. Section **63M-1-1211** is amended to read:

3513 **63M-1-1211. Management fee -- Additional financial assistance.**

3514 (1) The corporation may charge a management fee on assets under management in the
3515 Utah fund of funds.

3516 (2) The fee shall:

3517 (a) be in addition to any fee charged to the Utah fund of funds by the venture capital
3518 investment fund allocation manager selected by the corporation; and

3519 (b) be charged only to pay for reasonable and necessary costs of the corporation.

3520 (3) The corporation may apply for and, when qualified, receive financial assistance
3521 from the Industrial Assistance ~~[Fund]~~ Account under Title 63M, Chapter 1, Part 9, Industrial
3522 Assistance ~~[Fund]~~ Account, and under rules made by the Board of Business and Economic
3523 Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3524 to help establish the program authorized under this part.

3525 Section 72. Section **63M-1-1802** is amended to read:

3526 **63M-1-1802. Definitions.**

3527 As used in this part:

3528 (1) "Board" means the Governor's Office of Economic Development Board.

3529 (2) "Dollars left in the state" means expenditures made in the state for a state-approved

3530 production, including:

3531 (a) an expenditure that is subject to:

3532 (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise

3533 and Income Taxes;

3534 (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;

3535 and

3536 (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,

3537 notwithstanding any sales and use tax exemption allowed by law;

3538 (b) payments made to a nonresident only to the extent of the income tax paid to the

3539 state on the payments, the amount of per diems paid, and other direct reimbursements

3540 transacted in the state; and

3541 (c) payments made to a payroll company or loan-out corporation that is registered to

3542 do business in the state, only to the extent of the amount of withholding under Section

3543 59-10-402.

3544 [~~(4)~~] (3) "Loan-out corporation" means a corporation owned by one or more artists

3545 that provides services of the artists to a third party production company.

3546 [~~(5)~~] (4) "Motion picture company" means a company engaged in the production of:

3547 (a) motion pictures;

3548 (b) television series; or

3549 (c) made-for-television movies.

3550 [~~(6)~~] (5) "Motion picture incentive" means either a cash rebate from the Motion

3551 Picture Incentive [~~Fund~~] Account or a refundable tax credit under Section 59-7-614.5 or

3552 59-10-1108.

3553 [~~(7)~~] (6) "Office" means the Governor's Office of Economic Development.

3554 [~~(8)~~] (7) "Payroll company" means a business entity that handles the payroll and

3555 becomes the employer of record for the staff, cast, and crew of a motion picture production.

3556 [~~(9)~~] (8) "Refundable tax credit" means a refundable motion picture tax credit

3557 authorized under Section 63M-1-1803 and claimed under Section 59-7-614.5 or 59-10-1108.

3558 [~~(3) "Fund"~~] (9) "Restricted account" means the [~~restricted account known as the~~]
3559 Motion Picture Incentive [~~Fund~~] Account created in Section 63M-1-1803.

3560 (10) "State-approved production" means a motion picture, television series, or
3561 made-for-television movie approved by the administrator and ratified by the board that is
3562 produced in the state by a motion picture company.

3563 (11) "Tax credit amount" means the amount the office lists as a tax credit on a tax
3564 credit certificate for a taxable year.

3565 (12) "Tax credit certificate" means a certificate issued by the office that:

3566 (a) lists the name of the applicant;

3567 (b) lists the applicant's taxpayer identification number;

3568 (c) lists the amount of tax credit that the office awards the applicant for the taxable
3569 year; and

3570 (d) may include other information as determined by the office.

3571 Section 73. Section **63M-1-1803** is amended to read:

3572 **63M-1-1803. Motion Picture Incentive Account created -- Cash rebate incentives**
3573 **-- Refundable tax credit incentives.**

3574 (1) (a) There is created [~~within the General Fund~~] a restricted account within the
3575 General Fund known as the "Motion Picture Incentive [~~Fund~~]; Account," which shall be used
3576 to provide cash rebate incentives for within-the-state production of television series,
3577 made-for-television movies, and motion pictures, including feature films and independent
3578 films.

3579 (b) [~~All interest~~] Interest generated from investment of money in the [~~fund~~] restricted
3580 account shall be deposited in the [~~fund~~] restricted account.

3581 (c) The [~~fund~~] restricted account shall consist of an annual appropriation by the
3582 Legislature.

3583 (d) The Division of Finance shall make payments from the account as required under
3584 this section.

3585 (2) (a) A motion picture company seeking disbursement of an incentive allowed under

3586 an agreement with the office shall follow the procedures and requirements of this Subsection
3587 (2).

3588 (b) (i) The motion picture company shall provide the office with a report identifying
3589 and documenting the dollars left in the state by the motion picture company for its
3590 state-approved production, including any related tax returns by the motion picture company,
3591 payroll company, or loan-out corporation under Subsection (2)(c).

3592 (ii) An independent certified public accountant shall:

3593 (A) prepare the report on behalf of the motion picture company; and

3594 (B) attest to the accuracy and validity of the report, including the amount of dollars
3595 left in the state.

3596 (c) The motion picture company, payroll company, or loan-out corporation shall
3597 provide the office with a document that expressly directs and authorizes the State Tax
3598 Commission to disclose the entity's tax returns and other information concerning the entity
3599 that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103,
3600 Internal Revenue Code, to the office.

3601 (d) The office shall submit the document described in Subsection (2)(c) to the State
3602 Tax Commission.

3603 (e) Upon receipt of the document described in Subsection (2)(c), the State Tax
3604 Commission shall provide the office with the information requested by the office that the
3605 motion picture company, payroll company, or loan-out corporation directed or authorized the
3606 State Tax Commission to provide to the office in the document described in Subsection (2)(c).

3607 (f) Subject to Subsection (3), the office shall:

3608 (i) review the report from the motion picture company described in Subsection (2)(b)
3609 and verify that it was prepared by an independent certified public accountant; and

3610 (ii) based upon the certified public accountant's attestation under Subsection (2)(b),
3611 determine the amount of the incentive that the motion picture company is entitled to under its
3612 agreement with the office.

3613 (g) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office

3614 shall submit to the Division of Finance:

3615 (i) a request for payment of the cash rebate incentive to the motion picture company;

3616 (ii) the name and address of the payee; and

3617 (iii) any other information requested by the Division of Finance.

3618 (h) Upon receipt of a request for payment of a cash rebate incentive under Subsection

3619 (2)(g), the Division of Finance shall:

3620 (i) transfer from the General Fund to the restricted account the amount contained in

3621 the request for payment of a cash rebate incentive after reducing the amount transferred by any

3622 unencumbered balances in the restricted account; and

3623 (ii) notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c), after receiving a

3624 request for payment of a cash rebate incentive and making the transfer required by Subsection

3625 (2)(h)(i), pay the incentive from the restricted account.

3626 (i) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or

3627 59-10-1108, the office shall:

3628 (i) issue a tax credit certificate to the motion picture company; and

3629 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

3630 (j) A motion picture company may not claim a motion picture tax credit under Section

3631 59-7-614.5 or 59-10-1108 unless the motion picture company has received a tax credit

3632 certificate for the claim issued by the office under Subsection (2)(i)(i).

3633 (k) A motion picture company may claim a motion picture tax credit on its tax return

3634 for the amount listed on the tax credit certificate issued by the office.

3635 (l) A motion picture company that claims a tax credit under Subsection (2)(k) shall

3636 retain the tax credit certificate in accordance with Subsection 63M-1-1804(5)(d).

3637 (3) (a) Subject to Subsection (3)(b), the office may issue up to:

3638 (i) (A) \$7,793,700 in tax credit certificates under this part in fiscal year 2009-10; and

3639 (B) \$7,793,700 in tax credit certificates under this part in fiscal year 2010-11; and

3640 (ii) \$2,206,300 in motion picture cash rebates under this part in a fiscal year.

3641 (b) If the total amount of tax credit certificates the office issues in a fiscal year is less

3642 than the amount of tax credit certificates the office may issue in that fiscal year under
3643 Subsection (3)(a)(i)(A) or (B), the office may issue the remaining amount of tax credit
3644 certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax
3645 credit certificates.

3646 (c) Notwithstanding any other provision of this part or Section 59-7-614.5 or
3647 59-10-1108, beginning on July 1, 2011, the office may not issue a tax credit certificate unless:

3648 (i) the Legislature expressly provides funding in the office's budget for the office to
3649 issue the tax credit certificate; or

3650 (ii) there is a remaining amount of tax credit that the office may issue in accordance
3651 with Subsection (3)(b).

3652 Section 74. Section **63M-1-1804** is amended to read:

3653 **63M-1-1804. Motion picture incentives -- Standards to qualify for an incentive --**
3654 **Limitations -- Content of agreement between office and motion picture company.**

3655 (1) In addition to the requirements for receiving a motion picture incentive as set forth
3656 in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative
3657 Rulemaking Act, shall make rules establishing the standards that a motion picture company
3658 must meet to qualify for the motion picture incentive.

3659 (2) The office shall ensure that those standards include the following:

3660 (a) an incentive may only be issued for a within-the-state production of:

3661 (i) a television series;

3662 (ii) a made-for-television movie; or

3663 (iii) a motion picture, including feature films and independent films;

3664 (b) financing has been obtained and is in place for the production; and

3665 (c) the economic impact of the production on the state represents new incremental
3666 economic activity in the state as opposed to existing economic activity.

3667 (3) The office may also consider giving preference to a production that stimulates
3668 economic activity in rural areas of the state or that has Utah content, such as recognizing that
3669 the production was made in the state or uses Utah as Utah in the production.

3670 (4) (a) The office, with advice from the board, may enter into an agreement with a
3671 motion picture company that meets the standards established under this section and satisfies
3672 the other qualification requirements under this part.

3673 (b) Subject to Subsection 63M-1-1803(3), the office may commit or authorize a
3674 motion picture incentive to a motion picture company if that incentive does not exceed 20% of
3675 the dollars left in the state by the motion picture company.

3676 (c) A cash rebate incentive from the Motion Picture Incentive [~~Fund~~] Restricted
3677 Account may not exceed \$500,000 per production.

3678 (5) The office shall ensure that the agreement entered into with a motion picture
3679 company under Subsection (4)(a):

3680 (a) details the requirements that the motion picture company must meet to qualify for
3681 an incentive under this part;

3682 (b) specifies:

3683 (i) the nature of the incentive; and

3684 (ii) the maximum amount of the motion picture incentive that the motion picture
3685 company may earn for a taxable year and over the life of the production;

3686 (c) establishes the length of time over which the motion picture company may claim
3687 the motion picture incentive;

3688 (d) requires the motion picture company to retain records supporting its claim for a
3689 motion picture incentive for at least four years after the motion picture company claims the
3690 incentive under this part; and

3691 (e) requires the motion picture company to submit to audits for verification of the
3692 claimed motion picture incentive.

3693 Section 75. Section **63M-1-2301** is amended to read:

3694 **63M-1-2301. Title.**

3695 This part is known as the "Rural Broadband Service [~~Fund~~] Account Act."

3696 Section 76. Section **63M-1-2302** is amended to read:

3697 **63M-1-2302. Definitions.**

3698 As used in this part:

3699 (1) "Broadband service" means any wire line technology identified by the director as
3700 having the capacity to transmit data from and to a subscriber's computer to the Internet or
3701 Internet-related services at a minimum rate of data transmission of 256 kilobits per second.

3702 [~~(3)~~] (2) "Provider" means a person who will provide retail broadband service to
3703 subscribers in a rural area.

3704 [~~(2) "Fund"~~] (3) "Restricted account" means [~~the restricted account known as~~] the
3705 Rural Broadband Service [~~Fund~~] Account created in Section 63M-1-2303.

3706 (4) "Rural area" means any territory in the state:

3707 (a) within a city, town, or unincorporated area with a population of 10,000 or less
3708 based on the most recently published data of the United States Census Bureau; and

3709 (b) in which broadband service is not available.

3710 Section 77. Section **63M-1-2303** is amended to read:

3711 **63M-1-2303. Rural Broadband Service Account created -- Interest -- Costs --**
3712 **Deposits to the General Fund.**

3713 (1) There is created [~~within the General Fund~~] a restricted account within the General
3714 Fund known as the "Rural Broadband Service [~~Fund~~] Account."

3715 (2) The [~~fund~~] restricted account shall be funded by [~~monies~~] money appropriated [~~to~~
3716 ~~the fund~~] by the Legislature.

3717 (3) (a) The state treasurer shall invest [~~monies~~] money in the account according to
3718 Title 51, Chapter 7, State Money Management Act.

3719 (b) The Division of Finance shall deposit interest or other earnings derived from
3720 investment of account [~~monies~~] money into the General Fund.

3721 (4) Upon appropriation by the Legislature, the [~~monies~~] money deposited into the
3722 [~~fund~~] restricted account in accordance with this section may be expended:

3723 (a) by the director with the advice of the board to award grants to providers as
3724 provided in this part; and

3725 (b) to cover the costs of administering this part in an amount during any fiscal year not

3726 to exceed 2% of the [fund] restricted account balance at the start of any fiscal year.

3727 (5) (a) Except as provided in Subsection (5)(b), the [monies] money deposited into the
3728 [fund] restricted account in accordance with this section are nonlapsing.

3729 (b) Notwithstanding Subsection (5)(a), the Division of Finance shall deposit any
3730 [monies] money in the [fund] restricted account into the General Fund on July 1, 2010.

3731 Section 78. Section **63M-1-2304** is amended to read:

3732 **63M-1-2304. Grants for rural broadband deployment.**

3733 (1) (a) A provider that wishes to deploy broadband service in a rural area may file an
3734 application for a grant with the office.

3735 (b) An application shall:

3736 (i) be accompanied by an affidavit executed by the provider under oath; and

3737 (ii) provide information prescribed in rules adopted by the director.

3738 (2) The director shall:

3739 (a) provide reasonable public notice of an application;

3740 (b) allow public comment on the application for a reasonable period of time;

3741 (c) allow any other provider a reasonable opportunity to file an application to provide
3742 broadband service in all or part of the rural area specified in the application filed under
3743 Subsection (1); and

3744 (d) make rules concerning the method of providing public notice, the time period for
3745 public comment, and the manner of filing a competing application.

3746 (3) (a) The office shall review all applications submitted in accordance with
3747 Subsections (1) and (2) to provide broadband service in a rural area.

3748 (b) In reviewing any application, the office may obtain information from the provider
3749 or others and conduct its own analysis of any issue relevant to the application, including
3750 economic development.

3751 (4) After review of all applications for any rural area in accordance with Subsection
3752 (3), the director may approve an application and enter into a written agreement with a provider
3753 to provide a grant from the [fund] restricted account if the director, with the advice of the

3754 board, is satisfied that the provider's application establishes that:

3755 (a) the provider has the financial, managerial, and technical ability to deploy
3756 broadband service in the rural area in accordance with the application;

3757 (b) the territory in which the provider proposes to deploy broadband service is a rural
3758 area;

3759 (c) the cost of deployment of broadband service in the rural area is reasonable;

3760 (d) the initial terms and conditions on which broadband service will be made available
3761 to potential subscribers in the rural area are reasonable;

3762 (e) the provider has a viable business plan to continue providing broadband service to
3763 all or some subscribers within the rural area;

3764 (f) if a competitive application was filed for the rural area, the provider's application is
3765 the most advantageous application to potential subscribers or the state; and

3766 (g) the application otherwise meets the requirements of this part and any rules adopted
3767 by the director concerning broadband service deployment.

3768 (5) (a) The director may, with the advice of the board, require the provider to make
3769 adjustments to the application or agree to reasonable conditions consistent with the purposes
3770 of this part before approving the application.

3771 (b) Any adjustments and conditions required by the director shall be included in the
3772 written agreement entered into with the provider.

3773 (6) The amount of any grant provided from the [~~fund~~] restricted account shall be no
3774 greater than the lesser of 1/2 of:

3775 (a) the actual cost of deployment of broadband service in the rural area as established
3776 by verified accounts filed with the office after completion of deployment; or

3777 (b) the projected amount established during the application process by the director and
3778 board for the deployment of broadband service in the rural area as provided in the verified
3779 application.

3780 (7) Upon completion of deployment of broadband service by a provider in accordance
3781 with the terms of an agreement as provided in Subsection (4), the director shall pay the

3782 amount of the grant agreed upon consistent with Subsection (6) to the provider from the [fund]
3783 restricted account.

3784 (8) In making any determination required under this section, the director, the office,
3785 and the board:

3786 (a) may not discriminate against any accepted technology for provision of broadband
3787 service other than for reasons of cost or the terms and conditions upon which the provider
3788 proposes to provide broadband service to potential subscribers; and

3789 (b) may consult with the Division of Public Utilities created in Section 13-1-2.

3790 Section 79. Section **63M-1-2305** is amended to read:

3791 **63M-1-2305. Annual report.**

3792 (1) The office shall make a report to the Legislature's Workforce Services and
3793 Community and Economic Development Interim Committee by October 1 of each year until
3794 the [fund] restricted account is terminated under Subsection 63M-1-2303(5)(b).

3795 (2) The report required by Subsection (1) shall provide information concerning
3796 deployment of broadband service using grants from the [fund] restricted account, pending
3797 applications, the balance remaining in the [fund] restricted account, and suggested
3798 appropriations to the [fund] restricted account to achieve the purposes of this part.

3799 Section 80. Section **67-5-25** is amended to read:

3800 **67-5-25. Litigation Account for Highway Projects.**

3801 (1) There is created [~~within the General Fund~~] a restricted account within the General
3802 Fund known as the "Litigation [Fund] Account for Highway Projects [Account]."

3803 (2) The Litigation [~~Fund~~] Account for Highway Projects [~~Account~~] consists of:

3804 (a) appropriations made to the restricted account by the Legislature;

3805 (b) transfers to the restricted account from highway project funds as approved by the
3806 Transportation Commission; and

3807 (c) any donations made to the restricted account.

3808 (3) (a) The state treasurer shall invest [~~monies~~] money in the restricted account
3809 according to Title 51, Chapter 7, State Money Management Act.

3810 (b) The Division of Finance shall deposit interest or other earnings derived from
3811 investment of restricted account [~~monies~~] money into the General Fund.

3812 (4) (a) Upon appropriation by the Legislature, the attorney general shall use [~~monies~~]
3813 money from the account to pay litigation expenses for defending legal actions filed against the
3814 state that challenge highway projects.

3815 (b) The Legislature intends that [~~monies~~] money in the account be appropriated for a
3816 project's litigation expenses before appropriating funds for litigation expenses from any other
3817 source.

3818 (5) The Division of Finance shall:

3819 (a) establish subaccounts within the [~~Litigation Fund for Highway Projects Account~~]
3820 restricted account to hold [~~monies~~] money appropriated by the Legislature for litigation
3821 expenses for different highway projects; and

3822 (b) apportion donations received equally among subaccounts unless the donor directs
3823 that the donation:

3824 (i) be used to defend a specific legal action; or

3825 (ii) be deposited into a specific subaccount[~~;~~ and].

3826 [~~(c) apportion interest between subaccounts proportionally based upon the balance of~~
3827 ~~each subaccount.~~]

3828 (6) When some or all of the money appropriated to fund litigation expenses for a
3829 particular highway project is not expended, the Legislature shall return the money to the
3830 donor.

3831 Section 81. Section **70-3a-203** is amended to read:

3832 **70-3a-203. Fees.**

3833 (1) (a) A fee shall be determined by the division in accordance with the requirements
3834 of Section 63J-1-504, but may not exceed \$250 annually for electronic registration of a mark
3835 in a single class.

3836 (b) A person who pays the annual fee for the electronic registration of a mark may
3837 register additional classes for the same mark for an additional fee not to exceed \$25 annually.

3838 (2) A fee approved pursuant to this section shall be deposited in ~~[a restricted account~~
3839 ~~within the General Fund known as]~~ the Commerce Service ~~[Fund]~~ Account created by Section
3840 13-1-2.

3841 Section 82. Section **72-2-106** is amended to read:

3842 **72-2-106. Appropriation from Transportation Fund.**

3843 ~~[(+)]~~ On and after July 1, 1981, there is appropriated from the Transportation Fund to
3844 the use of the department an amount equal to two-elevenths of the taxes collected from the
3845 motor fuel tax and the special fuel tax, exclusive of the formula amount appropriated to the B
3846 and C road fund and the collector road fund, to be used for highway rehabilitation.

3847 ~~[(2) All of this money shall be placed in an account known as the "Transportation~~
3848 ~~Fund - Highway Rehabilitation Restricted Account."]~~

3849 Section 83. Section **72-2-120** is amended to read:

3850 **72-2-120. Tollway Special Revenue Fund -- Revenue -- Nonlapsing.**

3851 (1) There is created a ~~[restricted]~~ special revenue fund within the Transportation Fund
3852 known as the "Tollway ~~[Restricted]~~ Special Revenue Fund."

3853 (2) The fund shall be funded from the following sources:

3854 (a) tolls collected by the department under Section 72-6-118;

3855 (b) funds received by the department through a tollway development agreement under
3856 Section 72-6-203;

3857 (c) appropriations made to the fund by the Legislature;

3858 (d) contributions from other public and private sources for deposit into the fund;

3859 (e) interest earnings on cash balances; and

3860 (f) ~~[all monies]~~ money collected for repayments and interest on fund ~~[monies]~~ money.

3861 (3) ~~[All monies]~~ Money appropriated to the fund ~~[are]~~ is nonlapsing.

3862 (4) The Division of Finance shall create a subaccount for each tollway as defined in
3863 Section 72-6-118.

3864 (5) The commission may authorize the ~~[monies]~~ money deposited into the fund to be
3865 spent by the department to establish and operate tollways and related facilities, including

3866 design, construction, reconstruction, operation, maintenance, enforcement, impacts from
3867 tollways, and the acquisition of right-of-way.

3868 Section 84. Section **72-2-121** is amended to read:

3869 **72-2-121. County of the First Class State Highway Projects Fund.**

3870 (1) There is created a special revenue fund [~~entitled~~] within the Transportation Fund
3871 known as the "County of the First Class State Highway Projects Fund."

3872 (2) The fund consists of [~~monies~~] money generated from the following revenue
3873 sources:

3874 (a) any voluntary contributions received for new construction, major renovations, and
3875 improvements to state highways within a county of the first class;

3876 (b) the portion of the sales and use tax described in Subsection 59-12-502(5)(a)
3877 deposited in or transferred to the fund;

3878 (c) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)
3879 and required by Subsection 59-12-1703(7)(b)(ii) to be deposited in or transferred to the fund;
3880 and

3881 (d) a portion of the local option highway construction and transportation corridor
3882 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in
3883 or transferred to the fund.

3884 (3) (a) The fund shall earn interest.

3885 (b) All interest earned on fund [~~monies~~] money shall be deposited into the fund.

3886 (4) The executive director shall use the fund [~~monies~~] money only:

3887 (a) to pay debt service and bond issuance costs for bonds issued under Sections
3888 63B-16-102 and 63B-18-402;

3889 (b) for right-of-way acquisition, new construction, major renovations, and
3890 improvements to state highways within a county of the first class and to pay any debt service
3891 and bond issuance costs related to those projects;

3892 (c) for fiscal year 2008-09 only, to pay for or to provide funds to a municipality or
3893 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and

3894 improvements to highways described in Subsection 63B-16-102(3); and

3895 (d) for fiscal year 2009-10 only, to pay for or to provide funds to a municipality or
3896 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and
3897 improvements to highways described in Subsection 63B-18-402(2).

3898 (5) (a) For fiscal years beginning with fiscal year 2010-11 and ending with fiscal year
3899 2012-13, the executive director shall use at least 20% of fund [~~monies~~] money available that
3900 are not required to pay principal, interest, and issuance costs of bonds issued under Sections
3901 63B-16-102 and 63B-18-402 to pay for:

3902 (i) east-west transportation route improvements in a county of the first class; and

3903 (ii) state highway capacity improvement and congestion mitigation projects in a
3904 county of the first class.

3905 (b) For a fiscal year beginning on or after July 1, 2013, the executive director shall use
3906 at least 25% of fund [~~monies~~] money available that [~~are~~] is not required to pay principal,
3907 interest, and issuance costs of bonds issued under Sections 63B-16-102 and 63B-18-402 to
3908 pay for:

3909 (i) east-west transportation route improvements in a county of the first class; and

3910 (ii) state highway capacity improvement and congestion mitigation projects in a
3911 county of the first class.

3912 (6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the
3913 fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are
3914 considered a local matching contribution for the purposes described under Section 72-2-123.

3915 (7) The additional administrative costs of the department to administer this fund shall
3916 be paid from [~~the monies~~] money in the fund.

3917 Section 85. Section **72-2-121.1** is amended to read:

3918 **72-2-121.1. Highway Projects Within Counties Fund -- Accounting for revenues**
3919 **-- Interest -- Expenditure of revenues.**

3920 (1) There is created a special revenue fund within the Transportation Fund known as
3921 the "Highway Projects Within Counties Fund."

3922 (2) The Highway Projects Within Counties Fund shall be funded by revenues
3923 generated by a tax imposed by a county under Title 59, Chapter 12, Part 15, County Option
3924 Sales and Use Tax for Highways, Fixed Guideways, or Systems for Public Transit Act, if those
3925 revenues are allocated:

3926 (a) for a purpose described in Subsection 59-12-1503(2)(a)(iii); and

3927 (b) in accordance with Section 59-12-1503.

3928 (3) The department shall make a separate accounting for:

3929 (a) the revenues described in Subsection (2); and

3930 (b) each county for which revenues are deposited into the Highway Projects Within
3931 Counties Fund.

3932 (4) (a) The Highway Projects Within Counties Fund shall earn interest.

3933 (b) The department shall allocate the interest earned on the State Highway Projects
3934 Within Counties Fund:

3935 (i) proportionately;

3936 (ii) to each county's balance in the Highway Projects Within Counties Fund; and

3937 (iii) on the basis of each county's balance in the Highway Projects Within Counties
3938 Fund.

3939 (5) (a) The department shall expend the revenues and interest deposited into the
3940 Highway Projects Within Counties Fund to pay:

3941 (i) for a state highway project within the county:

3942 (A) described in Subsection 59-12-1503(2)(a)(iii)(A); and

3943 (B) for which the requirements of Subsection 59-12-1503(5) are met;

3944 (ii) debt service on a project described in Subsection (5)(a); or

3945 (iii) bond issuance costs relating to a project described in Subsection (5)(a).

3946 (b) (i) If a county legislative body submits a request to the department in writing, the
3947 department shall transfer revenues and interest deposited into the Highway Projects Within
3948 Counties Fund to the county legislative body to pay:

3949 (A) for a local highway of regional significance project described in Subsection

- 3950 59-12-1503(2)(a)(iii)(A);
- 3951 (B) debt service on a project described in Subsection (5)(b)(i)(A); or
- 3952 (C) bond issuance costs relating to a project described in Subsection (5)(b)(i)(A).
- 3953 (ii) The request submitted under Subsection (5)(b)(i) shall specify:
- 3954 (A) the amount of revenues requested for transfer; and
- 3955 (B) the local highway of regional significance project that the funds requested under
- 3956 this Subsection (5)(b) will be expended on.

3957 Section 86. Section **72-2-125** is amended to read:

3958 **72-2-125. Critical Highway Needs Fund.**

3959 (1) There is created a [~~restricted~~] special revenue fund [~~entitled~~] within the

3960 Transportation Investment Fund of 2005 known as the "Critical Highway Needs Fund."

3961 (2) The fund consists of [~~monies~~] money generated from the following sources:

- 3962 (a) any voluntary contributions received for the maintenance, construction,
- 3963 reconstruction, or renovation of state and federal highways;
- 3964 (b) appropriations made to the fund by the Legislature; and
- 3965 (c) the sales and use tax revenues deposited into the fund in accordance with Section
- 3966 59-12-103.

3967 (3) (a) The fund shall earn interest.

3968 (b) [~~All interest earned~~] Interest on fund [~~monies~~] money shall be deposited into the

3969 fund.

3970 (4) (a) The executive director shall use [~~monies~~] money deposited into the fund to pay:

- 3971 (i) the costs of right-of-way acquisition, maintenance, construction, reconstruction, or
- 3972 renovation to state and federal highways identified by the department and prioritized by the
- 3973 commission in accordance with this Subsection (4); and

- 3974 (ii) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101.

3975 (b) (i) The department shall:

- 3976 (A) establish a complete list of projects to be maintained, constructed, reconstructed,
- 3977 or renovated using the funding described in Subsection (4)(a) based on the following criteria:

3978 (I) the highway construction project is a high priority project due to high growth in the
3979 surrounding area;

3980 (II) the highway construction project addresses critical access needs that have a high
3981 impact due to commercial and energy development;

3982 (III) the highway construction project mitigates congestion;

3983 (IV) whether local matching funds are available for the highway construction project;
3984 and

3985 (V) the highway construction project is a critical alternative route for priority Interstate
3986 15 reconstruction projects; and

3987 (B) submit the list of projects to the commission for prioritization in accordance with
3988 Subsection (4)(c).

3989 (ii) A project that is included in the list under this Subsection (4):

3990 (A) is not required to be currently listed in the statewide long-range plan; and

3991 (B) is not required to be prioritized through the prioritization process for new
3992 transportation capacity projects adopted under Section 72-1-304.

3993 (c) (i) The commission shall prioritize the project list submitted by the department in
3994 accordance with Subsection (4)(b).

3995 (ii) For projects prioritized under this Subsection (4)(c), the commission shall give
3996 priority consideration to fully funding a project that meets the criteria under Subsection
3997 (4)(b)(i)(A)(V).

3998 (d) (i) Expenditures of bond proceeds issued in accordance with Section 63B-16-101
3999 by the department for the construction of highway projects prioritized under this Subsection
4000 (4) may not exceed \$1,200,000,000.

4001 (ii) [~~Monies~~] Money expended from the fund for principal, interest, and issuance costs
4002 of bonds issued under Section 63B-16-101 [~~are~~] is not considered [~~expenditures~~] an
4003 expenditure for purposes of the \$1,200,000,000 cap under Subsection (4)(d)(i).

4004 (e) (i) Before bonds authorized by Section 63B-16-101 may be issued in any fiscal
4005 year, the department and the commission shall appear before the Executive Appropriations

4006 Committee of the Legislature and present:

4007 (A) the commission's current list of projects established and prioritized in accordance
4008 with this Subsection (4); and

4009 (B) the amount of bond proceeds that the department needs to provide funding for
4010 projects on the project list prioritized in accordance with this Subsection (4) for the next fiscal
4011 year.

4012 (ii) The Executive Appropriations Committee of the Legislature shall review and
4013 comment on the prioritized project list and the amount of bond proceeds needed to fund the
4014 projects on the prioritized list.

4015 (f) The Division of Finance shall, from [~~monies~~] money deposited into the fund,
4016 transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds
4017 authorized by Section 63B-16-101 in the current fiscal year to the appropriate debt service or
4018 sinking fund.

4019 (5) When the general obligation bonds authorized by Section 63B-16-101 have been
4020 paid off and the highway projects completed that are included in the prioritized project list
4021 under Subsection (4), the Division of Finance shall transfer any existing balance in the fund
4022 into the Transportation Investment Fund of 2005 created by Section 72-2-124.

4023 (6) (a) The Division of Finance shall monitor the general obligation bonds authorized
4024 by Section 63B-16-101.

4025 (b) The department shall monitor the highway construction or reconstruction projects
4026 that are included in the prioritized project list under Subsection (4).

4027 (c) Upon request by the Executive Appropriations Committee of the Legislature:

4028 (i) the Division of Finance shall report to the committee the status of all general
4029 obligation bonds issued under Section 63B-16-101; and

4030 (ii) the department shall report to the committee the status of all highway construction
4031 or reconstruction projects that are included in the prioritized project list under Subsection (4).

4032 (d) When the Division of Finance has reported that the general obligation bonds issued
4033 by Section 63B-16-101 have been paid off and the department has reported that projects

4034 included in the prioritized project list are complete to the Executive Appropriations Committee
4035 of the Legislature, the Division of Finance shall transfer any existing fund balance in
4036 accordance with Subsection (5).

4037 (7) (a) Unless prioritized and approved by the Transportation Commission, the
4038 department may not delay a project prioritized under this section to a different fiscal year than
4039 programmed by the commission due to an unavoidable shortfall in revenues if:

4040 (i) the prioritized project was funded by the Legislature in an appropriations act; or
4041 (ii) general obligation bond proceeds have been issued for the project in the current
4042 fiscal year.

4043 (b) For projects identified under Subsection (7)(a), the commission shall prioritize and
4044 approve any project delays for projects prioritized under this section due to an unavoidable
4045 shortfall in revenues if:

4046 (i) the prioritized project was funded by the Legislature in an appropriations act; or
4047 (ii) general obligation bond proceeds have been issued for the project in the current
4048 fiscal year.

4049 Section 87. Section **72-6-118** is amended to read:

4050 **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**
4051 **and collection of tolls -- Amount of tolls -- Rulemaking.**

4052 (1) As used in this section:

4053 (a) "High occupancy toll lane" means a high occupancy vehicle lane designated under
4054 Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number
4055 of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a
4056 toll or fee.

4057 (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

4058 (c) "Toll lane" means a designated new highway or additional lane capacity that is
4059 constructed, operated, or maintained for which a toll is charged for its use.

4060 (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way
4061 designed and used as a transportation route that is constructed, operated, or maintained

4062 through the use of toll revenues.

4063 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

4064 (e) "Tollway development agreement" has the same meaning as defined in Section
4065 72-6-202.

4066 (2) Subject to the provisions of Subsection (3), the department may:

4067 (a) establish, expand, and operate tollways and related facilities for the purpose of
4068 funding in whole or in part the acquisition of right-of-way and the design, construction,
4069 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation
4070 route for use by the public;

4071 (b) enter into contracts, agreements, licenses, franchises, tollway development
4072 agreements, or other arrangements to implement this section;

4073 (c) impose and collect tolls on any tollway established under this section; and

4074 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls
4075 pursuant to the terms and conditions of a tollway development agreement.

4076 (3) (a) Except as provided under Subsection (3)(d), the department or other entity may
4077 not establish or operate a tollway on an existing state highway, except as approved by the
4078 commission and the Legislature.

4079 (b) Between sessions of the Legislature, a state tollway may be designated or deleted
4080 if:

4081 (i) approved by the commission in accordance with the standards made under this
4082 section; and

4083 (ii) the tollways are submitted to the Legislature in the next year for legislative
4084 approval or disapproval.

4085 (c) In conjunction with a proposal submitted under Subsection (3)(b)(ii), the
4086 department shall provide a description of the tollway project, projected traffic, the anticipated
4087 amount of tolls to be charged, and projected toll revenue.

4088 (d) If approved by the commission, the department may:

4089 (i) establish high occupancy toll lanes on existing state highways; and

4090 (ii) establish tollways on new state highways or additional capacity lanes.

4091 (4) (a) Except as provided in Subsection (4)(b), in accordance with Title 63G, Chapter

4092 3, Utah Administrative Rulemaking Act, the commission shall:

4093 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and

4094 (ii) for tolls established under Subsection (4)(b), set:

4095 (A) an increase in a toll rate or user fee above an increase specified in a tollway

4096 development agreement; or

4097 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a

4098 tollway development agreement.

4099 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a

4100 tollway on a state highway that is the subject of a tollway development agreement shall be set

4101 in the tollway development agreement.

4102 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

4103 the department shall make rules:

4104 (i) necessary to establish and operate tollways on state highways; and

4105 (ii) that establish standards and specifications for automatic tolling systems.

4106 (b) The rules shall:

4107 (i) include minimum criteria for having a tollway; and

4108 (ii) conform to regional and national standards for automatic tolling.

4109 (6) (a) The commission may provide funds for public or private tollway pilot projects

4110 or high occupancy toll lanes from General Fund monies appropriated by the Legislature to the

4111 commission for that purpose.

4112 (b) The commission may determine priorities and funding levels for tollways

4113 designated under this section.

4114 (7) (a) Except as provided in Subsection (7)(b), all revenue generated from a tollway

4115 on a state highway shall be deposited into the Tollway [~~Restricted~~] Special Revenue Fund

4116 created in Section 72-2-120 and used for acquisition of right-of-way and the design,

4117 construction, reconstruction, operation, maintenance, enforcement of transportation facilities,

4118 and other facilities used exclusively for the operation of a tollway facility within the corridor
4119 served by the tollway.

4120 (b) Revenue generated from a tollway that is the subject of a tollway development
4121 agreement shall be deposited into the Tollway [~~Restricted~~] Special Revenue Fund and used in
4122 accordance with Subsection (7)(a) unless:

4123 (i) the revenue is to a private entity through the tollway development agreement; or

4124 (ii) the revenue is identified for a different purpose under the tollway development
4125 agreement.

4126 Section 88. Section **76-7-317.1** is amended to read:

4127 **76-7-317.1. Abortion Litigation Account.**

4128 (1) As used in this section, "account" means the Abortion Litigation [~~Trust~~] Account
4129 created in this section.

4130 (2) There is created [~~in the General Fund~~] a restricted account within the General Fund
4131 known as the "Abortion Litigation [~~Trust~~] Account."

4132 (3) The Division of Finance may accept, for deposit in the restricted account, grants,
4133 gifts, bequests, or any money made available from any private sources for the purpose
4134 described in Subsection (4).

4135 (4) Except as provided in Subsection (9), money deposited into the restricted account
4136 on or after May 12, 2009, shall be retained in the account for the purpose of paying litigation
4137 and appellate expenses of the Office of the Attorney General, including any court-ordered
4138 payment of plaintiff's attorney fees, to defend any law passed by the Legislature on or after
4139 January 1, 2009, that:

4140 (a) challenges the legal concept that a woman has a constitutional right to an abortion;

4141 or

4142 (b) places a restriction on the right to an abortion.

4143 (5) Money shall be appropriated by the Legislature from the account to the Office of
4144 the Attorney General under Title 63J, Chapter 1, Budgetary Procedures Act.

4145 (6) The restricted account may be used only for costs, expenses, and attorney fees

4146 connected with the defense of an abortion law described in Subsection (4).

4147 (7) Any funds in the restricted account on May 11, 2009, shall be first used to offset
4148 [~~the monies~~] money expended by the state in connection with litigation regarding Senate Bill
4149 23, passed in the 1991 General Session.

4150 (8) Any funds described in Subsection (7) that are not needed to offset the [~~monies~~]
4151 money expended by the state in connection with litigation regarding Senate Bill 23, passed in
4152 the 1991 General Session, shall be retained in the account for the purpose described in
4153 Subsection (4).

4154 (9) (a) If the Legislature does not pass a law described in Subsection (4) on or before
4155 July 1, 2014, the funds in the restricted account shall be used by the Division of Child and
4156 Family Services, within the Department of Human Services, for adoption assistance.

4157 (b) If, on or before July 1, 2014, the Legislature passes a law described in Subsection
4158 (4), any funds remaining in the restricted account after the litigation and appellate expenses to
4159 defend the law are paid shall be used by the Division of Child and Family Services, within the
4160 Department of Human Services, for adoption assistance.

4161 Section 89. Section **78A-2-301** is amended to read:

4162 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

4163 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
4164 court of record not governed by another subsection is \$360.

4165 (b) The fee for filing a complaint or petition is:

4166 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,
4167 interest, and attorney fees is \$2,000 or less;

4168 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
4169 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

4170 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

4171 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
4172 Chapter 4, Separate Maintenance; and

4173 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5.

- 4174 (c) The fee for filing a small claims affidavit is:
- 4175 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
4176 interest, and attorney fees is \$2,000 or less;
- 4177 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
4178 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and
- 4179 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
4180 interest, and attorney fees is \$7,500 or more.
- 4181 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third
4182 party complaint, or other claim for relief against an existing or joined party other than the
4183 original complaint or petition is:
- 4184 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
4185 \$2,000 or less;
- 4186 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is
4187 greater than \$2,000 and less than \$10,000;
- 4188 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is
4189 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 4190 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
4191 Chapter 4, Separate Maintenance.
- 4192 (e) The fee for filing a small claims counter affidavit is:
- 4193 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
4194 \$2,000 or less;
- 4195 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
4196 greater than \$2,000, but less than \$7,500;
- 4197 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
4198 \$7,500 or more.
- 4199 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
4200 action already before the court is determined under Subsection (1)(b) based on the amount
4201 deposited.

- 4202 (g) The fee for filing a petition is:
- 4203 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims
4204 department; and
- 4205 (ii) \$65 for an appeal of a municipal administrative determination in accordance with
4206 Section 10-3-703.7.
- 4207 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
4208 petition for writ of certiorari is \$225.
- 4209 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a
4210 petition for expungement is \$135.
- 4211 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).
- 4212 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
4213 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
4214 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
4215 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
4216 Act.
- 4217 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
4218 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
4219 Defense Account, as provided in Section 51-9-408.
- 4220 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
4221 and (1)(r) shall be allocated to and deposited with the Dispute Resolution ~~Fund~~ Account as
4222 provided in Section 78B-6-209.
- 4223 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
4224 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
4225 deposited in the restricted account, Court Security Account, as provided in Section
4226 78A-2-602.
- 4227 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
4228 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
4229 Security Account, as provided in Section 78A-2-602.

- 4230 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
4231 United States is \$35.
- 4232 (l) The fee for filing probate or child custody documents from another state is \$35.
- 4233 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
4234 Utah State Tax Commission is \$30.
- 4235 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this
4236 state or a judgment, order, or decree of an administrative agency, commission, board, council,
4237 or hearing officer of this state or of its political subdivisions other than the Utah State Tax
4238 Commission, is \$50.
- 4239 (n) The fee for filing a judgment by confession without action under Section
4240 78B-5-205 is \$35.
- 4241 (o) The fee for filing an award of arbitration for confirmation, modification, or
4242 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
4243 action before the court is \$35.
- 4244 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is
4245 \$100.
- 4246 (q) The fee for filing any accounting required by law is:
- 4247 (i) \$15 for an estate valued at \$50,000 or less;
- 4248 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 4249 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 4250 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 4251 (v) \$175 for an estate valued at more than \$168,000.
- 4252 (r) The fee for filing a demand for a civil jury is \$250.
- 4253 (s) The fee for filing a notice of deposition in this state concerning an action pending
4254 in another state under Utah Rule of Civil Procedure 26 is \$35.
- 4255 (t) The fee for filing documents that require judicial approval but are not part of an
4256 action before the court is \$35.
- 4257 (u) The fee for a petition to open a sealed record is \$35.

4258 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
4259 addition to any fee for a complaint or petition.

4260 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
4261 30-1-9 is \$5.

4262 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter
4263 6, Part 8, Emancipation, is \$50.

4264 (x) The fee for a certificate issued under Section 26-2-25 is \$8.

4265 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
4266 page.

4267 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
4268 per page.

4269 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
4270 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
4271 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall
4272 be credited to the court as a reimbursement of expenditures.

4273 (bb) There is no fee for services or the filing of documents not listed in this section or
4274 otherwise provided by law.

4275 (cc) Except as provided in this section, all fees collected under this section are paid to
4276 the General Fund. Except as provided in this section, all fees shall be paid at the time the
4277 clerk accepts the pleading for filing or performs the requested service.

4278 (dd) The filing fees under this section may not be charged to the state, its agencies, or
4279 political subdivisions filing or defending any action. In judgments awarded in favor of the
4280 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
4281 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
4282 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
4283 order, fine, tax, lien, or other penalty and costs permitted by law.

4284 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
4285 shall transfer all revenues representing the difference between the fees in effect after May 2,

4286 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
4287 Facilities Construction and Management Capital Projects Fund.

4288 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
4289 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
4290 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary
4291 to initiate the development of a courts complex in Salt Lake City.

4292 (B) If the Legislature approves funding for construction of a courts complex in Salt
4293 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
4294 Management shall use the revenue deposited in the Capital Projects Fund under this
4295 Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

4296 (C) After the courts complex is completed and all bills connected with its construction
4297 have been paid, the Division of Facilities Construction and Management shall use any monies
4298 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
4299 District Court building.

4300 (iii) The Division of Facilities Construction and Management may enter into
4301 agreements and make expenditures related to this project before the receipt of revenues
4302 provided for under this Subsection (2)(a)(iii).

4303 (iv) The Division of Facilities Construction and Management shall:

4304 (A) make those expenditures from unexpended and unencumbered building funds
4305 already appropriated to the Capital Projects Fund; and

4306 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
4307 under this Subsection (2).

4308 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
4309 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
4310 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
4311 account.

4312 (c) The Division of Finance shall deposit all revenues received from the court
4313 administrator into the restricted account created by this section.

4314 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
4315 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
4316 Vehicles, in a court of record to the Division of Facilities Construction and Management
4317 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
4318 calculated on the balance of the fine or bail forfeiture paid.

4319 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
4320 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
4321 a court of record to the Division of Finance for deposit in the restricted account created by this
4322 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
4323 balance of the fine or bail forfeiture paid.

4324 (3) (a) There is created within the General Fund a restricted account known as the
4325 State Courts Complex Account.

4326 (b) The Legislature may appropriate monies from the restricted account to the
4327 administrator of the courts for the following purposes only:

4328 (i) to repay costs associated with the construction of the court complex that were
4329 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

4330 (ii) to cover operations and maintenance costs on the court complex.

4331 Section 90. Section **78B-6-209** is amended to read:

4332 **78B-6-209. Dispute Resolution Restricted Account -- Appropriation.**

4333 There is created [~~within the General Fund~~] a restricted account within the General
4334 Fund known as the "Dispute Resolution [Fund.] Account." Three dollars of the fees
4335 established in Subsections 78A-2-301(1)(a) through (e), (1)(g), and (1)(r) shall be allocated to
4336 and deposited in the [~~fund~~] restricted account. The Legislature shall annually appropriate
4337 money from the Dispute Resolution [~~Fund~~] Account to the Administrative Office of the Courts
4338 to implement the purposes of the Alternative Dispute Resolution Act.

4339 Section 91. **Repealer.**

4340 This bill repeals:

4341 Section **63M-5-202, Prepaid Sales and Use Tax Construction Account -- Use of**

4342 **account funds.**

4343 Section 92. **Effective date.**

4344 (1) If approved by two-thirds of all the members elected to each house, the
4345 amendments to Section 26-9-4 take effect upon approval by the governor, or the day following
4346 the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's
4347 signature, or in the case of a veto, the date of veto override.

4348 (2) Except as provided in Subsection (1), this bill takes effect on May 11, 2010.

4349 Section 93. **Coordinating S.B. 191 with S.B. 123 -- Technical amendments.**

4350 If this S.B. 191 and S.B. 123, Motion Picture Incentive Fund Amendments, both pass,
4351 it is the intent of the Legislature that the Office of Legislative Research and General Counsel
4352 shall prepare the Utah Code database for publication by:

4353 (1) amending Subsection 63M-1-1803(1) to read as follows:

4354 "(1) (a) There is created within the General Fund a restricted account known as the
4355 Motion Picture Incentive [~~Fund~~] Account, which shall be used to provide cash rebate
4356 incentives for:

4357 (i) within-the-state production of television series[;];

4358 (ii) made-for-television movies[;]; and

4359 (iii) motion pictures, including feature films and independent films.

4360 (b) All interest generated from investment of money in the [~~fund~~] restricted account
4361 shall be deposited in the [~~fund~~] restricted account.

4362 (c) The [~~fund~~] restricted account shall consist of an annual appropriation by the
4363 Legislature.

4364 (d) The [~~Division of Finance~~] office shall:

4365 (i) with the advice of the board, administer the restricted account; and

4366 (ii) make payments from the restricted account as required under this section."; and

4367 (2) amending Subsection 63M-1-1803(2)(g) to read:

4368 "(g) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the

4369 office shall [~~submit to the Division of Finance:~~] pay the incentive from the restricted account

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4370 to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and

4371 63J-1-104(4)(c)."